

HYBRIDITY AND IDENTITY IN OLD ENGLISH LAW CODES

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## HYBRIDITY AND IDENTITY IN OLD ENGLISH LAW CODES

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This dissertation integrates contemporaneous legal and literary discourses to offer a new way of reading Old English legal texts. While the Old English legal corpus has generally served as a useful resource for scholars seeking explanations for cultural phenomena or social norms, my project asks instead how these documents generate ethnic and national identities to make sense of constantly shifting demographics in Britain before the Norman Conquest. Building on the work of postcolonial theorists such as Homi Bhabha and Françoise Lionnet, I use the term hybridity to explain how these legal texts imagine the English as a fundamentally diverse coalition of groups with porous borders that are able to incorporate newcomers and withstand new conquests as they occur. The laws of the late ninth century and early tenth century offer ideal test-cases for uncovering a rhetoric of hybridity. The codes and treaties of Alfred the Great and his West-Saxon successors ruling in the time of the Danish invasions are particularly instructive, since these leaders legislate an English identity that is entangled with those of the other groups settled in the British Isles. Therefore, while medieval law has often been understood as largely prescriptive and therefore adverse to an unstable concept like hybridity, my project argues that the Old English law codes imagine their subjects to be combining and comingling into new social

configurations. These possibilities allow English kings and their counsellors to shore up their claim to authority over the different groups who lived and settled in Britain. Reading law through a literary lens—that is alongside and considering legal corpora—affords important insights into the discourses of power in pre-Conquest England. It demonstrates how medieval identity formation can blur cultural and legal boundaries even as it seeks to create them.

## BIOGRAPHICAL SKETCH

Abigail Ruth Sprenkle was born in Knoxville, Tennessee. After completing her schoolwork at Mead High School in Spokane, Washington in 2010, Abigail enrolled in an undergraduate program at Smith College in Northampton, Massachusetts. During the spring semester of 2013, Abigail studied abroad at Oxford University. She graduated from Smith College with her Bachelor of Arts in English Language and Literature and Medieval Studies in May 2014. In the same year, she entered the graduate program of Medieval Studies at Cornell University, where she received her Master of Arts in 2017.

This dissertation is dedicated to my family and friends who supported me throughout my graduate work: my biggest cheerleaders Beryl Brachman, Mackee Moland, and Thari Zweers; my caring roommates Rebecca Gerdes and Maggie Schelleng; my aunt Amy Sprenkle-Mylander and my grandparents Case and Elaine Sprenkle; my loving parents David and Melissa Sprenkle; and my sibling Em, who can always make me laugh and who swears they will never become a college teacher like the rest of us.

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## INTRODUCTION

### BOUNDARIES, BORDERS, HYBRIDITY, AND THE IDEA OF NATION

In his introductory letter to his tenth-century *Chronicon*, a history of the world from the time of Christ forward, Benedictine monk Regino of Prüm<sup>1</sup> outlines four basic categories for differentiating between peoples:

Nec non et illud sciendum, quod, sicut diversae nationes populorum inter se discrepant genere moribus lingua legibus, ita sancta universalis aecclesia toto orbe terrarum diffusa, quamvis in unitate fidei coniungatur, tamen consuetudinibus aecclesiasticis ab invicem differt.<sup>2</sup>

Through his comparison of the *diversae nationes populorum* and the *sancta universalis aecclesia*, Regino argues that, just as custom differs for each society, the customs of the Church vary depending on region and the individuals in charge of specific communities. But he clarifies that these distinctions usually do not undermine the singular faith different Christian communities share in much the same manner as difference does not undermine shared humanity.<sup>3</sup> Regino's letter goes on to suggest that while a few differences are not threatening to the cohesion of the Church, the moral fiber of a given society could be at risk if evil or criminal behavior is modeled by its leaders. Thus, Regino expresses a tension that would occupy medieval identity creation for centuries to come; how does a group determine which values and identity markers are negotiable and which are absolutely necessary? How much difference is allowable?

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<sup>1</sup> Prüm is located in modern Germany.

<sup>2</sup> "Likewise, it should also be known that, just as diverse nations of people distinguish between themselves by ethnicity, customs, language, and laws, thus the holy universal Church that has been diffused throughout the whole globe, although it is joined by a unity of faith, nevertheless differs in the habits of ecclesiastics in turn." My translation. Regino of Prüm, "REGINONIS CHRONICON. INCIPIT PREFATIO OPERIS SUBSEQUENTIS," *Chronicon cum continuatione Treverensi*, Corpus Corporum: Repositorium Operum Latinorum apud Universitatem Turicensem, Universität Zürich, 2016.

<sup>3</sup> Ibid.

In this brief overview, Regino lists four categories of difference which he believes create meaningful distinctions: *genus* (origin), *mores* (customs), *lingua* (language), and, finally, *leges* (laws). As Patrick J. Geary notes, these four categories are found in other historical texts in Regino's period, but the order is sometimes changed.<sup>4</sup> The organization of these traits in Regino's work is intriguing because it seems to create a hierarchy which culminates in formal law. While, as Geary has rightly pointed out, these categories are all extremely subjective and arbitrary even in a medieval context, here they progress from what a tenth-century individual might find the least controllable aspect of identity, origins, to what might seem like the most constructed, law and legal practice. While Regino does not explicitly say as much, by laying out these elements of identity in this order and then comparing them to differing practices among ecclesiastics, he suggests that the codification of law is the final step in the process of creating a distinct community. Therefore, according to Regino's implied hierarchy, law is an important identity marker because it formalizes distinctions that were already present; and by this logic, it would not create new identities as much as confirm their existence.

Previous scholarship on early English, pre-Conquest identity formation—either national or ethnic<sup>5</sup>—has primarily focused on medieval formulations of “Englishness” that appear cohesive and that appeal to unity to establish the English as a distinct group. While modern scholars are quick to note that such assertions of unity by medieval authors are constructs, there is little questioning of whether this was the only ideal for which these writers strove. Indeed, modern readers tend to generalize about the processes of early English identity creation, look for

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<sup>4</sup> Patrick Geary., “Ethnic identity as a situational construct in the early middle ages,” *Mitteilungen der Anthropologischen Gesellschaft in Wien*, 113 (1983), 19.

<sup>5</sup>Lesley Johnson discusses some of the problems with eliding these terms, arguing that a sense of ethnic identity does not always precede a national identity, nor is it inevitable that ethnic identities become national ones. National identities supposed imagined political communities that are not inherent to ethnic identities, even though nationalisms often appeal to a supposed shared ethnic origin to legitimize themselves. Johnson, “Imagining Communities: Medieval and Modern,” *Concepts of National Identity in the Middle Ages*, 1995, 2-3. See also, Fanning, Stephen, “Bede, Imperium and the Bretwaldas,” *Speculum* 66 (1991), 1-26.

theories and traces of nationalizing, and seek general trends of certain nationalizing impulses throughout early medieval Europe. For example, much recent work on Englishness builds on the categories of ethnic identity supplied by the aforementioned Regino of Prüm. While his systems for classifying people are certainly of a time with King Alfred's establishment of the English as a political community, the specific context of Alfred's Englishness needs further consideration.<sup>6</sup>

Within the last few decades, medievalists have been dedicating attention to how early nationalizing identities were imagined and to what extent they resemble or perhaps inform modern nationalisms.<sup>7</sup> In the context of these conversations, the concept of hybridity—the combining of cultural elements to create new cultures or subcultures—is often conceived as a challenge to the always-desired unity, something that, while inevitable, undermines the process of creating stable identities. Even Patrick J. Geary's influential model of medieval identity as fundamentally situational, an anthropological and sociological concept of identity as context-dependent and variable instead of static and innate, regards the diverse reality of medieval identities as obscured by surviving textual attestations of them. Noting that rallying people to a particular ethnic identity often suited an elite's political agenda, Geary suggests that identity as it was articulated by medieval writers simplified the complexity of how it may have operated in face-to-face interactions.<sup>8</sup>

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<sup>6</sup> Regino identifies four main categories for establishing *nationes populorum* “nations of people” in *Epistula ad Hathonem*: *gens* (people/origin), *mores* (customs), *lingua* (language), and *leges* (law). This four-part break down of how to group people is also attested in the slightly later *Diet of Verona* (983) by Ado of Vienne, who uses *natio* for *gens* and *habitus* for *mores*, suggesting some elision between *gens* (people) and *natio* (nation). See Patrick Geary, “Ethnic identity as a situational construct in the early middle ages,” *Mitteilungen der Anthropologischen Gesellschaft in Wien*, 113 (1983), 19.

<sup>7</sup> See Geary, “Ethnic identity as a situation construct,” 17-18; Patrick Wormald, *The First Code of English Law*, 2005, written for the Canterbury Commemoration Society, is relatively modern scholarly example of looking for the origins of a nation deep in the past, with Wormald positioning Æthelberht of Kent's seventh-century law code as the first code of the English state, even though code professes no such identity and there were several English-speaking kingdoms in Britain at the time.

<sup>8</sup> Geary, “Ethnic identity as a situational construct,” 23-24.

More recently, medievalists have been returning to the conception of “hybridity” as borrowed from contemporary postcolonial theory to excavate the complexity of medieval ethnic identities. In studies of post-Roman and pre-Norman Britain, the focus has been on survivals such as coins and grave goods with identifiable origins and on the names of people and places in the Danelaw.<sup>9</sup> However, even these manifestations of hybridity are termed incidental rather than deliberate; without statements of intent, it is difficult to understand exactly how and why Scandinavian and English names are combined into new ones, for instance, or the extent to which the people given these names might have identified as both.<sup>10</sup> The difficulties in both identifying instances of hybridity, let alone self-conscious ones, are compounded when studying the law. As one of Regino of Prüm’s four major categories of identity-markers, law is a formalized and highly codified system that often claims timelessness even when it is new or innovative. Studies of the earliest English law codes have not used the term hybridity to describe either their origins or agendas, instead focusing on the ways law codes project stability and consistency onto the ethnic categories they are in fact negotiating. For example, Patrick Wormald and Kirsten Carella have noted the influence of Carolingian and Irish legal tracts on early English royal legislation in particular. But these are not theorized as “hybrid texts,” or texts

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<sup>9</sup> See for instance, Jane Kershaw, “An early medieval dual-currency economy: bullion and coin in the Danelaw.” *Antiquity*, vol. 91, no. 355, 2017, p. 173+, which examines the role of silver bullion in perhaps preserving a Danish identity amongst Scandinavian settlers in the Danelaw and Shannon Lewis-Simpson, “Assimilation or Hybridization? A Study of Personal Names in the Danelaw,” in *Other Nations: The Hybridization of Medieval Insular Mythology and Identity*, eds. Wendy Marie Hoofnagle and Wolfram R. Keller, 2011, 13-44, which catalogues all the possibilities for Danelaw names and uncovers a slow process of natural hybridization of OE and ON names, suggesting that the Danes did not so much consciously assimilate as develop their own particular Danelaw culture. The process of Scandinavian conversion and the mixture of pagan and Christian religious symbols, particularly in statues, has been examined by Lesley Abrams in “Conversion and Assimilation,” *Cultures in Contact: Scandinavian Settlement in England in the Ninth and Tenth Centuries*, eds. Dawn Hadley and Julian D. Richards, 133-154.

<sup>10</sup> Lewis-Simpson, “Assimilation or Hybridization?”, 31.

whose authors declare their mixed sources.<sup>11</sup> From the laws of Alfred forward, early English law is generally understood as constructing the same kind of unified sense of Englishness that a modern nationalist might—an ever-present people sharing an origin point, history, language, and religion—defining the English in opposition to native Britons and invading Danes while collapsing the differences between the individual English kingdoms that predated the rise of Wessex to political prominence in the ninth-century.

This understanding of hybridity as something that medieval writers more generally, and the Early English lawmakers in particular, could have recognized and sought to control overlooks important evidence for generative hybridities and categories of porousness in the earliest English law codes. Reading these legal documents as persuasive, prescriptive literature alongside Old English literary texts that have similar cultural concerns such as *The Battle of Maldon* and *Beowulf*, reveals a strand of overlooked discourse I identify as a “rhetoric of hybridity.” While law and literature are distinct genres with their own rhetorical purposes, together they establish the discourse community of a group of people, and anxieties and appeals often reverberate across generic boundaries. For instance, chapter 4 of this dissertation argues that the *Beowulf* poet explores through narrative the problems of feuding that Old English law codes sought to control with law. In both texts, feuding is linked to Scandinavian identity, and since literature can explore the past where law is relatively restricted to the present, we see the same legal issue being addressed in multiple forms. Therefore, this project searches for connective thematic strands such as the problem with feuding described above to discover an underlying persuasive rhetoric of hybrid that I argue is essential to pre-Conquest English national identities.

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<sup>11</sup> See Patrick Wormald, “Legislation as Literature,” *The Making of English Law: King Alfred to the Twelfth Century*, 1999, 416-430 and Kristen Carella, “Evidence for Hiberno-Latin Thought in the Prologue to the Laws of Alfred,” *Studies in Philology* 108.1 (2011), 1-26.

In postcolonial theories, the conception of hybridity as a form of rhetoric acknowledges that the mixing of identities and cultures is not only something that exists in margins that must be excavated from recalcitrant texts, but also to form identities that can be appealed to and amended. For example, in an essay on modern conceptions of postcolonial hybrid societies, Françoise Lionnet critiques the American “melting pot” myth, calling it “an enabling metaphor in the construction of American national identity.”<sup>12</sup> In this way, Lionnet highlights how narratives of diversity, assimilation, and acculturation help build hegemonies—the threat posed to power hierarchies by diversity in America, in this instance, is theoretically contained by building an identity based upon diversity that supposedly cooperates and merges to make a whole. In the case of the modern United States of America, the immigration narrative seeks to incorporate other cultures into a more dominant American one, fantasized by white elites. This myth, Lionnet writes, disguises and simplifies the relatively complex way that cultural interactions work; “acts of appropriation will produce a greater degree of cultural complexity than the standard anthropological categories (metropolitan versus colonial, developed versus primitive, civilized versus aboriginal) tend to suggest.”<sup>13</sup> In this example, hybridity is inevitable and therefore something that can be appealed to both create a national identity and to attempt to control it, even though the hybridity continues to undermine it, for, while appropriation by a colonizing and dominating culture is an oppression, the cultural “contamination” will always destabilize the myth that any culture is real, static, and pure.<sup>14</sup> Thus, although a culture may

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<sup>12</sup> Françoise Lionnet, “*Logiques métisses: Cultural Appropriation and Postcolonial Representations*,” *Postcolonial Representations: Women, Literature, Identity* (Ithaca: Cornell University Press, 1995), 12.

<sup>13</sup> *Ibid*, 13.

<sup>14</sup> *Ibid*, 15.

attempt to incorporate hybridity into their ethnic origin stories in an effort to control it, their project will be haunted by the continued possibilities of hybridity.<sup>15</sup>

This strategy of explicitly making hybridity a part of a group identity can also be found in the laws of the early English. While the concept of hybridity has been troubled in postcolonial studies as reifying racial and cultural categories, identifying medieval awareness of mixed groups and blurred boundaries is a necessary antidote to assuming the longevity and stability of modern national identities. In the Old English law codes, discursive spaces where kings and their counsellors define the boundaries of their constituencies, Englishness is often theorized as an amalgam of many groups. This conception of the “English” and eventually “England” as a coalition of diverse communities loosely bound together by proximity and necessity allows rulers to constantly shift the margins of English identity to include new peoples. In re-examining the legal rhetoric of early English kings, I challenge the dominant scholarly understanding of both medieval political and cultural identity formation and law’s place in it as a form of discourse that collapses or erases difference; in binding their societies together with a series of norms, those in power did not always see borders—either geographical or social—as sources of anxiety to be guarded, but also of possibility for communal overlap and expansion.

This identification of a rhetoric of hybridity necessitates a return to its initial theorizer, postcolonial theorist Homi Bhabha. Bhabha sees hybridity as potentiality, calling it a “Third Space” that appears in moments when cultures enunciate themselves.<sup>16</sup> Enunciation, in Bhabha’s terminology, is not so much the creation of a culture through description, but the acknowledgment of “its cultural positionality, its reference to a present time and a specific

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<sup>15</sup> Ibid, 15.

<sup>16</sup> Homi K Bhabha, *The Location of Culture* (London: Routledge, 1994), 36-37.

space.”<sup>17</sup> In every utterance there is an implicit I/We and You, and always, ever present between these two spaces, even if not directly acknowledged, lies the possibility and probability of a hybrid between the two. All cultural discourse passes through this “Third Space,” interrupting the claimed temporality of the “I,” and thus the cultural narratives of linear evolution and progression dominant powers usually espouse.<sup>18</sup> In defining one culture against a supposed “competitor,” for example, each culture must wrestle with the existence of another narrative, what that other narrative implies for its understanding of its own origins, and then potential future hybrids and the likelihood of past meetings and mergings. The reality is that their origin can never be “pure.” Bhabha argues,

“For a willingness to descend into that alien territory [the Third Space] . . . may reveal that the theoretical recognition of the split-space of enunciation may open the way to conceptualizing an *international* culture, based not on the exoticism of multiculturalism or the *diversity* of cultures, but on the inscription and articulation of a culture’s *hybridity*.”

Like Lionnet, Bhabha sees a difference between a cultural hegemony built from an acknowledgement and even reification of diversity, and a culture that can articulate its own hybridity. Hybridity has and will always exist and exploring the Third Space creates the necessary instability for challenging cultural narratives of power.<sup>19</sup>

Although medievalists have looked to Bhabha’s work to define hybridity in the past, there is an element of his theory that has gone underdiscussed: namely, the role of borders, the imaginary boundaries between groups of people that are actually the most generative sites of their identities. In his 1990 edited collection of essays, *Nation and Narration*, Bhabha theorizes the nation as a *process*, always in the midst of articulating itself even when it asserts that it is fully formed. The language used to compose a nation, according to Bhabha, is necessarily a

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<sup>17</sup> Ibid, 36.

<sup>18</sup> Ibid, 36-37.

<sup>19</sup> Ibid, 38-39.



performative, ambivalent form of narration “that holds culture at its most productive position.”<sup>20</sup>

. This means that a nation produces its core cultural components in order to mask uncertainties or insecurities about who should hold power within the society. Consequently, Bhabha argues that while many nations claim unitarian identities, as a result of closely examining their self-narrations, a nation is functionally a threshold, or a boundary used to determine who is “inside” and who is “outside.” While such boundaries may seem like stable demarcations between cultural groups, they are actually incredibly porous, as Bhabha concludes, “the problem of outside/inside must always itself be a process of hybridity, incorporating new ‘people’ in relation to the body politic.”<sup>21</sup> By “relation,” Bhabha does not merely mean that new “people” (itself an unstable term) are assimilated, but that every new group encountered requires a boundary (and more often a set of boundaries) to redefine itself, to renegotiate the nation. In his later work, Bhabha considers the boundary to be the archetypal hybrid “third space,” which both defines and breaks down the conception of the other, to the extent that through the encounter with an other, a person’s (or nation’s) self-conception is necessarily altered.<sup>22</sup> The “third space” of hybridity, therefore, provides as many opportunities to resist the process of nationalism as much as inscribe it, as people may identify with the “other” and, indeed, become their own other in this space.<sup>23</sup>

While Bhabha’s optimistic understanding of hybridity as possibility has been challenged by other postcolonial theorists,<sup>24</sup> the potential of understanding a nation or people as a self-

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<sup>20</sup> Bhabha, *Nation and Narration*, 3.

<sup>21</sup> *Ibid.*, 4.

<sup>22</sup> Bhabha, *The Location of Culture*, 56.

<sup>23</sup> *Ibid.*, 56.

<sup>24</sup> The primary critiques of Bhabha’s work are that his attempt to be anti-essentialist is, in and of itself, essentialist, erasing differences between the cultures of the oppressed; that it is divorced from the lived experiences of postcolonial subjects because it is too focused on linguistic and psychoanalytic theory; that it unsuccessfully recuperates the term ‘hybrid’ from its origins in racist biological science; and that it is too rooted in the nineteenth-century’s conception of the nation. See Jan Nederveen Pieterse, *Globalization and Culture: global mélange*, 2004, Aijaz Ahmad, “The Politics of Literary Postcoloniality,” *Race and Class*, 36–3: (1995), 10, Arif Dirlik, *The Postcolonial Aura: Third World Criticism in the Age of Global Capitalism*, 1997, ix, and Amar Acheraoui,

consciously porous boundary has not yet been fully explored in medieval studies. Some of this resistance is due to the use of the word “hybridity,” as the term is not used to discuss identity or culture in any medieval texts. The Latin *hibrida* primarily denotes mixed animals and monsters, until European colonizers used it to promote boundaries between the so-called races in the late eighteenth-century.<sup>25</sup> The English word “hybrid” is initially associated with animal breeding practices in seventeenth-century Europe. Is it therefore anachronistic to use this kind of terminology to discuss medieval ideologies of ethnicity? When medievalists have considered the relationship between borders and othering, it is usually in the context of quarantining monsters as outside the regional boundaries of society. Some scholars have attempted to skirt this problem by using the term very narrowly, primarily relating it to the supposed “monstrousness” that underlies the process of mixing in hybrid’s later definitions. For example, it is this relationship to monsters that Jeffrey Jerome Cohen uses to excavate medieval conceptions of hybridity in his work, arguing (based on the work of postcolonial theorist Robert J.C. Young) that hybridity was such a source of anxiety for medieval historiographers because it represents a site where difference is both acknowledged and assimilated.<sup>26</sup> While Cohen aims to talk about the “difficult middles” that the peoples of medieval Britain in particular inhabited, he primarily focuses on how medieval historiographers sought to reconcile and even resolve hybridity to create clear narratives of distinct and eternal cultural groups. By viewing hybridity primarily as an erasure or closure, Cohen overlooks cultural productions from early England in particular where there is awareness of the porosity of boundaries, and this porosity is exploited in the creation of unifying identities rather than hidden.

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*Rethinking Postcolonialism: Colonialist Discourse in Modern Literatures and the Legacy of Classical Writers*, 2008.

<sup>25</sup> Hoofnagle and Keller, “Hybridity, Mythology, and Nationhood: Introduction,” 3-4.

<sup>26</sup> Jeffrey Jerome Cohen, *Hybridity, Identity, and Monstrosity*, 2.

Another limitation with the current scholarly conversation about medieval understandings of hybridity is that Bhabha, whose work is in dialog with Benedict Anderson, speaks primarily in terms of nations.<sup>27</sup> While many scholars have looked for traces of national thinking within medieval texts, modern conceptions of a nation are difficult to map out precisely onto medieval political systems and they sometimes run the risk of lending credence to modern nationalist claims of an unbroken national continuity. Terms such as “identity” and “ethnicity” are used instead to try to make sense of the ways that medieval peoples demarcated boundaries between themselves, and Anthony D. Smith in particular has highlighted the blurry lines between nation, identity, and ethnicity in modern understanding, and the possible continuities between the modern concepts and ancient and medieval ideas. Smith has refined a purely “situational” understanding of ethnicity or looking at ethnicity (and the role it plays in nationalism) as primarily constructed through interacting with others. Smith does not question the constructed nature of ethnicity but suggests that any situational or “instrumentalist” readings of ethnicity must address how popular myths and symbols of ethnic identity act as a “bedrock” for nationalisms.<sup>28</sup> Smith has also attempted to work out the distinctions between nationalism and national sentiment, the political maneuvering of one in support of the other, and their roots in ancient civilizations.<sup>29</sup> While acknowledging that nation is hard to define, Smith in particular insists that it is not just a modern concept, even if modern nations have definitions more bounded to territories.<sup>30</sup>

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<sup>27</sup> See, for instance, Benedict Anderson, *Imagined Communities* (Verso, 1983).

<sup>28</sup> Anthony Smith, *Myths and Memories of a Nation*, 56.

<sup>29</sup> Anthony Smith, “National Identities: Modern and Medieval?” *Concepts of National Identity in the Middle Ages*, 1995, 21-46.

<sup>30</sup> Geary argues that this switch can also be seen in the ninth century, however. Geary, “Ethnic identity as a situational construct,” 22.

For medievalists studying the construction of an “English” identity specifically, focusing on the process of myth-making (the migration to and Conquest of Britain myths) and identification with others of the same “origin” has been productive for understanding medieval identities.<sup>31</sup> For instance, Samantha Zacher’s work on early pre-Conquest English aspirations to be a New Israel—to be the rightful inheritors of Jews’ supposedly forfeited status as God’s chosen people—has demonstrated how the early English looked not only to the continent but also to the Old Testament for their origin stories.<sup>32</sup> After the Norman Conquest, Zacher observes that the English began to look back on pre-Conquest England as an imagined utopian era before the purported corruption of Jewish influence (often overlooking the ways in which the crown forced Jewish communities to take up forms of money-lending frowned upon by the Church before condemning them for that), once again seeking a “pure” beginning to shore up their burgeoning sense of national identity.<sup>33</sup> In analyzing the growth of antisemitic sentiment leading up to Edward I’s expulsion of the Jews from England in 1290 (the first of a disturbing trend across Europe), Zacher notes that hatred and suspicion of Jewish people did not only start with the crown and then slowly trickle down to the general populace; rather, she returns to Adrian Hastings’ conception of society as “bonded” both “horizontally” between peoples of the same social stations and “vertically” through the authority of the state, to argue that othering must happen on every level of a society.<sup>34</sup> The general populace exerted pressure on the English kings to condemn and expel Jews by circulating stories of Jews ritually murdering children, even as their leaders of both state and church pushed Jews into antagonistic roles, such as money-lending, in order to scapegoat them. Although Danes were never oppressed in this way, they

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<sup>31</sup> See for example, Nicholas Howe, *Migration and Mythmaking in Anglo-Saxon England*, 1989.

<sup>32</sup> Samantha Zacher, *Rewriting the Old Testament in Anglo-Saxon Verse*, 2013.

<sup>33</sup> Samantha Zacher, “Judaism and National Identity in Medieval England,” *The Routledge Companion to Literature and Religion*, 2016, 373-374.

<sup>34</sup> *Ibid*, 372.

exist in a similar position as “others within,” semi-incorporated into the pre-Conquest social order, but also held at a distance on every social level. This exploration of a permeable boundary at once inside and outside a politically dominant ethnic group offers one place to examine the early English origin myths that acknowledge or even embrace the potentiality of hybridity.

Bhabha’s construction of borders as inherently hybrid brings new possibilities for the study of law, which is itself, as Anthony Musson has argued, a form of boundary.<sup>35</sup> The idea that one can “break” the law, for example, and then be sentenced to “outlawry” implies that law is a space where one is made an “insider” by following all the strictures and rules.<sup>36</sup> In binding a group of people together through law codes, rulers and their counselors mandate borders that are not always tied to geographical locations, but which represent the boundaries between groups of people—and, to return to the theorizing of Regino of Prüm, following a people’s rules marks a person as one of them. However, as Musson also notes, hybridity is an inevitability whenever different cultures connect with each other, and within medieval law there were also distinctions of jurisdiction; the boundaries between secular law and ecclesiastical law are particularly blurred, especially because religious practice is another core piece of medieval identity building. Additionally, “justice” was not always the sole providence of courts or the law, and, particularly in the laws of early England, personal justice—revenge for perceived injuries, for example—was not outside the law.<sup>37</sup> Using Bhabha’s idea of borders as paradoxically demarcating nations and creating inherently hybrid spaces, we can see law as a series of boundaries that reflects the inherent instability of categories of identity.

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<sup>35</sup>Anthony Musson, “Introduction,” *Boundaries of the Law: Geography, Gender and Jurisdiction in Medieval and Early Modern Europe*, 2005, 1-6.

<sup>36</sup> *Ibid*, 3.

<sup>37</sup> *Ibid*, 4-5.

This instability finds a partner in the similarly volatile boundary between the genres of “law” and “literature.” While medieval law more broadly and early English royal legislation in particular has long been recognized as “literary,”<sup>38</sup> I propose viewing the overlap in categories as another “third space.” In my readings of Bede’s prose history *Historia Ecclesiastica Gentis Anglorum*, the chronicle poem *The Battle of Maldon*, and the epic *Beowulf*, I compare their concerns with English identity to how the law codes construct such an identity. This is not the precise practice of finding corresponding language in all the texts; instead, I position the laws and these historical and literary documents as part of the same discursive community, responding to the same cultural concerns and pressures according to their genre conventions. Since it is this “third space” that I am targeting, I have selected particular works preoccupied with topics and problems covered in the laws—*witans*, feuds, borders, diversity within communities—as cases for testing out my readings of certain discourses I find within the laws. For these purposes, I focus primarily on the prefaces of the Old English law codes, since they are often performative spaces where the king and his counselors speak directly to their constituencies and lay out their political and legal ideologies.

These ideologies themselves are often theorized in terms of binaries: prescriptive versus descriptive, conservative versus innovative, authoritative versus constrained. The stake in such a debate is often the extent a ruler (or the state, depending on how centralized we understand pre-Conquest England to be) exercised power over his subjects. For the purposes of this project, however, answering such a question is not the main goal; the idea is to trace a particular rhetoric and its goals through the law codes. The idea that medieval law tends to be descriptive and conservative—codifying practices already common among the cultural group and therefore not a

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<sup>38</sup> See, for instance, Patrick Wormald’s discussion of “Legislation as Literature,” in *The Making of English Law: King Alfred to the Twelfth Century* (Oxford: Blackwell Publishers, 2000), 416-483.

site of kingly innovation or intervention—overlooks possibilities for law as aspirational. Even though law is supposed to be a site of conservation (preserving the status quo rather than innovating norms), the boundaries constructed in law and the myths of law-making in early medieval England seem to acknowledge the hybridity of the English people and the “third space” of hybridity between them and the Danes in particular. The conception of a “Danelaw,” although it appears very late in English legal writings,<sup>39</sup> attempts to mark this space more concretely, imagining a type of Dane (i.e. a person who either immigrated from Scandinavia or a person who claims this descent in some way) who lives in Britain within the boundaries of Englishness. This person may not necessarily be a hostile invader but someone trying to live in Britain. As the English take control of the north (it is important to resist the phrasing “retake” the north to avoid eliding the Northern English-speaking people and the Southern English-speaking people and projecting a unified national identity before Alfred and the West-Saxon ascendancy), Englishness and Danishness collide, defining each other and also creating a third “Danelaw” for a hybrid culture to form. That it is tied to law is important; the coexistence and cooperation of Danish law and early English law, I will argue, is a key feature of English identity.

### *Conceptualizing the Danelaw*

Much of previous scholarship on the “Danelaw,” the ambiguous border between the early English and Danish invaders, has focused on establishing the number of Scandinavian people who settled there and the extent of their influence on early English culture (material, political, legal, linguistic). When writing of the “Danelaw,” modern scholars are often speaking of the area

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<sup>39</sup> This term originates with the eleventh-century writings of Archbishop Wulfstan York, in a forged treaty between Edward the Elder and Guðrum the Dane.

north of the Thames and Lea that was settled by Danes after the Treaty of Alfred and Guðrum.<sup>40</sup> The Old English term “Danelaw” (*Deone lage*) is, nevertheless late, and is primarily attributed to Archbishop Wulfstan (writing in the eleventh century), as it appears in his purported treaty between Edward the Elder and Guðrum and the laws of King Æthelræd II that were also penned by Wulfstan. The phrase settled upon by Wulfstan echoes the language of IV Edgar, a code that, while it survives in a Worcester document, contains many Norse loan words that indicate its direction at constituents of the Danelaw.<sup>41</sup> For example, Edgar asserts: “ic wille þæt woruldgeriht mid Denum standan be swa godum lagum, swa hy betste geceosan mægen” (it is my will that the rights of the laity among the Danes be maintained by as good a law as they might best settle upon).<sup>42</sup> For Wulfstan, writing laws for Edgar’s son Æthelræd II, the distinction to be made between the North and the South of what was then understood to be England was one of law and legal custom, and the divide was apparently of such import that he, following Edgar, chose to use the Norse loan word *lagu* (law) instead of the more common English *dom* (law, decree, judgment). While no distinctly “Danish” law codes survive from the early English period (there is discussion that the anonymous *Wergeld* is an amendment to II Edmund tailored to the Danelaw’s needs for more precise legislation on compensation)<sup>43</sup>, English law has made allowance for a group of people known as “Danes” who could, in certain cases, follow their own laws and customs, and therefore defined themselves with the border between their two groups.

While Old English law codes address Danes rather than speak in their voices, some of these codes may very well have been written by northern lords of Danish descent. D.M. Hadley has argued that “Dane” does not necessarily connote a person who is “foreign,” but someone

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<sup>40</sup> F.L. Attenborough, *The Laws of the Earliest English Kings*, “The Treaty of Alfred and Guthrum,” 98. The boundaries of this treaty are laid out in the first clause.

<sup>41</sup> Wormald, *The Making of English Law*, 317-319.

<sup>42</sup> Robertson, A. J. *The Laws of the Kings of England from Edmund to Henry I*, “IV Edgar,” 32, 2a.1.

<sup>43</sup> Wormald, *The Making of English Law*, 374-378.



who might have been descended from the Danes who were eventually incorporated under English rule. In her reading of Æthelræd II's Wantage law code, probably written by northern lords, the laws try to clarify a blurry boundary, appealing to the old sovereignty of the Danes in the north in order to assert their independence from the southern royal family (48-50).<sup>44</sup> This conception of their identity is "situational"—they are Danes when negotiating with English sovereigns but may be English under other circumstances. Additionally, as Hadley argues elsewhere, the so-called "Danes" settling in the north of England were actually from diverse parts of Scandinavia and northern continental Europe. Even within Britain there were important distinctions to be made between Danes and their descendants living in Northumbria and those who settled in Northern Mercia and East Anglia.<sup>45</sup> Matthew Innes suggests that after being labeled as outsider "Danes" by the English, the Scandinavians who settled in the north assumed that identity and used it to resist southern control and to justify their own elite status in the north.<sup>46</sup> Returning to Æthelræd II's Wantage code, the geographical north is so closely associated with Danish sovereignty that it seems like a way for those already in power there to distance themselves from the court based in the south. In fact, Innes suggests that the southern English originally kings cultivated Danish identity on the periphery of their lands in order to control it and also hierarchize it as dependent on their concern with maintaining the "rights" of the "Danelaw."<sup>47</sup> Innes further argues that, since law had long been established in medieval Europe as a unique marker of identity, it was exceptionally important to the early English kings to establish the Danes as a different people because of their laws in order to begin subordinating

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<sup>44</sup> Hadley, "Anglo-Scandinavian Political Accomodation," *Vikings in England*, (Manchester: Manchester University Press, 2006), 48-50.

<sup>45</sup> Ibid, 83-84. See also Russel Poole, "Crossing the Language Divide: Anglo-Scandinavian Language and its Literature" *The Cambridge History of Early Medieval English Literature*, edited by Clare A. Lees (2013), 580.

<sup>46</sup> Matthew Innes, "Danelaw Identities: Ethnicity, Regionalism, and Political Allegiance," *Cultures in Contact: Scandinavian Settlement in England in the Ninth and Tenth Centuries*, edited by Dawn Hadley and Julian D. Richards (2000), 84.

<sup>47</sup> Ibid, 83-84.

them. Or, to put it another way, because they followed distinct laws, they were perceived as a separate ethnicity, and one which was subordinated to the English.<sup>48</sup> In doing so, Alfred and his successors followed the Frankish model of legislating for newly conquered groups to tie their cultural identity to a specific territory (in this case, the North of England) and, although seeming to “permit” unique customs, maintain a semblance of control through defining what those customs actually were.<sup>49</sup>

Innes’ argument speaks to the complexity of north-south relations in England during the tenth and eleventh centuries. On the one hand, the southern English elite can politically subjugate the north through conquest and through legislation, and their attempts to legislate a “Danish law” strongly indicate that they defined these areas as Danish in order to control the ability of the Danes to create their own identity. However, the fact that they must acknowledge Danishness at all indicates that early English kings cannot easily incorporate the north into their English hegemony. Perhaps this inability was caused in part by Alfred’s strategy for uniting the southern English—they are “English” instead of Danes, bound by their shared history, faith, language, and religion. In order for this Englishness to continue existing instead of splintering back into Mercian, West Saxon, and Kentish, they need the constant presence of “Danes.” However, in his treaty with Guðrum, Alfred also takes marked steps to allow the border between Danishness and Englishness to be permeable. There appears to be a strategic rhetorical tension which cannot be resolved. For this English to exist as a political entity united by King Alfred (as opposed to the broader definition of “English” used by Bede, a people loosely affiliated by language, religion, and history, but often divided by political control and geographical boundaries), the king must define Danishness and imagine it as being distinct. However, for the sake of future political

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<sup>48</sup> Ibid, 84.

<sup>49</sup> Ibid, 83-84.

unity, he does not want to entirely rule out the possibility of incorporation and mixture. Alfred's laws therefore develop one rhetorical strategy of acknowledging the hybridity of Englishness (the fact that the English could be separated into Mercians, West Saxons, and Kentish people), to create the potential for future hybridities. And it is this strategy that gets adopted by later kings, particularly Edgar. This potentiality pays off with the accession of Cnut, as well as with the Normans. Cnut is Danish and a conqueror, but, with Wulfstan's help, styles himself as an English king.

In this project, I contend that previous scholarship on Old English law has overemphasized its role in essentializing an early English identity founded on shared cultural markers. Instead, I propose that in the Old English law codes, discursive spaces where kings and their counsellors define the boundaries of their constituencies, "Englishness" is often theorized as an amalgam of many groups. This conception of the "English" and eventually "England" as a coalition of diverse communities loosely bound together by proximity and necessity allows rulers to constantly shift the margins of English identity to include new peoples. In re-examining the legal rhetoric of early English kings, this project challenges the dominant scholarly understanding of medieval political and cultural identity formation and law's place in it; in binding their societies together with a series of norms, those in power did not always see borders—both geographical and social—as sources of anxiety to be guarded. They also introduced the possibility for communal overlap and expansion, productive spaces of hybridization and community building. In terms of scope, this project moves through different types of borders both projected and established by the law, beginning with ethnicity and then transitioning to territorial borders to end with the boundaries between genders and the identities

that can appear in all of these hybrid spaces. In their own ways, each of these borders has a part to play in establishing “Englishness” as inherently adaptable.

### ***Chapter Breakdown***

My first chapter examines the rhetorical functions of councils in Old English royal legislation and posits that in order to represent consensus, they elucidate the culture’s hybridity. These codes achieve this effect by narrating the origin of the laws of the people before recording the code itself, imagining law as the consensus of the society’s highest-ranking people. From the earliest laws of the Kentish and West-Saxon kings, the invocation of the king’s council in prefaces to royal law codes dramatizes the process of consenting not just to the specific laws being promulgated, but also to the establishment of a society bound by them. Establishing the boundaries of their societies, these advisers both assist in strengthening the king’s authority and rendering factional division visible. In this way, they textually represent representation itself. This *topos* of the consenting council reaches its rhetorical peak in the ninth-century lawbook of the West-Saxon king Alfred, who invokes the names of three historical rulers as inspirations for his law, creating an imaginary council to consent to his establishment of an “English.” This council is comprised of his own West-Saxon grandfather Ine, the famous Mercian king Offa, and the Kentish king Æthelberht, whom Bede a century before named as the first king of the “Angles” to convert to Christianity. By citing Bede, Alfred also tacitly includes him in his council as a representative of Northumbria, the land currently under Danish political control. Alfred’s use of the council *topos* therefore not only establishes Englishness as a political community, but also reaches beyond his borders as they already exist, imagining a community that extends into Danish Mercia and Northumbria. Through the council, these diverse groups can

all be represented within Englishness and by it, establishing it from the outset as a hybrid culture loosely bound together by a few key identifiers such as language, religion and, importantly, a shared history of conquest on the island.

I continue with an examination of the creation of geographical borders in Alfred's laws and legal documents in my second chapter. This chapter closely reads his treaty with the Danish conqueror Guðrum which speaks to the relationship between the Britons, Danes, and the English in Britain during this time. This treaty illuminates the inherent instability of borders and produces an opportunity for Alfred to simultaneously define Englishness in opposition to Danishness while leaving room for Danes to eventually become English. This process codifies adaptability and the potential for hybridity as an important aspect of Englishness by legislating moments of cultural contact. While the treaty apparently defines clear boundaries of power around geographical features and locations, I argue it also allows for permeability by imagining scenarios where Danes and English people will cross this border and settle, insisting that both be allowed to practice their own laws in each other's spaces. This imagining is facilitated by Alfred's insistence that Guðrum and his Danes convert to Christianity before he can broker peace between them, according to his biographer Asser. As the converters of the Danes, the English are in a unique position of cultural capital over them. Already, from close contact with the English, they are adopting aspects of Englishness while still maintaining their own space and language (which is also a site of permeability because of the mutual intelligibility of Old English and Old Norse). Rather than standing as a hard line of division, the border between the English and the Danes becomes an important place of contact, conversion, and overlap, one which I argue Alfred's treaty actively mobilizes for the eventuality of expanding his dynasty's rule.

Chapter three focuses on the tenth-century law code IV Edgar, written when the early English ruled much of Britain except for parts of Wales and Scotland. Edgar, known to later Anglo-Norman chroniclers as a king who fostered peace by embracing other cultures such as Britons, Danes, and continental Europeans, begins to conceive of an insular identity that encompasses the English, the Danes, and the Britons without fully collapsing each into each other. These people need to be bound together by only those rules which will keep them safe, the code insists. The scenario laid out in the preface to IV Edgar is that the king seeks to stave off a plague. Plague spreads regardless of border and custom, infects without consideration, and therefore the only way to fight it is to cooperate. Edgar's idea of "insularity," therefore permeates like the plague and brings everyone in contact within the natural boundaries of the island into a political unit. Like his great-grandfather Alfred, Edgar uses law to appeal to all the ways in which a community is already bound together despite these cultures' apparent distinctions. In this code, the inevitability of hybridity is not threatening to Edgar's authority, but a source of it, since he can imagine a community that is not automatically divided by differences and already rules over the hybrid English.

In the last chapter, my dissertation turns to the tumultuous borders of *Beowulf*, recontextualizing the poem as a dramatization of the cultural clash between the eleventh-century Danes' and the early English's own legal norms of feud. While the extant copy of *Beowulf* may not have been the only version in circulation in pre-Conquest England and the original date of the poem is debated, it is intriguing to consider why someone may have recorded it during the dramatic eruption of violence after the relative peace of Edgar's reign. All of the poem's characters are either Scandinavian Geats or Danes, and no early English person appears directly in the story, but it represents a system of dispute solving that was regulated differently in

England than medieval Scandinavia. I argue that the fight between Beowulf and Grendel's mother stands as a warning about even the most legal and well-observed feud (by Scandinavian standards) leading to the collapse of a society. *Beowulf* understands that the anthropological function of feuding is to demarcate kinship boundaries, and it finds this process of constantly defining in-group and out-groups disruptive and apocalyptic. Through the figure of Grendel's mother, the poet directs attention to how the logic of feud necessarily must incorporate every member of a society, even women who are not supposed to enact violence, because feud ties one's personal identity and honor to one's family's honor. However, as the poem indicates, families and societies are necessarily hybrids of many kin groups and communities. This situation forces women to bridge tense divides between groups through marriage even though they necessarily have individualized ideas of their own communities, including their boundaries and factions. In this Old English poem about ancient Danes, even the most honorable and careful characters must eventually cave to the social demands of feud, cannibalizing their own communities much as Grendel continuously devours Danes. In its English context, where, as established throughout my dissertation, hybridity formed a core aspect of communal identity, constant fracturing may have represented a unique horror. Ironically, while *Beowulf* recognizes society as inherently mixed and unstable, it expresses an anxiety that Englishness will become more Scandinavian by adopting feuding practices, anchoring its critique in the pre-Christian past to perhaps also subtly mark the invaders as retrospective.

This project therefore examines four different boundaries—the development of a “people” represented by their *witan*, the geographical boundary put in place to mark a physical separation between two cultures, the binding of diverse peoples together on an island, and the blurring of kinship, humans, and monsters that occurs in *Beowulf*. That law attempts to regulate,

in order to argue that the hybridity inherent in cultural contact was something the early English not only acknowledged, but leveraged. While the conquerors of the Britons and Britain's defense against Danish conquest, English rulers sought to expand their authority and adapt to the multiple narratives of their role on the island. In making the ability to become hybrid an important aspect of English law.



## CHAPTER ONE

### THE *WITAN TOPOS* AND THE DEVELOPMENT OF A RHETORIC OF HYBRIDITY

The earliest recorded laws in Old English, the code attributed to king Æthelberht of Kent at the turn of the sixth century, are an isolated case where there is no attempt to narrativize their promulgation. Only appearing in the twelfth-century *Textus Roffensis* manuscript of early English legislation, these decrees are simply labeled by a red ink title: *Þis syndon þa domas þe Æðelbirht cyning asette on Agustinus dæge* “these are the laws which King Æthelberht set down in Augustine’s time.”<sup>51</sup> This title uses later English more of the time of the manuscript than the neatly copied laws themselves, indicating that if there were a preface to the original seventh-century law code, it was lost by the twelfth century. The next set of laws to appear in the same text are those of Æthelberht’s successors Hloþere and Eadric, and even though the text itself is less archaic than the other early Kentish laws (leading Lisi Oliver to speculate that this document came to the scribes of the *Textus Roffensis* from a different source than both the earlier and later Kentish codes),<sup>52</sup> it contains much more information about the circumstances that led to their creation and the people they are designed to govern. There is a preface attached to the code that is of its time period, and it reads, *Hloþhære 7 Eadric. Cantwara cyningas, ecton þa æ þa ðe heora aldoras ær geworhton ðyssum domum, þe hyr efter sægeþ* “Hloþhere and Eadric, kings of the people of Kent, added these laws to those their ancestors had made before with these decrees, which are as follows.”<sup>53</sup> In addition to providing more details than the code of Æthelberht, this opening also emphasizes the collaborative nature of these laws’ conception. Joint kings Hloþhere and Eadric did not legislate on their own, but in the footsteps of their ancestors on behalf of the

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<sup>51</sup> Text and manuscript information from Lisi Oliver, *The Beginnings of English Law* (Toronto: University of Toronto Press, 2002), 60-61.

<sup>52</sup> *Ibid*, 121.

<sup>53</sup> *Ibid*, 126. My translation.

people of Kent. Although framed as the driving forces of a need for new laws, the reference to their predecessors prefigures what in the later Kentish and then contemporary West Saxon laws would come to be known as a *witan*, a group of advisors for the king.

This chapter proposes using Homi Bhabha's theories of hybridity to re-examine the rhetorical function of the *witan* in the ideological prefaces of the earliest English law codes.<sup>54</sup> While citing counsels and naming advisors certainly has precedents in many continental lay and ecclesiastical legal documents, this *topos* was put to unique use in the Old English royal legislation. While the *witan* is initially cited to *resolve* hybridity, Alfred's ninth-century *domboc* (lawbook) uses the groundwork laid by previous law codes to reach into the past for a *witan* composed of historical lawgivers. In naming these men in much the manner previous kings would acknowledge their current advisors, Alfred constructs a group of counselors who not only collapse temporal boundaries but also collapse previously distinct polities into a singular English. On the surface, such an act might seem like an attempt to homogenize English identity; however, it also acknowledges the parts of the whole and their separate legal traditions, promising (if not necessarily delivering upon said promise) that all strands of law will be recognized among the English. With this diachronic *witan*, Alfred sets a rhetorical precedent for acknowledging cultural hybridity in law in such a way that also solidifies a new political community by establishing its roots firmly in the past. The inherent hybridity of the *witan* becomes a useful tool for later kings grasping beyond the traditional boundaries of the communities—hence, the boundary of the kingdom is almost represented by the *witan*.

Translating the word *witan* or even the related *witenagemot* is deceptively simple. Meaning “the wise ones” and “meeting of the wise ones” respectively, these terms do not

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<sup>54</sup> See Introduction, 7-9.

describe a specific institution as much as a modern reader might be inclined to believe.<sup>55</sup> In his 1943 work *Anglo-Saxon England*, Frank Stenton argued these *witans* were not so much assemblies, as prominent historians of the nineteenth century had conceived of them, but kings' councils.<sup>56</sup> His recategorization of this political body coincided with a general trend in early English scholarship to move away from discovering direct developmental links between the medieval past and the present.<sup>57</sup> Instead, he and other scholars such as Dorothy Whitelock sought to understand the pre-Conquest English on their own terms as much as possible, though perhaps this desire led them to claim a kind of detachment from their own modern views that was unfeasible or unrealistic.<sup>58</sup> Stenton's understanding of *witans* as less of an independent governing body and more of a council of advisors perhaps had the unintended consequence of discouraging further studies of these groups; scholars ceased to view them as organizations with power independent from the king. Even work on the roles of such councilors and assemblies up until this moment has primarily focused on how much power and influence they might have, or whether they existed to check the king's authority or to help steer it. Levi Roach, taking up these threads once again, concludes that they could play both roles at various times.<sup>59</sup> However, this chapter turns away from the powers of specific *witans* or even the broader problem of defining their exact nature; instead, it examines how law codes *styled* the influence these "wise ones" had on legislation, and how invoking them in the prefaces to royal legislation worked within a broader rhetorical schema of identity building.

Roach raises an important question in his book *Kingship and Consent*: was

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<sup>55</sup> Bosworth-Toller, "Witan," 2021.

<sup>56</sup> Frank Stenton, *Anglo-Saxon England* (Oxford, At the Clarendon Press, 1943), 554.

<sup>57</sup> *Ibid*, 551-553.

<sup>58</sup> Levi Roach, *Kingship and Consent in Anglo-Saxon England, 871-978* (Cambridge: Cambridge University Press, 2013), 4.

<sup>59</sup> *Ibid*, 4-5.

acknowledging the help of a *witan* or council in the preface to a law code merely a *topos* or did it reflect the reality of legislative practice?<sup>60</sup> As mentioned above, the focus of Roach's work is on establishing the extent of *witans'* practical power and how they functioned, so his answer is that kings acknowledging their counselors' help in their law codes goes beyond lip service. However, while his exploration of the *witan's* role in early English lawgiving is thorough and valuable, he does not speak further on what rhetorical work the associated *topos* performed for early English kings.

On the one hand, the answer to this second question might seem so obvious as to not need addressing. An important aspect of Roach's argument is that *witans* (hereafter pluralized to indicate that the concept of a *witan* in pre-Conquest England was not as formalized or stable as a modern cabinet or assembly) perform the consent of the people to the king's laws. His book centers how these members of the elite were actively involved in the creation of charters and in settling disputes, but it stands to reason that mentioning them in the codes is the rhetorical version of their more pragmatic roles. It enshrines within the law that while the king is supposedly the highest figure of authority, he rarely acts alone. Therefore, the law becomes partially "by the people," although the members of any given *witan* were almost always lay and ecclesiastical elites. However, I will argue that the rhetorical work of the *witan topos* extends beyond performing consent. The *witan* is hardly what modern republics and democracies would consider a "representative" body since the king's advisors were not elected in any meaningful way by the general populace; however, as we shall see, they often stand in for particular groups or factions who might need to be reassured that the king and his fellow lawgivers have their interests in mind. It is in this particular act of representation that this chapter aims to uncover a rhetoric of hybridity and how it cooperates with the other identity-making strategies employed

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<sup>60</sup> Ibid, 108.

by early English kings and their elite advisors.

Central to this reevaluation is the postcolonial conception of porous borders. In representing the consent of the wider populace under the king's authority, I argue that *witans* can themselves stand in for the borders of the king's domain and represent a merging of their diverse interests. In this way *witans* in early English royal legislation communicated who was included within the king's rule; the bishops of specific churches and many notable ealdormen from across the realm joined members of the king's family at assemblies to discuss laws and potentially enact checks on the king's power. As discussed in the introduction of this dissertation, in Homi Bhabha's theories of socio-political hybridity, borders are effectively both the generative site of the modern nation (establishing who is the nation and who is outside of it) and productively hybrid "third spaces" where new combination cultures can form.<sup>61</sup> While *witans* were certainly real groups of people who oversaw, debated, and ultimately consented to charters and law codes, they come to represent a wider consent than any one individual could. It is important to note that Bhabha's work follows a bottom-up model; he understands the uncontrollably productive hybridity of borders as a process beyond the control of a higher power.<sup>62</sup> In answer, I argue that *witans* theoretically represent a trickling up of the mixing and merging created at these borders, eventually becoming a rhetorical tool for early English rulers to try to control or expand boundaries of their realms.

As has been briefly noted already, this representation was still less direct than many modern parliaments and congresses are supposed to be. The members of any individual *witan* were not elected by the wider populaces they oversaw, so the type of consent they granted was not necessarily understood as the choice of the people. This qualification is one problem with

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<sup>61</sup> Homi Bhabha, *The Location of Culture* (London: Routledge, 1994), 36-37.

<sup>62</sup> *Ibid*, 36-37.

reading them, as Felix Liebermann initially does in his 1913 volume *The National Assembly in the Anglo-Saxon Period*, as a direct precursor to modern representative governments.<sup>63</sup> Indeed, the very desire to seek the origin of current national institutions in the past is a nationalizing one, which Bhabha argues splits the nation into “double time”: the timeless past from which all traditions and identity markers stem and the constant sense of progress and pushing forward which is vital for a modern nation to consider itself “developed.”<sup>64</sup> This chapter therefore does not claim that the *witan* is akin to modern, elected governing bodies, but instead explores how, in their medieval context, these councils embodied within the law the populaces over which early kings’ ruled and reflected how law codes appealed to the hybridity they represent to construct cultural identity.

In addition to providing a counterpoint to earlier scholarship on medieval national assemblies, Bhabha’s concept of “double time” will be integral to this chapter’s reading of Alfred’s particular invocation of the *witan*. This *topos* laid the groundwork for a king such as Alfred to create imaginary historical *witans* that symbolized new combinations of groups and alliances; without the *topos* as a referent, Alfred may not have been able to stretch the definition of a *witan* across temporal boundaries or found that his claim to the kingdoms of each of the historical lawgivers he cites was weaker. Kathleen Davis has identified how something similar to the “double time” of the nation is outlined in Alfred’s preface to his English translation of Gregory’s *Pastoral Care*, imagining the *Angelcynn* (which Davis notes is translatable as both “English” and “England” depending on context) as simultaneously having existed forever while ignoring the boundaries established in his treaty with the Dane Guðrum and including the

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<sup>63</sup> Felix Liebermann, *The National Assembly in the Anglo-Saxon Period*, p. 6.

<sup>64</sup> Homi Bhabha, “DissemiNation: time, narrative, and the margins of the modern nation,” *Nation and Narration*,

Danish-controlled Northumbria and East Anglia within the borders of “Englishness.”<sup>65</sup> At the same time, according to Davis, Alfred’s preface tracks the decline of Latin learning among the English (still a form of progress through time, if a negative one) and argues that a new dissemination of texts in English is critical for the flourishing of the people.<sup>66</sup> Alfred similarly edits temporal boundaries in the multiple prefaces to his legislation, locating the origin of English law in biblical texts to establish his people as among God’s chosen, before citing three important givers of law in English—the West-Saxon Ine, the Mercian Offa, and the Kentish Æthelberht—as direct precedent for his statutes. This chapter aims to demonstrate how these older kings from multiple kingdoms mark Alfred’s law code as the natural culmination of these older statutes, a timeless *witan* which represents the hybridity of the domain Alfred is claiming (Britain south of the Humber), as if the collapsing of these kingdoms into one was inevitable, and the consent of these people to be ruled by him and his West-Saxon dynasty. This diachronic *witan* is at once in the past as a precedent to which Alfred defers, but also contemporaneously giving its approval to Alfred’s rulership.

Of course, invoking the *witan* performed different rhetorical functions within each code’s specific temporal and political contexts. This *topos* certainly did not remain consistent or follow a linear trajectory from the earliest pieces of early English legislation to the conquest of the Normans in 1066. In fact, this is perhaps the most interesting element of acknowledging the *witan*’s assistance in promulgating the laws and their consent to said laws; while mentioning them within the prefaces to royal legislation became fairly standard following the examples of Wihtred of Kent and Ine of Wessex in the eighth century, the actual format of the acknowledgement changes drastically from king to king. For example, the legislation of the

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<sup>65</sup> Kathleen Davis, “National Writing in the Ninth Century: A Reminder for Postcolonial Thinking about the Nation,” *Journal of Medieval and Early Modern Studies*, 28, 1998. For more on treaties, see chapter 2.

<sup>66</sup> *Ibid*, 611.

infamous Æthelræd “unræd,” or “ill-counseled,” as the later writers of the *Anglo-Saxon Chronicles* nicknamed him, frames the work of the counselors relative to the king differently in almost every individual code depending on the circumstances of their promulgation. While it is perhaps obvious that kings would all have their own individual relationships with their advisors and assemblies, one might expect to find a consistent template or a formulary for incorporating these prominent counselors into codes. Instead, what emerges from reading extant Old English legislation is not one standard pattern of including the *witan* but a set of themes that mentioning the *witan* can address: this elite group can try to bridge the perceived gaps between ecclesiastical and lay, nobles and commoners, rich and poor, different lineages of English-speaking peoples settled in diverse geographies, and (sometimes) between English, Dane, and Briton. It is in these attempts to bridge the gaps that a rhetoric of hybridity can be gleaned.

### ***Overview of Scholarship: From Early Constitutionalism to “Assembly Politics”***

Previous scholarship on *witans* has centered on their political realities—the influence they might have had over royal policy, whether they acted as a semi-representative form of government, who they were, where they would gather, what duties they fulfilled, and also the extent to which they might constitute a “national” governing body. As will be explored below, when historians of the early English period have discussed their symbolic functions, the focus has still been on what rituals they performed and how them giving their consent to the king’s laws stood in for the consent of the people. While this chapter is more concerned with the *witan* as a rhetorical trope and how this trope fit into a wider system of socio-political identity building, all invocations of *witans* in Old English royal legislation have real groups of elite advisors as their referents. Therefore, an overview of the current state of scholarship on the roles of these people is a



necessary springboard for understanding all the nuances of their appearance in early English law codes.

As noted in this chapter's introduction, historians' views of *witans* have changed drastically over the years. In the mid-to-late nineteenth century, they were a subject of much interest to constitutionalists, with scholars digging through medieval history to chart the progress of their own nation state over the course of centuries.<sup>67</sup> Pre-eminent scholar of early English law Felix Liebermann's work marks a turning point in search for origins. On the one hand, he opens his 1913 book titled *The National Assembly in the Anglo-Saxon Period* with the implication that studying ancient social political institutions is most useful for coming to a better understanding of modern ones.<sup>68</sup> On the other, his overall argument seems more reluctant than his predecessors to embrace a direct line of descent between *witans* and the English parliament of his time. In his book, Liebermann is conscious of the power that kings had and does not suggest that the *witan* could act often without their monarch's authority; in fact, he views scholars who want to know whether *witans* deliberated over their votes or merely voted to decide as the king did as "preposterous."<sup>69</sup> However, he also sees the *witan* as somehow an establishment that co-exists with a kind of kingship that embodies the state rather than a single individual with power:

"The king's witan, therefore, never sank into mere subservient creatures of the royal court, and during those periods—frequent enough—when a weak prince bore the crown, the word 'king' in their name meant nothing else than the state or commonwealth. And now when the king died and the position of his court officers ended, the witan began to fulfill their most important duty in electing his successor. The national assembly herewith showed its own constitutional basis independent from the monarchy; and at least some members, most likely bishops and ealdormen, must have possessed the generally recognized right to constitute it."<sup>70</sup>

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<sup>67</sup> Levi Roach, *Kingship and Consent in Anglo-Saxon England, 871-978* (Cambridge: Cambridge University Press, 2013), 4.

<sup>68</sup> Felix Liebermann, *The National Assembly in the Anglo-Saxon Period*, 6.

<sup>69</sup> *Ibid*, 23.

<sup>70</sup> *Ibid*, 21.

Liebermann's vision of the king as a representative of a "state" and his *witan* as an enduring body that existed autonomously of specific rulers leans towards the constitutionalist readings of the previous century, even if he is unwilling to go as far as some of those earlier scholars.

Obviously, this type of reading presents many problems for a postcolonial scholar; as stated above, the projection of a modern institution back into the past is a nationalistic impulse. This is where Bhabha's conception of the nation being split into "double time" is particularly pertinent: the timeless past from which all traditions and identity markers stem and the constant sense of progress and pushing forward which is vital for a modern nation to consider itself "developed."<sup>71</sup> Studies of *witans* from this time period therefore often sought to equate them with parliaments and other kinds of assemblies, a project that fell out of favor after the two World Wars.<sup>72</sup> Frank Stenton in particular emphasized the power of specific monarchs and the personalized relationship of the lords who made up a given *witenagemot* with their king. Rather than reading these early assemblies as an independent branch of government from the monarchy, Stenton understood the *witan* in the following way:

"The king was expected to rule, and the powers which custom allowed him were sufficient for his needs. But their effective use depended on the co-operation, not only of the earls and bishops, but of the wealthy, unofficial aristocracy which led opinion in the shires. The leading members of this aristocracy, at least in southern England, were king's thegns, and the fact that the king was the personal lord of so many gentlemen of local influence was a very important source of strength to the Old English monarchy. Some of these men obtained positions at court, and the king's special favor raised others to earldoms . . . But in general such men seem to have been content with the position which their lands gave them in their own country, and they only come into history through their right or duty of attending the king in the great council of the realm, the *witena gemot*."<sup>73</sup>

Like Liebermann, Stenton notes how certain prominent families or bishoprics would have

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<sup>71</sup> Homi Bhabha, "DissemiNation: time, narrative, and the margins of the modern nation," *Nation and Narration*,

<sup>72</sup> Levi Roach, *Kingship and Consent in Anglo-Saxon England, 871-978* (Cambridge: Cambridge University Press, 2013), 6.

<sup>73</sup> Frank Stenton, *Anglo-Saxon England*, 550.

continuous rights on prestigious positions advising the king. However, he emphasizes the personalized connection these aristocrats would have had with the king. He posits that the king was the highest such lord who could activate systems of loyalty, and his general abandonment of the very term *witan* in preference of “king’s council” suggested the *witan* was itself a royal institution.<sup>74</sup>

Levi Roach makes much of this shift in perspectives in the introduction to his own work on early English assemblies in the late ninth and early tenth centuries. Looking at these texts, however, there does not seem to be such a massive shift as Roach claims; Liebermann hardly fully embraces the idea that *witans* are somehow detached from the king’s authority, and Stenton speaks about the *witan* as a semi-representative body that often has the power to elect kings. In fact, Stenton’s observation that the consent of the *witan* seems absolutely necessary for certain laws and charters, and the fact of the deliberation over specific codes is often included within those codes, is the starting place for my own examination of this *topos*. However, Roach’s point about how the terminology change marks a shift in thought certainly bears some weight—the *witan* could potentially be a body that met separately from the king or undertook executive functions without his direct consent, while a “king’s council” (and Stenton really does abandon the term *witan* and has his index redirect a curious reader to “king’s council”)<sup>75</sup> suggests an inability to exist outside of the king.

More recent discussions of the *witan*’s role in early English government tend to fall into one of two interpretive paradigms for understanding the extent of royal power: a “maximalist” interpretation where kings were successful in consolidating their power from the tenth century

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<sup>74</sup> Ibid, 551.

<sup>75</sup> Ibid, index entry “witan” and “council, the king’s”, 764, 762.

onwards<sup>76</sup> and a “minimalist” one that argues that while kings may have aspired to centralize their power, since a significant portion of disputes were settled by the individuals involved or more local authorities, a king’s power was naturally limited.<sup>77</sup> As Roach has argued, neither of these approaches seems to accurately describe the role *witans* played, since maximalist views tend to situate the *witan* and other governmental institutions on a linear trajectory towards the modern English state and minimalist approaches can become hampered by outdated anthropological models that obscure what connections do exist between the early English kingdoms and the development of said modern English state, assuming that modern England looked to the pre-Conquest period for models.<sup>78</sup> According to Roach’s research, pre-Conquest English assemblies helped establish consensus, meaning the king would have to listen to his magnates and the various views they represented to him, but this consent also enhanced the king’s power and reach, if he and his lords could come to an agreement.<sup>79</sup> To extend Roach’s argument, this somewhat paradoxical role of the *witan* is reflected rhetorically in the prefaces to the law codes, where it serves to both represent the king’s subjects in the law and support the idea of a communal identity for those people. As a further paradox, the *witan* was invoked to establish hegemony through reaching for hybridity. This chapter aims to turn away from defining “statehood” as it would apply to a medieval polity (and the anachronism that might go along with such a project) and even away from attempting to understand the boundaries of specific king’s powers. Instead, this chapter will analyze the ideologies of the law codes to better understand how the conception of a *witan* worked to establish political communities.

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<sup>76</sup> See James Campbell, *The Anglo-Saxon State* (Cambridge: Cambridge University Press, 2000). “Maximum” is a word he himself uses to describe his approach; see his introduction “The Late Anglo-Saxon State: A Maximum View,” 1-30.

<sup>77</sup> See Paul Hyams, *Rancor and Reconciliation* (Ithaca: Cornell University Press, 2003), 71-110.

<sup>78</sup> Roach, *Kingship and Consent*, 16-20.

<sup>79</sup> *Ibid*, 236-238.

## Functions of *witans*

These disparate functions of the *witan* in the prefaces to royal legislation seem to be an extension of the ritualistic functions it played in English assemblies in the tenth and eleventh centuries, whereby they would perform consent to the king's rule publicly.<sup>80</sup> This has been the focus of most scholarship on the *witan* up to this point. Assemblies of the *witan* convened for many reasons, including but not limited to the creation of royal diplomas, the promulgation of law, the overseeing of judgments, and the coronations of kings.<sup>81</sup> Contemporary accounts such as Byrhtferth's of Edgar's coronation in 973 describe a highly choreographed public coronation ritual that nevertheless appears to be one of the expected duties of the *witan*.<sup>82</sup> In addition to carrying out specific ritualized events, certain features common to all occasions of assembly seemed designed to symbolize the solidarity of the *witan*. The prevalence of feasting at many of these events, for example, may have fostered a sense of community among these men and women who participated in royal proceedings, since sharing food and drink often promoted social cohesion.<sup>83</sup> Feasts were, of course, subject to the same rules of hierarchy as other early English political events, but they still demonstrate the communal ideal behind the assembling of the *witan*. Roach has argued that it is perhaps this sense of the community that royal legislation attempts to recreate and manipulate in service of imagining political communities to extend royal authority.<sup>84</sup>

However, these communities had to be built amongst groups who would not necessarily

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<sup>80</sup> Ibid, 161.

<sup>81</sup> Ibid, 162. See also Simon Keynes, "Church Councils, Royal Assemblies, and Anglo-Saxon Royal Diplomas," *Kingship, Legislation and Power in Anglo-Saxon England* (London: Boydell Press, 2013), pp 17-182.

<sup>82</sup> Roach, *Kingship and Consent*, 162-166.

<sup>83</sup> Ibid, 181.

<sup>84</sup> Ibid, 181.

see themselves as the same and had to be persuaded or hybridized into larger overarching groups. I contend that some of the pressure to represent the diversity of a given group was placed upon the *witan*. The hybridity that *witans* tacitly acknowledged in both their practical and symbolic functions is attested by material and literary evidence. As discussed in the introduction, although the term “hybridity” is a modern one and therefore never used by these medieval authors, the mixing and coalescing of societies was a theme in many pieces of early English literature across many genres. The prevalence of this theme may be due in a large part to the unique political circumstances of Britain from ca. 400-1066. Over the course of these centuries, Britain became home to many different groups, including, but certainly not limited to, British, Picts, Angles, Saxons, and other northern European immigrants, such as the Danes and other Scandinavians.<sup>85</sup> The stories of invasion and conquest in early English literature, with neatly separated and therefore seemingly timeless ethnic identities, may be partially based in reality, but there is significant evidence to suggest that the early English’ ancestors’ migration to and subjugation of Britain occurred more often through mingling and coexistence rather than conquest. For example, Robin Fleming has traced the development of the early English cultures that eventually coalesced into kingdoms back to the rise of successful settlers in the late sixth and early seventh centuries. These people crafted heroic pasts for their families that would justify their predominance in their society.<sup>86</sup> These stories, recorded in origin myths and genealogies like those present in Bede’s *Historia Ecclesiastica Gentis Anglorum* and *The Anglo-Saxon Chronicle* have homogenizing tendencies that belie the diversity of the early English populace. As the kings of Wessex began to set their sights on maintaining a hegemony across generations, layers of diversity developed: the Mercian, Kentish, West-Saxon, East Anglian, and Northumbrian

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<sup>85</sup> See Robin Fleming, *Britain After Rome: The Fall and Rise, 400-1070* (London: Penguin Books, 2010). Particularly “Life Among the Ruins,” “Making Peoples, Making Class” and “Norse and Natives.”

<sup>86</sup> Fleming, “Elites, Kingdoms and a Brand-New Past,” 103.

peoples could all fall under the title (however constructed) of English, and the diversity of their communities' origins could be further obscured.

Given the instability of these group identities that were developing in the sixth and seventh centuries, early English elites who wanted to expand or even maintain their power needed to come up with methods for managing this hybridity and the potential for fracturing that it represented. One method that has been meticulously researched by Nicholas Howe was to mythologize the early English's migratory origins from Northern Europe to Britain, and to create a sense of themselves as a part of a Germanic diaspora.<sup>87</sup> In postcolonial theory, modern diasporas can challenge nationalist narratives by suggesting that certain communities are not bounded or controlled by an individual nation; however, as Ien Ang has pointed out, this kind of imagined community can be read as "proto-nationalist" since it suggests that there is an essential category of people who are tied together by ethnic origin, geographical origin, or religion whose community, while not located in one specific place, has clear and divisive boundaries.<sup>88</sup> This is the type of proto-nationalist identification with a specific origin that Howe sees in early English political rhetoric, and I agree with Ang that, in its essence, this rhetoric is homogenizing. It is even possible to see this homogenizing impulse in invocations of the *witan* to resolve the tensions within a community and bring them together into one being. However, amongst the possible rhetorical positionings of *witans* within law codes is an acknowledgement of the blended nature of early English society that can sometimes be leveraged rather than ignored, as shall be explored further below.

Let us first examine the ways in which councils were potentially deployed in homogenizing ways; for this, we will first turn to a source outside the law for an understanding

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<sup>87</sup> Nicholas Howe, *Migration and Mythmaking in Anglo-Saxon England*, (New Haven: Yale University Press, 1989)

<sup>88</sup> Ien Ang, "Together-in-Difference: Beyond Diaspora, Into Hybridity," *Asian Studies Review*, 27.2 (2003), 144.

of the function of councils within early English societies. The Northumbrian monk and scholar Bede expressed the value of hegemony and positioned royal councils as a successful method for containing hybridity, for he in particular seemed to think it needed to be contained. In *Historia Ecclesiastica Gentis Anglorum* (c. 731), Bede tells the story of the conversion of the English people to Christianity; in order to do so, he proposes an English (*Angli*) identity that extends beyond the borders of his own Anglian territory of Northumbria to include Kentish, East Anglian, and (albeit somewhat reluctantly) Mercian peoples, but excludes the British and Picts. As Jeffrey Jerome Cohen has observed, Bede is reluctant to acknowledge the hybridity of the early English.<sup>89</sup> In fact, in most of these acknowledgments Bede either condemns or resolves the hybridity, ultimately projecting a “separateness” onto the past that allows him to demarcate the English people as those destined to control the island of Britain.<sup>90</sup> When complex situations arise around identity (such as Rædwald maintaining Christian and pagan practices side-by-side or the alliance between a pagan king of Mercia and a Christian king of the Britons) Bede almost always presents them as destructive; these groups must live separately or overcome each other, for they cannot, as they historically did, coexist.<sup>91</sup>

Bede’s *Ecclesiastical History* is useful to the present study because West-Saxon kings certainly looked to it when they used *Angli* and *Anglecynn* to describe themselves, and it offers insight into the origins of royal councils as both conflict resolvers and identity-makers.<sup>92</sup> Early on in the text, Bede indicates a council’s importance in the creation of a communal identity through law when he writes of Æthelberht, “Among other benefits which he conferred upon the

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<sup>89</sup> Jeffrey Jerome Cohen, “Between Belongings: History’s Middles” *Hybridity, Identity, and Monstrosity: On Difficult Middles* (New York: Palgrave Macmillan, 2006), 45.

<sup>90</sup> *Ibid.*, 47.

<sup>91</sup> *Ibid.*, 51-52.

<sup>92</sup> For more on the development of the *Angelcynn* see Sarah Foot, “The Making of the *Angelcynn*: English Identity Before the Norman Conquest,” *Transactions of the Royal Historical Society*, 6 (1996), 24-49.



race under his care, he established with the advice of his counsellors a code of law, after the Roman manner.”<sup>93</sup> Although Æthelberht’s early seventh-century code is one of the few that does not include an early explanatory preface that acknowledges the support of a *witan*, Bede attests to its existence over a century later in order to project a consensus onto the first piece of Anglo-Saxon written legislation. Even more significant to understanding the rhetorical function of the *witan* in even these early law codes are the ways in which Bede indicates this document was coded with certain communal identity markers. For example, Bede attributes a Romanizing tendency to Æthelberht’s code, indicating that the statutes reflect Roman values and religious practices. While what exactly Bede means when he says Æthelberht legislated in a Roman manner is unclear (a direct link to Roman models of legislation is highly debatable)<sup>94</sup>, his language ties the early Kentish king back to Roman ideals and Roman Catholicism. That these counselors have assented to a Roman Christian law is further supported, for Bede at least, by the inclusion of protections for the early Kentish Church.<sup>95</sup> In addition to aligning early English law (and therefore English-speaking peoples) with Rome, Bede indicates that these laws contained other important identity markers: “These are written in English and are still kept and observed by the people.”<sup>96</sup> These laws therefore support a linguistic hegemony and the fact that Bede claims they are still observed in his time (even though by this point they had been emended by Æthelberht’s successors) suggests a continuity of assent. The council in this scene assists in the creation of the law and its homogenizing tendencies.

For Bede, councils play a large role in potentially obscuring hybridity and fostering a

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<sup>93</sup> Bede, *The Ecclesiastical History of the English People*, trans Bertram Colgrave (Oxford: Oxford University Press, 1969), II.5.

<sup>94</sup> See Oliver, Lisi, *The Beginnings of English Law* (Toronto: University of Toronto Press, 2003).

<sup>95</sup> *Ibid*, II.5.

<sup>96</sup> *Ibid*, II.5. See also Mary Richards, “Anglo-Saxonism in the Old English Laws” *Anglo-Saxonism and the Construction of Social Identity*, (Gainesville: University Press of Florida, 1997), 40.

unified identity. In *Historia Ecclesiastica*, councils called by the king do not merely perform *consent* to his will but also resolve hybridity through *consensus* which the king then projects out as *his* will. The councils appearing in *Historia Ecclesiastica* are not stable political entities with specific juridical duties but are rather groups of important people called together by the king when a crisis of identity occurs, and a decision needs to be made about who “we” are. The first major successful example of this phenomenon in *Historia Ecclesiastica* occurs when Paulinus the Roman missionary finally convinces King Edwin of Northumbria to convert to Christianity. Like most of Bede’s favorite kings, Edwin creates a hegemony uniting not just the disparate constituencies of Northumbria, Bernicia and Deira, but also bringing “under his sway the whole realm of Britain, not only English kingdoms but those ruled over by the Britons as well.”<sup>97</sup> Paulinus, continuing the work of Augustine and the mission to Kent in 597, focuses his efforts of conversion on the king, presumably because he believes Edwin is the most influential arbitrator of values and customs within his kingdom. When Edwin finally decides that he wishes to take the Christian faith, he meets with his counselors to see if they would be willing to take the waters of baptism with him.<sup>98</sup> Bede never reveals how many people are present and only two individuals ever speak directly: the pagan priest Coifi and an unnamed man. Both of these individuals confirm Edwin’s desire to take up this new religion because paganism does not provide them with enough certainty about the afterlife and has not rewarded them for their attentive service.<sup>99</sup> Despite his initial support for the king, however, Coifi seeks to learn about the Christian religion from Paulinus before fully offering his backing. It is only once these men have reached a consensus (with Coifi seeming to lead the discussion) that they turn to projecting that decision

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<sup>97</sup> Ibid, II.9.

<sup>98</sup> Ibid, II.13.

<sup>99</sup> Ibid, II.13.

outward to the people.<sup>100</sup>

The establishment of this new Christian identity takes a violent turn when Coifi advises his king that they should burn the pagan temples. The consensus is enacted by the forceful erasure of difference and the potential for hybrid religious communities. Coifi, the high priest of this relatively mysterious pagan religion, suggests that “we should promptly abandon and commit to the flames the temples and the altars which we have held sacred without reaping any benefit” and Bede interjects his own voice into the narrative to pose the rhetorical question “Why need I say more?”<sup>101</sup> To Bede, the obvious solution to resolving the conflict between the aristocrats’ new monotheistic religion and their subjects’ idolatrous pagan one is for the king and his men to cut their people off from accessing pagan religious rites and force them to remain part of the hegemony. Coifi volunteers to be the one to triumphantly profane his old idols, a symbolic moment for setting “an example to all.”<sup>102</sup> In order to complete this transaction, Coifi must perform actions that would be unacceptable for a high priest in this religion, such as carrying a spear and riding on a stallion.<sup>103</sup> In this sequence of events the council considers the king’s offer, deliberates, reaches consensus, and then represents that consensus to the people by symbolically destroying artifacts of their old religion.

Bede offers a slightly different version of a king’s council coming to consensus in order to resolve potential hybridity in the later story of the Synod of Whitby. This synod was not in fact called by King Oswiu and his father, but they nevertheless preside over it in Bede’s text as the ecclesiastical leaders of Northumbria all gather to decide whether the English should follow

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<sup>100</sup> Ibid, II.13.

<sup>101</sup> Ibid, II.13.

<sup>102</sup> Ibid, II.13.

<sup>103</sup> Ibid, II.13.

the Roman or Celtic rules for the dating of Easter and tonsuring.<sup>104</sup> The officials present debate the merits of their preferred customs and their discussion is arbitrated by the king, who eventually has the last word in what form of Christianity his people will adopt. At the opening of their council, King Oswiu frames the debate in terms of hybridity and hegemony, stating “it was fitting that those who served God should observe one rule of life and not differ in the celebration of the heavenly sacraments, seeing that they all hoped for one kingdom in heaven; they ought to therefore inquire as to which was the truer tradition and then follow it together.”<sup>105</sup> According to Oswiu (and through him, Bede), heaven is an idealized place of unity and conformity which the Northumbrian kingdom should emulate. It is therefore of the utmost importance that the council reaches a consensus that accurately reflects the will of heaven. Although the debate largely consists of a back-and-forth between Wilfrid, a proponent of the Roman Easter, and his rival Colman, a proponent of the Celtic one, King Oswiu is the one who eventually decides which of the arguments expresses the “truer” version of Christianity. Wilfrid is ultimately the one to persuade Oswiu by clarifying that Peter, who celebrated the Roman Easter, is the gatekeeper of heaven and the rock upon which Christ builds the Church.<sup>106</sup> Bede writes that when Oswiu declares Wilfrid to be the winner of the debate “all who were seated there or standing by, both high and low, signified their assent, gave up their imperfect rules, and readily accepted in their place those which they recognized to be better.”<sup>107</sup> The factions are brought into a cohesive whole through the consensus of these important men, and the king expresses and enforces their decision publicly.

However, these councils are not always completely successful at resolving hybridity in

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<sup>104</sup> Ibid, III.25.

<sup>105</sup> Ibid, III.25.

<sup>106</sup> Ibid, III.25.

<sup>107</sup> Ibid, III.25.

*Historia Ecclesiastica*. Even as Bede depicts hybridity as negative and threatening, his text reveals it can never be completely eliminated. In the scenes where Edwin calls his advisors together and the Synod of Whitby decides to keep the Roman Easter and tonsure, Bede explores two scenarios where the councils' work at producing consensus fails: when the consensus of the councilors is not quite on par with that of the people and when one (albeit smaller) faction remains unconvinced. When Coifi destroys the idols in order to set an example for the Northumbrians, Bede notes that the people witnessing his message initially misunderstand the meanings of his actions. He writes that "The common people who saw [Coifi] thought he was mad."<sup>108</sup> They are unable to interpret the reasoning behind Coifi's symbolic act, at least initially, and so the significance of the consensus is lost on them. Later, a "vast number of the common people" in addition to "all the nobles of his race" are baptized with Edwin indicating that the consensus finally takes hold, but some of the common people may be continuing to practice pagan religions.<sup>109</sup> The lack of complete consensus, which is, perhaps, impossible, leads to eventual apostasy and disarray after Edwin dies. Not only does Northumbria split back into Deira and Bernicia but their kings Osric and Eanfrith abjure the Christian faith and "reverted to the filth of their former idolatry, thereby to be polluted and destroyed."<sup>110</sup> In the case of Whitby, despite Wilfrid's resounding victory, Colman does not accept the Roman customs but instead returns to Ireland with his followers to "discuss with his own party what he ought to do in the matter."<sup>111</sup> Although the problematic Colman removes himself from the country and thereby allows English practice to unify, he remains a figure of dissent at the margins whose teachings threaten the stability of English catholic Christianity.

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<sup>108</sup> Ibid, II.13.

<sup>109</sup> Ibid, II.14.

<sup>110</sup> Ibid, III.1.

<sup>111</sup> Ibid, III.26.

The anxieties about identity and hybridity expressed with varying degrees of trepidation in *Historia Ecclesiastica* suggests that in order to legislate for a group of people in early England, kings and magnates would have to define parameters of belonging for the groups they claimed to rule. According to Patrick Wormald and Mary Richards, one of the most prominent ideological functions of early English royal legislation was bolstering a sense of unified identity. Richards suggests that the Old English law codes express “Anglo-Saxonism” through their Christian inflections and the continued use of English as the preferred language of legislation.<sup>112</sup> Richards goes as far as to argue that one of the primary functions of early English royal legislation is to develop and preserve these shared cultural markers to the benefit of the expanding state.<sup>113</sup> Patrick Wormald also argues that “early medieval people located their identity in their ancient written laws” when discussing Alfred’s famous Mosaic preface and his construction of the Anglo-Saxons as inheritors to the Hebraic legal tradition.<sup>114</sup> In a maximalist view, the promotion of such ideology represents the growth of a state, as James Campbell has argued extensively.<sup>115</sup> Although the efficacy and exact purpose of these claims to unity has been contested,<sup>116</sup> the growing emphasis in the prefaces on the consensus of *witans* may reveal a concern about the hybrid nature of the societies these kings were trying to rule and their own abilities to maintain a hegemony. But more importantly, within these ideological prefaces, the hybridity of the *witan* poses powerful potential; instead of representing fracturing, as Bede evidently fears, the hybrid “third space” the *witan* represents can, as Alfred’s laws will show, allow for the expansion of “Englishness” that will eventually become a tool for his descendants

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<sup>112</sup> Richards, “Anglo-Saxonism in the Old English Laws” *Anglo-Saxonism and the Construction of Social Identity*, (Gainesville: University Press of Florida, 1997), 40-41.

<sup>113</sup> *Ibid*, 41-42.

<sup>114</sup> Wormald, *The Making of English Law: King Alfred to the Twelfth Century* (London: Blackwell, 1991), p. 417.

<sup>115</sup> Campbell, *The Anglo-Saxon State*, 36.

<sup>116</sup> Hyams, *Rancor and Reconciliation*, 71-110.

use for incorporating rivals into subjects.

Before examining the prefaces, a little must be said on their rhetorical functions and purposes. Beginning with the seventh-century Kentish kings Hlophere and Eadric, all extant law codes in Old English contain a preface, however brief, indicating the king who promulgated it and something of his intent while drafting his codes. Certain *topoi* develop, such as the common statement that laws have been “gathered” from previous codes and “augmented” by the current king, who nonetheless names these laws his own.<sup>117</sup> The prefaces are also places where the king identifies himself to his subjects and fosters an individual bond with them. Andrew Rabin has argued that the preface uses similar language to early English statutes on testimony so that it “conjures the king’s presence” and acts as a supposedly more accurate testimony to his legislative will.<sup>118</sup> The language of speech is often used to communicate this sense of the king’s continued presence.<sup>119</sup> Rabin goes on to argue that these prefaces evolve to render their subjects as legible to the law, performing the hierarchical relationship between the king and those over whom he rules.<sup>120</sup> Given the performative nature of these prefaces, the appearance of the *witan* at once reminds the reader of the king’s hegemony and foregrounds the diversity inherent in the formation of a group. Even as they are included within the group, they also render its borders visible.

The first preface to mention a group of counselors is that of Wihtred of Kent (c. 690). Wihtred’s preface does not use the word *witan*, as later codes will, but names specific advisors: Brihtwald, archbishop of Britain, and Gebmund, the bishop of Rochester.<sup>121</sup> The preface says

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<sup>117</sup> Roach, *Kingship and Consent*, 103.

<sup>118</sup> Andrew Rabin, “Witnessing Kingship: Royal Power and the Legal Subject in Old English Laws.” *Kingship, Legislation, and Power in Anglo-Saxon England*. Eds. Gale R. Owen-Crocker and Brian W. Schneider. (Woodbridge: Boydell & Brewer, 2013), 223.

<sup>119</sup> *Ibid*, 223.

<sup>120</sup> *Ibid*, 229.

<sup>121</sup> Oliver, *The Beginnings of English Law*, 152.

that these men and other nameless churchmen spoke *anmodlice mid þy hersuman folcy* “unanimously with the loyal people.”<sup>122</sup> From the grammar of this section of the text it seems that the church officials are, in fact, representing the will of the people and therefore their unanimous consent to the laws laid out by Wihtred. The text puts particular emphasis on the consent of the people to these decrees made by *ða eadigan* “the great men,” since they apparently promulgate these laws *mid ealra gemedum* “with the consent of all.”<sup>123</sup> The counselors are very clearly representing a consensus to support the laws that the king is adding to *Cantwara rihtum þeawum* “the just laws of the Kentish people.”<sup>124</sup> Legislating at a similar time as Wihtred, Ine of Wessex (whose code bears several resemblances to Wihtred’s; so much so that the kings were probably aware of each other’s work), Ine’s preface also focuses on consent, although he makes no mention of the common people. Like Wihtred, Ine references several of the most important men who are advising him—Cenred, his father, and bishops Hedde and Erconwald—before bringing up the broader group of the legislating body *eallum minum ealdormonnum 7 þæm ieldstan witum minre ðeode* “all my ealdormen and the chief wise men of my people.”<sup>125</sup> The *minre ðeode*, while not quite as inclusive as Wihtred’s discussion of the consent of his people, indicates that the people present at the legislation of this code are there to represent to the consensus of the people of Wessex. Unlike Wihtred’s code, however, Ine’s royal preface uses singular rather than first person pronouns—he opens with *ic Ine, mid Godes gife, Wesseaxna kyning* “I Ine, by God’s gift, king of the West-Saxons”—and takes a stronger stance of the hierarchy between the king and his advisors, saying that now a consensus has been established no ealdorman nor subject *æfter þam wære awendende ðas ure domas* “may hereafter

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<sup>122</sup> Ibid, 152.

<sup>123</sup> Ibid, 152.

<sup>124</sup> Ibid, 152.

<sup>125</sup> F.L. Attenborough, *The Laws of the Earliest English Kings*, 36.



alter these our judgments.”<sup>126</sup> The use of *ure* here seems to reiterate the consensus represented by the mention of the counselors. By affirming these codes the advisors affirm the king’s claim to hegemony over anyone who considers himself a West-Saxon.

As discussed above, the prefaces to Alfred’s influential *domboc* perform several rhetorical maneuvers to bolster the king’s claims of an English cultural identity that supersedes the identities of individual kingdoms, and yet is careful to include and acknowledge these kingdoms. Alfred steps away from naming individual advisors and instead creates two *witans* who informed the creation of his laws: the king’s whose laws he has supposedly *togædere gegaderode* “gathered together” and his current advisors who read and approved his decrees.<sup>127</sup> By naming individual kings of the past whose laws informed Alfred’s own, they mirror the invocation of specific members of a *witan*, establishing these men as a diachronic *witan* that stands outside the boundaries of time. In the first group are the kings Æthelberht of Kent (the first law-giving king of the English, according to Bede), Ine of Wessex (from whom Alfred is descended), Offa (a famous king of the Mercians whose code, if it ever existed, is no longer extant). Alfred writes that he selected the laws he found most fitting from among these kings, whom he constructs as his predecessors even though he is really pulling from a diverse set of traditions, and their authority therefore supports his own legislation. Although long dead, these kings serve as a kind of *witan* that performs a consensus among peoples who are actually quite different to help Alfred’s laws promote a sense of an overarching English identity. Alfred also writes that he has shown these laws *eallum minum witum* “to all of my wise men” and that *hie ða cwædon, þæt licode eallumm to healdanne* “they said that they met with the approval of all, that

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<sup>126</sup> Ibid, 36.

<sup>127</sup> Ibid, 62

they should be observed.”<sup>128</sup> It should be noted that in both these narratives of consultation, Alfred is the one compiling and showing, with his various *witans* either tacitly or explicitly approving of his selections and legitimating his authority to proclaim them. The process of coming to consensus is not dramatized, and the hybridity of the diverse legislating traditions of Mercia, Kent, and Wessex culminates in Alfred’s single law code.

While the preface to the *domboc* still has Alfred identifying as a West-Saxon king, regardless of any other rhetorical moves it makes towards establishing a hegemony, his treaty with the Dane Guðrum in 880-890 asserts his ability to act as king of the English, with the consent of the peoples he is representing, of course. In a treaty, the preface declares *Dis is ðæt frið, ðæt Ælfred cyninc 7 Gyðrum cyning 7 ealles Angelcynnes witan 7 eal seo ðeod ðe on Eastænglum beoð ealle gecweden habbað* “this is the peace that King Alfred and King Guðrum and the counselors of all the English people and all the people who dwell in the East Anglian territories all agreed upon.”<sup>129</sup> In this moment of consensus, it is not just the kings who have agreed to the terms of peace laid out below, but the English *witan* and all of the people currently settled in East Anglia. That the *witan* parallels the *ðeod ðe on Eastænglum beoð* “the people who dwell in the East Anglian territories” shows that both rulers are representing diverse interests. When in an encounter with an Other, such as a Dane, the unifying factors of English identity such as Christianity and a shared language become more important, and Alfred is able to claim that he best represents that English identity. The consent of the *witan* performs the homogenizing of the peoples Alfred is representing in this treaty, collapsing Mercia, Wessex, and Kent into one entity. Whether or not this treaty represented a political reality, it imagines the community of the English through consensus.

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<sup>128</sup> Ibid, 62

<sup>129</sup> Ibid, 98.

Yet it is also aware of their continued distinction—in combining all these laws into a single document (which is what Alfred claims he is doing), there is room for the continuation of Mercian and Kentish identities within Englishness (which is being championed by the West Saxon faction led by Alfred). Like the councils in Bede’s *Historia Ecclesiastica* that could not come to a complete consensus, the hybridity lingers under the surface of the unifying strategy. However, unlike Bede’s hybridity, which is shoved to the literal margins of the community, Alfred’s diachronic *witan* does not banish communities and ideas that cannot assimilate; while it is very likely that Alfred had no power to do so, this rhetorical move of inclusion also establishes Englishness as fundamentally a hybrid coalition of peoples sharing certain characteristics. Future communities (such as the Danes) willing to adopt the important elements of those characteristics can be incorporated into Englishness, and this flexibility may contribute to English identity surviving and adapting through multiple foreign conquests at the turn of the millennium.

Prefaces to codes following Alfred’s are not usually as elaborate or suggestive in their rhetoric, but the *topos* of the consenting *witan* continues. Alfred’s successor Edward the Elder exhorts his reeves and *wytan* to maintain his laws throughout the land in both I Edward and II Edward, Æthelstan acknowledges the aid of his bishops and other councilors, and Edmund and Edgar promoted their own laws as consensus among themselves and their *witans*.<sup>130</sup> In V Æthelstan the king writes that his people have so poorly kept his laws that his *witan secgað þæt ic hit to lange forboren hæbbe* “witan says I have born it for too long.”<sup>131</sup> The *witan* consents so much to Æthelstan’s laws that they urge him to not tolerate defiance to them. This enthusiasm for the law may be due to their own hand in crafting it, but it does reiterate that Æthelstan’s laws represented a consensus of these elite men who were in turn representing the various peoples of

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<sup>130</sup> Ibid, 156.

<sup>131</sup> Ibid, 152.

the kingdom and performing consent for them.

Performing a consensus that builds identity becomes particularly important in the late-tenth and early eleventh-century legislation of Æthelræd and his Danish successor Cnut. Æthelræd's laws significantly shift tone between codes four and five, with codes I-IV being primarily secular in content and codes V-X being primarily ecclesiastical.<sup>132</sup> Æthelræd and his primary assistant in law-writing Archbishop Wulfstan of York wanted to foster a sense of English identity to maintain order in the face of sustained Danish invasions. The first code Æthelræd issues at Woodstock begins with the preface *Dis is seo gerædnys þe Æthelred cining 7 his witan geræddon eallon folce to friðes bote . . . æfter Engla lage*. "This is the law which Æthelræd and his *witan* enacted for all people to keep the promise of peace . . . according to English law."<sup>133</sup> In this section, the consensus represented by the *witan* reinforces the claim of an overarching English identity made by *Engla lage*, the law of the English. The consensus bolsters a national identity based on keeping the laws which both the current advisors to the king and those of previous kings consented to. As Æthelræd's codes themselves took on a more Christian character, so did their prefaces. VII Æthelræd seems significant in the manner that it invokes consensus, for, unlike all the other codes of this king, it does not mention the *witan*. Instead it bypasses the symbol of consensus for a direct appeal to unity when it says *Ealle we beþurfan þæt we geornlice earnian þæt we Godes milse 7 his mildheortnesse habban moton 7 þæt we þurh his fultum magon feondum wiðstandan* "We all ought to strive earnestly so that we might have God's mercy and compassion, that we might, through his help, withstand our enemies."<sup>134</sup> This direct exhortation for unity is unprecedented, and perhaps reveals more about the rhetorical work the *witan* was supposed to perform in fostering consensus and unity through representing a

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<sup>132</sup>A.J. Robertson, *The Laws of the Kings of England* (Cambridge: Cambridge University Press, 1925), 47.

<sup>133</sup> *Ibid*, 52.

<sup>134</sup> *Ibid*, 114.

shared identity. Although ultimately unsuccessful for Æthelræd, Cnut's laws include the *witan topos* in its most standard form, bolstering his own claim to ruling England through invoking the *witan*.

Cnut's accession of the English throne in 1016 came after a successful conquest. Although, as discussed above, England was home to many Danes and the descendants of Danes at the time, King Cnut may have felt particular pressure to justify his authority over the English. In the laws, which were also authored by Archbishop Wulfstan, he uses the familiar rhetoric of the *witan* to give the impression of consent and consensus to his rule. In his legislation, specific members of his *witan* are not mentioned, but the hybridity they are meant to resolve is brought to the foreground: *Dis is seo gerædnys þe Cnut cyninge, ealles Englalandes cininge 7 Dena cinig, mid his witena geþeahte gerædde* "This is the ordinance which King Canute, King of all England and King of the Danes, determined upon with the advice of Councillors."<sup>135</sup> Here Cnut touts his joint rulership of England and Denmark although he is writing laws specifically for the English (and in English), in this code. In his second code this hybridity passes unacknowledged in the preface, even though he also invokes the *witan*'s support.

### ***Conclusion***

Old English law codes came to invoke the *witan*'s support to represent and occasionally resolve the hybridity of their people. Councils in historiographical narratives mirrored the function of councils in the stylized prefaces of early English legislation, serving as a way of resolving and pre-empting intragroup tensions, paving the way for similar strategies of conflict resolution.

However, the *witan* could also make the hybridity of the English more present, as in the case of Alfred's laws, where he invokes an ahistorical *witan* to assert his authority over not just his West

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<sup>135</sup>Ibid, 154-155.

Saxon subjects, but also Kentish people and the Mercians. In so doing, Alfred acknowledges and even approves of the hybridity of the English, indicating that hybridity could be leveraged for political gain.

## CHAPTER TWO

### THE ROLE OF TREATIES IN SCRIPTING CULTURAL CONTACT

#### *Introduction*

In the treaty II Æthelræd, promulgated in the last decade of the tenth century, the titular King Æthelræd and his counsellors established an alliance with three Viking leaders who had been raiding in Britain. After paying tribute to these former adversaries, Æthelræd asked for their assistance in maintaining the security of *Englond* from other attackers.<sup>136</sup> The most general terms of the truce are that Æthelræd and *eallum his leodscipe* (“all of his people”) can expect assistance from this fleet as long as they provide them with *mete* (food and other supplies).<sup>137</sup> Additionally, every area that harbors raiders not aligned with this particular Viking fleet shall be treated as *utlah* (“outside the law”) by both Æthelræd and his new Viking allies.<sup>138</sup> In this sense, the treaty is as much between Æthelræd and the English he claims to represent as it is between the English and these Vikings.

This preface to the main clauses of II Æthelræd raises several key issues with treaties and the boundaries they seek to create and maintain—namely, that these borders are porous and imposing categories may fly in the face of already established alliances, communities, and identities. Within the first few clauses, II Æthelræd imagines a situation where people who identify as English or fall within the boundaries of Æthelræd’s rule might be hostile to their own leaders and choose to support other factions of raiders instead. In this potential scenario, the Vikings and Æthelræd would be on the same side of the law—“within” it—while these rebellious English would be “outside it” or *utlah*. Therefore, the border between the Viking raiders and their previous targets seems less fragile in certain ways than Æthelræd’s relationship

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<sup>136</sup> A.J. Robertson, *The Laws of the Kings of England from Edmund to Henry I*, 56-57.

<sup>137</sup> *Ibid*, 56-57.

<sup>138</sup> *Ibid*, 56-57.

with some of his territories and the elites who govern them. The legal text seeks to prevent English alliances with *future* Vikings before it even specifies what will constitute a breach of the truce on the part of the Vikings who were very recently harrying the island.

II Æthelræd confronts an old problem; treaties are meant to bind two groups together, even loosely, to maintain some form of peace. They therefore blur borders as soon as they create them—as Bhabha argues, a nation primarily exists in its borders, which define it against others even as they generate hybrid “third spaces.”<sup>139</sup> In this chapter, I move from examining the role of hybridity in the rhetoric of prefaces to Old English law codes to analyzing treaties. More clearly than the “internal” law codes, or the texts designed to govern a group of people who share identity markers and are subjects of the same king, treaties delineate an “inside” and an “outside,” leading some legal scholars to suggest that they are about maintaining distinctions more than establishing new groups.<sup>140</sup> This reading reinforces an idea of pre-Conquest English identity-building, that identity creation is a process of defining an “in group” against an outside. However, as is demonstrated in the above example, the concepts of “inside” and “outside” are often more fluid than merely agreeing to keep within certain boundaries. The peace Æthelræd seeks requires Viking mobility within Britain to defend against future attacks, and for there to be rules in place for those who reject an alliance. Interactions between English and Vikings are scripted and codified, certainly, but either side can become an “outlaw” if they do not cooperate with the terms.

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<sup>139</sup> See introduction, 7-9.

<sup>140</sup> See, for example, Tom Lambert, “Frontier Law in Anglo-Saxon England,” *Crossing Borders: Boundaries and Margins in Medieval and Early Modern Britain*, 21-42 and David Dumville, “The Treaty of Alfred and Guthrum,” *Wessex and England from Alfred to Edgar: Six Essays on Political Cultural, and Ecclesiastical Revival*, 1-27, and Paul Kershaw, “The Alfred-Guthrum Treaty: Scripting Accommodation and Interaction in Viking Age England,” *Cultures in Contact: Scandinavian Settlement in England in the Ninth and Tenth Centuries*, 43-64.



As I argued in the previous chapter, even internal codes had to address diverse English identities and make allowances for representing different factions in order to craft an “English” in the first place. While treaties do necessarily establish boundaries, they too create new “third spaces,” the hybrid middle where the groups meet and generate a new culture, whether they want to acknowledge that culture or not. While the previous chapter applied Bhabha’s theory of a “third space” in a slightly unconventional way—examining how rulers used the *witan topos* in the prefaces of their codes to suggest a kind of representative hybridity in order to consolidate or legitimize their power—the argument here relies on Bhabha’s initial conception of borders as places that are necessarily hybrid and therefore outside of hegemonic control. Treaties often create new geographical borders or reify particular groups, but there are always going to be people who cross them or mingle at the border and start to establish an “in between” culture. However, even if the hybridity of borders is organic and difficult for rulers to control, this chapter argues that Alfred and his successors did attempt to leverage the natural mixing that happened at boundaries to their own ends. As laid out in the introduction, this project contends that the early English lawgivers developed rhetorics of hybridity in support of the idea that Englishness could encompass many supposedly different groups. The treaties in particular serve as a test case for how far early English rulers could push those rhetorics in the service of both defending the power they already consolidated and making claims to ruling new territories or peoples.

This chapter, therefore, turns first to defining treaties and how the pre-Conquest English rulers used them, before comparing the rhetoric within the legal documents to poetic compositions about real battles between the English and their “Others.” Since an important element of treaties is negotiating an “outside” between two “insides,” this chapter also discusses

the function of a specific status known as “outlawry.” While exile could be used as an internal punishment, treaties often included the return or punishment of outlaws should they attempt to flee to another group for sanctuary. Therefore, beyond helping us to understand what it might mean to be outside of the boundaries of one law, the concept of outlawry also contributes to a cooperative third space between two parties who agree to capture and punish each other’s exiles. A sense of community must be established between the parties who enter into a compact to maintain or at least recognize each other’s laws. Consequently, these treaties do not, as Tom Lambert has recently argued, merely distill differences between hostile communities and keep them separate, but also connect them and create opportunities for further entanglement.

### *The Treaties*

The previous chapter primarily focused on legal codes from the rulers to the people they ruled and how citations of counselors presented the image of the group’s internal hybridity. This chapter now turns to the regulation of interactions between two groups that are governed by separate authorities through peace treaties. As noted above, the types of “borders” imagined by such documents fit more neatly into Bhabha’s postcolonial theorization of the concept than the earlier discussion of *witans*<sup>141</sup>—while a law code assumes or projects the agreement of a group of people to abide by a set of customs and rules, a treaty necessitates that there are two or more distinct groups of people who need to enter a compact. The “border” imagined by such a treaty, whether it has a specific geographical referent or not, brings one or more groups into contact with an Other, generating possibilities for new mixed contingencies.<sup>142</sup> However, medieval treaties are a unique subset within this category of both law and compact, and need to be

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<sup>141</sup> See chapter one for a fuller a discussion of *witans*.

<sup>142</sup> Homi Bhabha, *The Location of Culture* (London: Routledge, 1994), 36-37.

examined within their specific cultural contexts as well as read through a particular theoretical lens. Modern postcolonial theory may open new paths to understanding these documents that have been overlooked by modern scholars and editors if we read treaties as the formal documentation of a cultural boundary, even if “states” and “nations” and even “borders” did not exist in the same way as they do today.

Treaties are their own genre of legal text, one which until recently, as Jenny Benham has observed, has attracted less scholarly attention than other types of medieval legislative output.<sup>143</sup> This is perhaps because medieval clerks, particularly those in pre-Conquest Britain, did not always separate laws pertaining to domestic matters from those pertaining to foreign relations when collating legal documents. Additionally, as Benham has also noted, medieval treaties do not correspond directly to the modern conception of such documents, primarily because modern treaties are negotiated between “nations” or “states,” rather than between the more nebulous and fluid unit of “peoples.”<sup>144</sup> To a modern understanding, a state often refers to a territory with a permanent population; borders between such polities are usually regulated. As Benham reminds us in general terms, medieval people clearly also had conceptions of territories and broke them down into hundreds, duchies, counties, and so forth. They also had an idea of a stable territorial and cultural border, but these boundaries were more susceptible to change, particularly when power switched hands between rulers. Medieval treaties were also the purview of kings and their counselors, rather than between abstract conceptions of “states.”<sup>145</sup> They were not always designed to last beyond the powerful people who initially agreed upon them and swore them into being, while a modern international treaty theoretically continues until it is repudiated. It is

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<sup>143</sup> Jenny Benham, “Law or treaty? Defining the edge of legal studies in the early and high medieval periods,” *Historical Research*, 487-488.

<sup>144</sup> *Ibid*, 488.

<sup>145</sup> *Ibid*, 488.

possible that in some cases, these agreements were not even considered law, but personal accords between two leaders.<sup>146</sup>

This ambiguity is reflected in how modern editors have historically presented these treaties as part of legal collections. For instance, II Æthelræd, which, as demonstrated above, is a truce negotiation, is preserved in two modern editions as another legal code of the king, rather than being separated out like Alfred and Guðrum.<sup>147</sup> But there are also legal codes containing policy applicable to both domestic affairs and relations with those marked as “outsiders” in some capacity. For example, the tenth-century code IV Edgar, analyzed in more detail in chapter 3, legislates for English, Danes, and Britons, but may be reasonably labelled a legal code because it is not negotiating a truce between powers and is still written in the voice of a king to his subjects, not a king to another leader. However, perhaps genre ambiguity and fluidity are helpful features of these treatises.

The boundaries between law and treaty being ill-defined in pre-Conquest Britain mirrors the difficulty of creating static boundaries between groups of people. A law code that assumes that multiple groups are under the king’s direct rulership, such as IV Edgar, collapses these groups into a whole even while preserving their distinctions, while a treaty does necessitate more of a boundary.<sup>148</sup> Many later English legal codes allow those identifying as Danes to practice their own legal customs, or at least acknowledge that there are two sets of laws coexisting in the North of England; therefore there may be something of a hybrid legal genre in and of itself that is not merely the result of mis-categorization on the part of modern editors. As we have seen in chapter 1’s discussion of the rhetorical functions of witans and will see again in chapter 3’s

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<sup>146</sup> Ibid, 490.

<sup>147</sup> Ibid, 490. For example, Felix Liebermann’s *Die Gesetze der Angelsachsen*, Band I, 2ed (Scientia Aalen, 1960) and, following him, A.J. Robertson, *The Laws of the Kings of England from Edmund to Henry I* (Cambridge, 1925).

<sup>148</sup> See chapter 3 for a fuller discussion of IV Edgar.

exploration of IV Edgar's vision of a multicultural Britain ruled by an English king, there is a way in which ambiguity can be useful for a political leader looking to claim land or control outside of their established borders. Making a formal treaty would recognize the authority of another ruler, for instance, whereas a legal code implies one faction at least is in power, even if the leaders of that faction are making allowances for customs outside of their own. This is an example where the boundaries of genre, like the boundaries of groups of peoples and territories, can be advantageously porous for ambitious rulers wishing to obtain new authority.

In his recent work on early English treaties, Tom Lambert argues that these treaties govern "frontiers." By frontier, he appears to mean the geographical and political borders between territories controlled by different groups of people. The core of his argument is that treaties are separate from "internal law" in that they are designed to maintain peace between two groups rather than within a group, and as such demand many compromises to "personal freedoms" that might be otherwise protected within a community.<sup>149</sup> As such, what is at stake in creating a treaty is coming to an understanding of order that satisfies both parties. For Lambert, these parties are completely distinct and further separated by the action of creating a treaty.<sup>150</sup> This is a useful approach, but I disagree with his final takeaway: Lambert's main idea is that these treaties do not contain legislation about theft as much as early English laws do because they are not trying to bind the two different groups in question into a community built on mutual trust that theft destroys. They have much more narrow agendas than that.<sup>151</sup> But then he writes: "In no sense are they attempting to bind Anglo-Saxons [sic] and Welshmen, or Anglo-Saxons and Scandinavians, into a single community bound by mutual trust; they accept that the communities on either side of their frontiers will remain not only separate but potentially

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<sup>149</sup> Lambert, 25-26.

<sup>150</sup> Ibid, 26.

<sup>151</sup> Ibid, 28.

hostile.”<sup>152</sup> For Lambert, reading a treaty allows modern scholars to better understand the distinct conceptions of “order” that each society follows, and the extent to which they are willing to compromise that order for an uneasy truce.<sup>153</sup>

Lambert’s paradigm needs refining in a number of cases. First, there is his use of the word “frontier” to describe these zones where two or more groups are encountering each other. In some cases, as with the *Ordinance Concerning the Dunsæte* between the Britonic-Welsh and the Early English, there are distinct territorial limits to where these groups of people are interacting and the conditions under which they are living, but this is not the case in one of his other examples such as II Æthelræd, which, as mentioned above, governs interactions between the English king and Viking raiders, but does not specify territorial boundaries belonging to each party. The “frontier” in this case, would be far more cerebral. “Frontier” also has valences beyond merely a “border,” often creating a divided between settled or even “civilized” land and “the wilderness” or the unknown.<sup>154</sup> Beyond the problematic colonial implications of this type of language, the word “frontier” might mark a sharper break than would exist between the cultures making a peace settlement in Alfred and Guðrum, for instance. While Alfred and Guðrum choose a topographical border along the Thames and Lea, Guðrum’s subjects include people who might identify as Northumbrian or East Anglian, speak English, and follow English laws and customs.<sup>155</sup> The north of Britain is not unknown territory to Alfred, and historians such as Bede who significantly predate this treaty conceive of Northumbrian and the southern English speaking kingdoms as not just culturally linked, but also legally linked.<sup>156</sup> Unless Guðrum

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<sup>152</sup> Ibid, 28.

<sup>153</sup> Ibid, 40-41.

<sup>154</sup> “Frontier,” Meriam-Webster, 2020.

<sup>155</sup> Attenborough, 98-99.

<sup>156</sup> Bede, *Historia Ecclesiastica Gentis Anglorum*, II.5, where he locates the beginning of all English law including Northumbrian law with Æthelberht of Kent.

committed genocide, which there is no evidence to suggest he did, the territory marker would not necessarily establish a boundary between completely separated groups of people; or at least, even if the English residing in the north under Guthrum's rule did understand their culture to be significantly different from the southern English, they would still not be Danes by the same logic, so Alfred would be dealing with a hybrid group in any case.

It may seem over particular to take issue with the word "frontier," but it is the language upon which Lambert hangs much of his interpretation of the treaties. While he acknowledges these frontiers as spaces of compromise as discussed above, his word choice obscures the ways in which peoples are already entangled in these areas. The treaties might seek to make sense of that entanglement or order it in some particular way for political gain on either side, but it is rarely a simple meeting in the middle of two groups, and it is not always a process that separates them out into distinct categories, as Lambert insists is the end outcome in all three of these treaties. As mentioned above, such a feat would be impossible, and it also may not even be the end goal of the parties involved. Lambert's conception of the treaties ignores the ways in which kings and other rulers might seek to gain power or make inroads within certain groups and areas, rather than preserve in-group and out-group mentalities. In this chapter, I will argue instead that the treaties mark the same kind of porous borders imagined within the law codes, acknowledging, and even allowing for hybridity when it is advantageous. Treaties do push people to take sides, but they also connect them to a set of rules and governances, leaving the door open for further entanglement.

An important counterpoint to Lambert's ideas is a treaty that was not made between two rulers to solve the immediate problems of interactions between potentially hostile groups, but which is in fact a "counterfeit" on the part of Archbishop Wulfstan of York from the early

eleventh century. A counterpoint, I suggest, because as an imaginary treaty between Alfred's son Edward and a successor to Guðrum with the same name, Edward and Guðrum presents a theory of treaties and their possible valences that Lambert does not consider. Admittedly, this document dates from comparatively late in the early English period, having probably been composed between the years of 1002 and 1004, shortly after Wulfstan was first made archbishop of York.<sup>157</sup> But Wulfstan served as a legal advisor for both Æthelræd II and his Danish successor Cnut, writing laws codes for the both of them that had supposed continuing authority. Much of Wulfstan's effort centered on freeing the English from Danish aggression, whether through actions undertaken to improve their standing with God (and thus remove their punishment) or by entering into mutually beneficial agreements that would dissuade the Danes from attacking. In *Edward and Guthrum*, Wulfstan fabricates a peculiar precedent for peace between the English and Danes by crafting a document between two long-dead kings. While these agreements have no true legal standing and did not represent an actual tenth-century compact between Alfred, Edward, and the Danes, a close reading of the clauses will show a paradigm of peace-making not considered in Lambert's analysis of how treaties mark hard boundaries between groups.

To begin with, Wulfstan's introduction to the treaty pretends that *Edward and Guthrum* represents a pattern of establishing friendship between the two groups that should be used as a template for all further relations. He writes:

And þis is seo gerædnis eac þe Ælfræd cyng and Guðrum cyng, and eft Eadward cyng and Guðrum cyng, gecuran and gecwædon þa þa Engle and Dene to friþe and to freondscipe fulllice fengon.<sup>158</sup>

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<sup>157</sup> Andrew Rabin, *The Political Writings of Archbishop Wulfstan of York*, 55. The fact that this document, though presented in two twelfth-century manuscript as authentic tenth-century law, is a forgery from the eleventh century was first discovered by Dorothy Whitelock in her 1941 article "Wulfstan and the So-Called Laws of Edward and Guthrum."

<sup>158</sup> "And this also is the decree which King Alfred and King Guthrum, and later King Edward and King Guthrum, agreed upon and proclaimed when the English and the Danes fully resolved on peace and friendship."<sup>158</sup> Wulfstan, *Old English Legal Writings*, ed and trans by Andrew Rabin (Cambridge: Harvard University Press, 2020), 2-3.



Here each of the kings, Alfred, his son Edward, and the two men named Guðrum, are proxies for their people, agreeing to the terms of friendship that has already been *fullice fengon* (fully resolved) between the English and Danes. Wulfstan's text then looks ahead to the future with a temporal awareness that a tenth-century document could not have, stating:

And þa witan eac, þe syððan wæron, oft and unseldan þæt seolfe geniwodon and mid gode gehihtan<sup>159</sup>

Obviously, Wulfstan himself fits into the category of the witan who comes afterward, and he goes far beyond merely renewing or improving an old treaty to suit his time's needs. The clause *þa syððan wæron* (those who came [lit: were] afterwards) betrays the treaty's actual temporality, making it seem as though the document understands its own history of transmission. Here, Wulfstan imagines the treaty as constantly updated by men like him, useful for both its supposed time of composition (the tenth century) and relations between Danes and English people in the eleventh century. Imbedded within this statement is also an acknowledgment that the relationship between the English and Danes has not been consistent—a treaty, Wulfstan therefore posits—must be a living document. Even though he locates the beginning of Danish and English relations in the late ninth and early tenth centuries and suggests that a modern peace must be based on the earliest possible peace between the two groups, there is also a sense in this introduction that neither the English, Danes, nor their friendship is completely static.

However, it is difficult to get a sense of how exactly Wulfstan reads this friendship. Certainly, he idealizes its possibilities, grounding the earliest treaty of the Danes and English in a shared commitment to what he considers orthodox Christian doctrine. Not only is the first clause that the two groups should *ænne God lufian . . . and ælcne hæpendom aweorpen* “love one God .

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<sup>159</sup> “And also the councilors, those who came after, often and frequently renewed it and strengthened it with improvements.” Ibid, 2-3.

. . and completely reject all heathen practice”<sup>160</sup>, but also there is functionally not much distinction between the two groups within the code beyond a difference in terminology for the fines (the Old English *wer(gild)* or *wite* or the Danish *lahslit*)<sup>161</sup>. From the introduction, Guðrum, Alfred, and Edward all seem to be ruling as joint kings who share a *witan* undistinguished as either Dane or English.<sup>162</sup> All of the following statutes apply equally to all parties. Furthermore, Wulfstan’s Edward and Guðrum also deals with many of the same topics as “internal” legislation he writes for Æthelræd and seeks to establish a shared Christian identity among the two groups. Converting to Christianity and practicing it in particular ways, as can also be seen in Wulfstan’s famous *Sermo Lupi ad Anglos*, is one of his core prerequisites for peace of any kind.<sup>163</sup>

The preamble to Edward and Guðrum makes a case for the peace of a shared Christian faith needing the support of secular laws. In this case, the leaders of both the English and Danish contingents need to work together to establish laws based upon Christian principles and enforce them along their own sides. It is joint governance of a people who can make up a whole entity bound together by their Christian faith, but who also have their own methods of secular enforcement. Wulfstan writes:

And hig gesetton woruldlice steora eac, for ðam þingum þe wistan þæt hig ells ne mihton manegum gesteoran, ne fela manna nolde to godcundre bote ells gebugan swa hy sceolden; and þa woruldbote hig gesetton gemæne Criste and cynges swa hwar swa man nolde godcunde bote gebugan mid rihte to bisceope dihte.<sup>164</sup>

In Wulfstan’s ideal world, secular force would not need to act as an incentive for proper behavior, but here he deems it a necessity. In a way, his language here implies that not only is

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<sup>160</sup> Ibid, 2.

<sup>161</sup> Attenborough, 102.

<sup>162</sup> Attenborough, 102.

<sup>163</sup> Rabin, *The Political Writings of Archbishop Wulfstan of York*, 36-40.

<sup>164</sup> “And they also established secular penalties, for they knew that otherwise they could not govern many people, nor would many men otherwise comply with Church discipline as they should; and they decreed that secular compensation will be shared by Christ and king wherever anyone refused to submit properly to Church penance at the order of the bishops” Rabin, *Old English Legal Writings*, 2-3.

this a treaty between English and Danes that assigns *wergilds* and *lahslits* according to their background, but also as a treaty between kings, the Church, and God. The “woruldbote” or “world remedy/compensation” is set by *Crist and cyng* to rule the unruly citizenry who cannot be guided by spiritual incentives alone. In certain ways, this lofty goal mirrors the more mundane work of the treaty; the two populations must cooperate in Wulfstan’s eyes, finding common ground in a faith-based set of rules and fines that will maintain order in the event of close contact. This is apparent in the fact that the first tenet after the introduction is that both sides declared that they would love one god, followed by injunctions against attacking priests, incest, and stealing, a crime which Lambert argues is most important to punish if the end goal is maintaining internal order.<sup>165</sup>

While this treaty was not actually promulgated in the tenth century and was never agreed upon as an actual treaty, it opens up a realm of possibilities for “frontier law” which Lambert and others have not considered. Lambert is so insistent that frontier law is never about establishing royal policy and is always peculiarly practical and compromising. But in Edward and Guðrum, Wulfstan does imagine a shared community subject to kings who appear as joint rulers and bound together by the mandates of the church. In this supposition, he follows Alfred’s contemporary biographer Asser’s story about Alfred demanding that Guðrum convert to Christianity before entering into an agreement with the Danish leader, even going so far as to name him a godson and baptizing him.<sup>166</sup> While the demand that the Danes convert to Christianity is not explicit in the treaty itself, we can hear echoes of it in the line that both Alfred and Guthrum’s subjects agree to the treaty because they are anxious for *Godes miltse* “God’s

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<sup>165</sup> Lambert, 29.

<sup>166</sup> Asser, *The Life of King Aflred*, 56.

mercy.”<sup>167</sup> Wulfstan may be extrapolating from historical accounts and biographies, but he views agreeing to religious strictures as a firm basis for a treaty, and the beginning of sharing an identity. None of this is to say that the three treaties discussed by Lambert are trying out the same rhetorical maneuvers as Wulfstan’s forgery, only that, at least in the eleventh-century, Wulfstan saw treaties as a potential opportunity for creating this type of unity. The genre was elastic enough to deal with both practical matters and compromise between two groups who could become hostile at any moment and also to attempt to bring those same groups into a closer proximity.

Of course, when discussing the boundaries and entanglements of law, we must also consider its broader borders; the idea of being “inside” the law or being an “outlaw,” a word that comes into English from Danish. Being “within” a law is a kind of way to be “bound” to a community, and a treaty is a set of laws that “bind” two groups; in each of these codes there are provisions about managing outlaws, criminals who might flee to the other side, and how those people are still considered “outside” of law no matter where they are (obviously this is not so controllable, but it is what these treaties ask for). Therefore treaties, in addition to holding geographical boundaries (sometimes) also maintain the boundary of “law” writ large—law does not just aid the establishment of borders, but is itself a border, and marking another community as “within” law functions to blur the boundaries of national identity itself. And this can be yet another “rhetoric of hybridity” which those in power can use to consolidate their authority or expand their boundaries of influence.

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<sup>167</sup> Attenborough, 102.

## *Alfred and Guðrum*

The Old English texts of this treaty are relatively short compared to Wulfstan’s later forgery of Edward and Guðrum. It is difficult to put an exact date on the treaty; F.L.

Attenborough suggests sometime between Guthrum’s 880 occupation and settlement of East Anglia and his death in 890.<sup>168</sup> Since Alfred’s *domboc* is also difficult to date, it is unclear where this treaty fits in chronologically with the rest of his legislation. The relative brevity of this treaty could speak to a number of aspects of its promulgation. It could have originally been an oral agreement recorded in writing for later posterity, or it might be a quick placeholder treaty drawn up in the necessity of the moment.<sup>169</sup> It only survives in Old English, so it is uncertain how it was originally communicated to Guthrum’s army. It contains only five articles, contextualized by a brief preface.

The order of the articles is important for uncovering how this particular document understands the two “sides”—the preface suggests that there is already a blurring of boundaries between the two contingents, and the moniker “Dane” does not even appear until statute two. The border between the two sides is declared in statute one, after the preface has already made room for possible confusion. The preface to the B text begins:

Ðis is ðæt frið, þæt Ælfred cyninc 7 Gyðrum cyning 7 ealles Angelcynnes witan 7 eal seo ðeod ðe on Eastænglum beoð ealle gecweden habbað 7 mid aðum gefeostnod for hy sylfe 7 for heora gingran, ge for geborene ge for ungeborene, ðe Godes miltse reccen oððe ure.<sup>170</sup>

The translation in the footnotes is a little loose in places to follow the conventions of modern English grammar, but some of the implications are lost. The phrase, “eal seo ðeod ðe on

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<sup>168</sup> Ibid, 96.

<sup>169</sup> Ibid, 96.

<sup>170</sup> “This is the peace that King Alfred and King Guthrum and the entire *witan* of the English and all the people who live in East Anglia have agreed upon and fixed in oaths for themselves and for their vassals, both the living and the unborn, who await God’s mercy as well as ours.” Old English text from Attenborough, 98.

Eastænglum beoð” for example, is actually a plural, and could potentially be rendered more accurately as “all those who dwell among the East Angles.” The distinction between people and territory in Old English is not as precise as in modern English, and this opens the possibility for the East Angles themselves to become the actual border—embodying the in-between of Alfred’s “Angelcynn” (English) and the “Danes” who will appear in statute two. However, the two groups in question here are more amorphous than even this in between would imply.

In the previous chapter, I argued that invoking a *witan* in the opening preface of a law code was a *topos* that created the porous boundaries of a group identity. This treaty is between Alfred and Guðrum, approved by “ealles Angelcynnes witan.” As discussed in chapter 1, this phrasing collapses the boundaries between the various groups of English-speaking peoples, but here it is also placed in juxtaposition with the even less defined concept of “eal seo ðeod ðe on Eastænglum beoð.” This categorization seems to acknowledge the people living under Guðrum’s rule who may have previously lived under English kings—these people are blended together with Guðrum’s army and, later in the code, the Danes. But they are not called Guðrum’s people, and the “Angelcynnes witan” could potentially be proprietary—if, as in Alfred’s *domboc* discussed above, the *witan topos* could help king’s legitimize their claim to other English-speaking communities that had previously been outside their rule, the English-speaking people who “on Eastænglum beoð” could also potentially be absorbed into this identity.

Perhaps this analysis of the prefaces phrasing makes the treaty appear disingenuous or as if Alfred and his councilors are deliberately testing how far they can stretch their authority under Guðrum’s rule. This is not necessarily the case, only to acknowledge that the language of the code is cautious to not differentiate between “English” and “Dane” here. This choice probably reflects the reality of the communities here; Alfred’s “Angelcynn” was not yet solidified, and the

term “Dane” as used by the English probably collapsed several different Scandinavian identities into one group. Guðrum’s army were also comingled with the groups of people already settled there, people that Alfred might have been eager to claim as “English.” This treaty therefore might represent an extremely precarious moment—while theoretically borders delineate clearly between two groups of people and reify categories, the preface to Alfred and Guðrum reflects the very real instability of such identities.

The geographical boundary between the two king’s power is laid out in statute one; “ure landgemære” or “our borders” run along the Thames and the Lea. This boundary is immediately broken by the next statute, where the code imagines scenarios where “Danish people” and “English people” kill each other and how those are to be handled without hostilities breaking out. This is the first moment the code uses the term “Denisce” and it is unclear, based on how the borders are laid out in statute one, where this Danish person is inhabiting, except that it is probably “on Eastænglum.” Nowhere does the treaty specify that a border has been crossed, just that what happens if a self-identifying English person slays a self-identifying Danish person, or vice versa. The crossing of the border is not something that is policed within this code; it is only specific types of violent encounters between members of each group of varying rank, or monetary transactions such as the selling of livestock and property.<sup>171</sup>

The only type of “border crossing” that the code makes an effort to police, is that freedmen that were previous aligned with Alfred’s English army are not allowed to join Guthrum’s “here” or “host,” just as the Danes are prohibited from joining the English. The only kind of “defecting” the treaty concerns itself with is the transfer of personnel between two armies. The fact that it is a transfer between “here” is important—no one can defect, and to allow someone to defect to your side is tantamount to inciting another conflict. However, short of

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<sup>171</sup> Attenborough, 98-101.

enlisting with or challenging the other side, this treaty seems aware that maintaining distinct identities along such a border may be difficult—in fact I think that these rules expose that it was potentially very easy to hop across these lines.

## II *Æthelræd and The Battle of Maldon*

Like Alfred and Guðrum, II *Æthelræd* is a treaty between leaders that seeks to end future hostilities. Unlike the previous treaty between the English and the Danes, however, II *Æthelræd* does not deal with how the two parties involved in the treaty will maintain their borders—rather, it asks the Danish leaders that have previously been raiding Britain to protect the island against future raids from other outside threats. In this way, these specific raiders come to embody a border between *Æthelræd*'s English and other possible attackers. However, there is still an awareness of separation between these allies and *Æthelræd*'s subjects, so the treaty also puts in place rules for governing certain types of interactions.

In a recent article entitled “*II Æthelræd and the Politics of The Battle of Maldon*,” Leonard Neidorf calls for a more thorough examination of the politics of the fragmentary Old English poem *The Battle of Maldon*.<sup>172</sup> Whereas much of the scholarship on the poem up until now has focused on the potential historicity (or lack thereof) of its account of a late tenth-century battle,<sup>173</sup> Neidorf argues that the generally accepted understanding of *Maldon*'s politics—that it declaims offering tribute to the Vikings and advocates for a united English resistance to Danish invasions—needs to be interrogated further.<sup>174</sup> Examining the terminology used to describe the

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<sup>172</sup>Leonard Neidorf, “*II Æthelræd and the Politics of The Battle of Maldon*,” *JEGP*, 111, 2015, 451.

<sup>173</sup>For an overview, see Donald Scragg “*The Battle of Maldon: Fact or Fiction?*” in *The Battle of Maldon: Fiction or Fact*, Edited By Janet Cooper, 1993 and *The Battle of Maldon, AD 991*, Edited by Donald Scragg, particularly Simon Keynes' chapter “The historical context of *The Battle of Maldon*,” 1991. Keynes argues that the Vikings present a relatively compelling case for paying tribute, although the poem ultimately champions Byrhtnoth's decision not to pay.

<sup>174</sup>Neidorf, 451.



Viking assailants and concluding that it is “puzzlingly benign,”<sup>175</sup> Neidorf looks for explanation in II *Æthelræd* which was promulgated at least three years after the historical Battle of Maldon took place.<sup>176</sup> Since, as demonstrated above, the treaty forbids English people from seeking or inciting vengeance against Vikings who have been converted to their allies, Neidorf claims that the poem begins to look more conciliatory towards the Vikings. In fact, he postulates, its generic rendering of these seafaring invaders in a heroic style that would have been familiar to any recent Viking defectors may have actually been intended to illicit a Scandinavian audience’s admiration.<sup>177</sup> However, Neidorf’s interpretation of the poem does not adequately explain away the typological and heroic motifs noted by Stephen Harris and Renée Trilling consecutively; Harris points towards a “kernel” of the ethnogenesis narrative championed by Bede that Alfred employed to foster a sense of a unified English identity, while Trilling argues that the narrative’s historiography is based in a sense of heroic nostalgia which looks back at a Germanic past in order to crystalize “what it means to be English.”<sup>178</sup> While all three of these readings address key components of the poem, they struggle to reconcile the poem’s rather generic portrayal of an enemy with its attempts to articulate a distinctly English identity in opposition to said enemy. Written at a time when the lines between Viking and English were already heavily blurred because of extensive Scandinavian settlement in the north and east of England and because of an emerging Anglo-Danish aristocracy, *The Battle of Maldon* is an integral piece of Old English literature to examine precisely because it expresses conflicting messages about the porous boundary between English person and Viking. Unable and perhaps unwilling to completely

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<sup>175</sup>Ibid, 452. Neidorf builds his argument off a similar observation from Fred C. Robinson forty-one years ago in “Some Aspects of the Maldon Poet’s Artistry,” *JEGP*, 75, 1976, 27.

<sup>176</sup> See entry for 991 in manuscripts EF and entry 993 in manuscript A in *The Anglo-Saxon Chronicle: A Collaborative Edition*, Edited by David Dumville, Janet Bately, and Peter S.Baker, 1983.

<sup>177</sup>Neidorf, 465-466.

<sup>178</sup> Stephen J. Harris, *Race and Ethnicity in Anglo-Saxon Literature*, 2004, 184. Renée R. Trilling, *The Aesthetics of Nostalgia: Historical Representation in Old English Verse*, 2009, 136.

disentangle the two groups because of their shared heritage, but still grasping for an English identity such as Alfred's that could once again unify England in face of a foreign threat, *The Battle of Maldon* aptly demonstrates the complexities of England's hybrid society in the late-tenth century.

Before examining the poem and how it situates itself in a wider conversation about English identity vis-à-vis Viking or Scandinavian identities writ large, it is necessary to consider the historical context of both the real battle depicted in the poem and the origins of the concept of an "England." According to several recensions of *The Anglo-Saxon Chronicle*, the historical Battle of Maldon took place in 991, at the beginning of another organized Viking campaign against England.<sup>179</sup> That this particular event is the beginning of an onslaught of Viking raids provides an important socio-political framework for interpreting *The Battle of Maldon* and its commentary on the relationship between a burgeoning English identity and that of the foreign yet also intimately familiar Scandinavian raiders. Apart from the poem, the primary sources for information on the battle itself are the *Chronicle*, Byrhtferth of Ramsey's *Vita S. Oswaldi* (written between 997-1005)<sup>180</sup>, and a twelfth-century account from Ely which may have been copied from an earlier, now lost manuscript.<sup>181</sup> While this constellation of textual sources certainly has historical value, it should be noted that these manuscripts all post-date the battle to some degree and each have their own literary techniques; all reconstructions of the Battle of Maldon therefore must be, as Simon Keynes notes, bracketed with speculative "perhapses."<sup>182</sup> All of versions of the story in the chronicle ultimately agree that the battle took place in 991, that

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<sup>179</sup> See the A, C, D, and E manuscripts of *The Anglo-Saxon Chronicle: A Collaborative Edition*, David Dumville, Janet Bately, Susan Irvine, and Peter S. Baker, 1983. See also, Eric John, "The Return of the Vikings," *The Anglo-Saxons*, edited by James Campbell, 1982, 194-195. Viking attacks became more organized starting in 980, just a couple years of the beginning of Æthelræd's reign.

<sup>180</sup>Harris, 169.

<sup>181</sup>John, 194-195.

<sup>182</sup>See Simon Keynes, "The historical context of *The Battle of Maldon*," *The Battle of Maldon AD 991*, 1991.

the Vikings sacked Ipswich on their way to Maldon, and that the commander of the English forces was an Ealdorman named Byrhtnoth.<sup>183</sup> The Winchester or “A” manuscript of *The Anglo-Saxon Chronicle* includes the name of the Viking commander, Olaf, whom Keynes and Michael Swanton identify as Olaf Tryggvason, a man who would eventually become king of Norway.<sup>184</sup> The other recensions of the *Chronicle* are a little sparser, stating merely that this is the battle in which Ealdorman Byrhtnoth was killed and that King Æthelræd paid ten thousand pounds in tribute to the Vikings at the advice of Archbishop Sigeric of Kent in order to make peace.<sup>185</sup> The Winchester manuscript again diverges from other recensions of the *Chronicle* to say that Olaf converted to Christianity and was baptized, an event overseen by bishop Sigeric and bishop Ælfheah of Winchester.<sup>186</sup> While this version of the event ends on a slightly more positive note, overall the historical records speak of an English defeat in which they lost an important Ealdorman and the Vikings gained another foothold in England. The poem of *The Battle of Maldon*, therefore, describes a real event at the cusp of major change for the island country, which, regardless of whether it has an early or late date of composition, necessarily must address the politics of Viking and English relationships that are at the core of the historical conflict.

The complexity of late tenth-century politics, however, is usually alluded to rather than addressed directly in the poem itself. After all, it is only a fragment of a little over three-hundred lines focusing almost entirely on the combat itself, filling in both the gory details and the emotional valences overlooked by *The Anglo-Saxon Chronicle*.<sup>187</sup> It follows celebrated

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<sup>183</sup>Although there is a mistake in the date of the *Winchester Manuscript*, which lists the date for battle at 993. *The Anglo-Saxon Chronicle: A Collaborative Edition*, ACDEF, 991, 993. See also Byrthferth of Ramsey, *Berhtfyrrh of Ramsey: The Lives of St. Oswald and St. Ecwine*, Edited By Michael Lapidge, 2009, 155-159.

<sup>184</sup>*The Anglo-Saxon Chronicle: A Collaborative Edition A* 991 [993] and Michael Swanton, *The Anglo-Saxon Chronicle*, 1996, 126. Stephen Harris also notes that Olaf is Olaf Tryggvarson, 177.

<sup>185</sup>*The Anglo-Saxon Chronicle: A Collaborative Edition*, ACDF, 991.

<sup>186</sup> *Ibid*, A, 991.

<sup>187</sup>Although it is possible that the battle scene now called *Maldon* is part of a longer epic such as *Beowulf*, there is not enough evidence to say for certain. Scholars can only work with what is available.

Ealdorman Byrhtnoth as he prepares his men to fight (lines 1-24), parleys with the Vikings while they're in their boats (25-61), and finally allows the Vikings to come to shore for the battle proper (84-95). In focalizing the battle through Byrhtnoth and his most faithful companions, the poem really only offers an English perspective on the event, though what exactly it means to be English in this scenario is something that needs to be extrapolated from the narrative. The English's eventual defeat is, in the poem, a direct result of Byrhtnoth's death, since it spurs the three English cowards Odda, Godric, and Godwine to quit the field themselves. They take Byrhtnoth's horse to escape, which had previously been sent to the nearby woods in order to lower the temptation of fleeing from the battle; this action leads to further confusion among the ranks, as many mistake Godric on the horse for their lord fleeing and lose hope (185-197, 239-243). However, many faithful thegns remain to give their lives for the defense of England and to avenge their beloved lord, who is, in turn, King Æthelræd's own loyal retainer (202-208). The poem dwells on the Byrhtnoth's death and the contrasting responses to it; those who courageously stay do so to carry out the *fæhðe* (225) or feud with the Vikings.<sup>188</sup> Amid speeches and exhortations to die with one's lord, the remaining English carry out the battle. The fragment ends abruptly, but perhaps fittingly, with a comparison between a loyal thegn named Godric and the Godric who ran from the battle when Byrhtnoth fell (320): *oft he gar forlet/ wælspere windan on þa wicingas/ . . . næs þæt na se Godric þe ða guðe forbeah* "often he let go of his spear/ the slaughter-spear flying into the Vikings/ . . . that was not the Godric who had avoided the battle" (321b-322, 325).<sup>189</sup> Even though it is just a fragment, the poem offers a reimagining of the events

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<sup>188</sup> John D. Niles has recently disputed whether *fæhðe* really means "feud" in a modern sense of retaliatory violence which spans generations, which he argues that Anglo-Saxons probably did not practice as the Norse did. See Niles, "The Myth of the Feud in Anglo-Saxon England," *JEGP*, 114.2, 2015, 163. For the purposes of this paper, which focuses on the specifics of *The Battle of Maldon*, *fæhðe* does take on Niles' suggested connotation of more immediate retaliatory violence, although it will still be translated as "feud."

<sup>189</sup> Old English text for *The Battle of Maldon* is taken from, *The Word Exchange: Anglo-Saxon Poems in Translation*, edited by Greg Delanty and Michael Matto (New York: Norton, 2011), 92-111.

so sparsely laid out in the *Chronicle* and barely elaborated further in Byrhtferth of Ramsey's *Vita S. Oswaldi*. It dramatizes a historical conflict in a stylized fashion, and elaborating on the intricacies of Viking and English relations at the end of the tenth-century.

Regardless of the exact date of the poem's composition,<sup>190</sup> the fact that it is an elaborate reimagining of an event that occurred on the cusp of several relatively quick regime changes in Britain provides insight into the anxiety surrounding questions of identity that crops up in the poem. A brief overview of English and Danish relations prior to the invasions of the late tenth and early eleventh centuries is useful before diving into the intricacies of the poem. As discussed above, the battle itself took place in 991. After continual attacks from Swein Forkbeard and his son Cnut for over a decade, Danish rule of England would begin properly in 1016.<sup>191</sup> In order to legitimize his claims to the kingdom, Cnut would marry his predecessor Æthelræd's widow Emma, who was herself half-Norman and half-Danish.<sup>192</sup> Their son Harthacnut would eventually come to rule England jointly with his English-Norman half-brother Edward the Confessor for about a year, from 1041-1042.<sup>193</sup> Upon Edward's death in 1066, his brother-in-law Harold Godwinson—another relation of Cnut's and a member of the Anglo-Danish aristocracy—would temporarily claim the throne until his cousin-by-marriage William the Conqueror took England for himself later that same year.<sup>194</sup> The Norman Conquest, therefore, does not represent a clean end to a "pure" English kingdom, but is the culmination of many decades of Norman and Danish

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<sup>190</sup>As will be discussed further below, Neidorf uses the poem's potential connection to *II Æthelræd* as a springboard for positing an early date, between 991 and 996, 469. For an overview on the debate about dating the poem, see Cecily Clark's "On Dating *The Battle of Maldon: Certain Evidence Reviewed*," *Nottingham Medieval Studies*, 27, 1983, 1-22. Although she also leans towards an earlier date for the poem, she discusses theories that it could be as late as 1030, almost forty years after the historical battle.

<sup>191</sup>See *Anglo-Saxon Chronicle: A Collaborative Edition*, 1016. Also John, 208.

<sup>192</sup>This occurred in 1017. Simon Keynes, "Introduction to the 1998 Reprint," *The Encomium Emmae Reginae*, Edited by Alistair Campbell, 1998, xxii.

<sup>193</sup>See *Anglo-Saxon Chronicle: A Collaborative Edition*, 1041-1042.

<sup>194</sup>See *Anglo-Saxon Chronicle: A Collaborative Edition*, AED, 1016.

influence in English politics. *The Battle of Maldon* documents an important event that led up to these transitions of power, although it was not solely responsible for any of them.

Given all of the complexity of Anglo-Danish relations even before Swein and Cnut began their successful military campaigns in the early eleventh century, it makes sense that the conflicts between the Danish and the English that would eventually lead to Cnut's reign would destabilize some of the English notions of identity. Although there aren't specific numbers for how many Danes settled in England after the treaty of Guðrum and Alfred, there was certainly a distinct consciousness of them as a demographic in England that had primarily settled in the North and East.<sup>195</sup> They were enough of a presence that Æthelræd, at least, saw them as a threat and ordered the St. Brice's Day massacre to purge them from his realm.<sup>196</sup> The massacre occurred the same year that, according to three recensions of *The Anglo-Saxon Chronicle*, Æthelræd married the half-Norman, half-Danish Lady Emma.<sup>197</sup> Emma, it appears, was excluded from the assault, although she was herself quite Scandinavian in origin, perhaps more so than people killed in the massacre.<sup>198</sup> Obviously, Æthelræd would be ill-inclined to risk the Normans' wrath, even if they were not particularly good at preventing the Vikings from coming to England and may have, in fact, been harboring them on their way to England.<sup>199</sup> Emma's political value and her relationship to the king of England, however, did not prevent her heritage from going entirely unnoticed. It was, perhaps, a source of anxiety as much as an asset for Æthelræd or some of his advisors, for Emma appears in royal charters under the name Ælfgifu, which, in addition to being an Old English name, was also the name of Æthelræd's first wife and his grandmother, who was

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<sup>195</sup>Townend, 97.

<sup>196</sup>Harris, 106-107.

<sup>197</sup>*Anglo-Saxon Chronicle: A Collaborative Edition*, CDE, 1002. Keynes, "Introduction," *Encomium*, xviii.

<sup>198</sup>*Ibid*, xvi.

<sup>199</sup>*Ibid*, xvi.

a saint.<sup>200</sup> Although no rationale for the name change is given in any text explicitly, and although she appears in the chronicle and her own *Encomium* as “Imme” or “Emma,” her official name in charters and other such royal documents is not only English but also a name held by other prominent members of Æthelræd’s family.<sup>201</sup> The change has the rhetorical effect of obscuring Emma’s heritage and incorporating her more securely into the English royal lineage. It is, therefore, perhaps a little ironic that she would also contribute to the succession of Danish rulers who would run England in the immediate aftermath of Æthelræd’s death.

However, many of the specific events detailed above happened after Maldon, which stands at a transition point between the West-Saxons attempt to establish a cohesive English identity which was also porous enough to incorporate Christianized Danish settlers and Æthelræd’s attempts to separate the two identities out again, much as he separated the “cockle” from the “wheat.” The discussion of English versus Dane or Viking was starting up again at the turn of the millennium and becoming pressingly urgent as the English faced down another wave of Vikings. Thus, in even attempting to depict a real event such as a skirmish between Vikings and Anglo-Saxons, *The Battle of Maldon* finds itself in dialogue with other sources speaking about identity: for instance, Byrhtferth’s *Vita S. Oswaldi*, which also discusses Byrthnoth’s tragic fate, or Wulfstan’s famous *Sermo Lupi ad Anglos*, an admonishment to English and Anglo-Danes to distinguish themselves from the Viking raiders by upholding the laws of their king.<sup>202</sup> It is this chapter’s contention that *The Battle of Maldon* particularly struggles with articulating an English identity because it, as Neidorf and Harris both suggest, recognizes similarities and shared heritage with the Vikings, but also, as Trilling and Harris each argue from different perspectives on just how religiously motivated the poem is, at least attempting to foster

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<sup>200</sup>Ibid, xvii.

<sup>201</sup>Ibid, xvii.

<sup>202</sup>Harris, 113-115.

a sense of English communal identity. To combine Trilling and Harris’ readings, the poem seems to be attempting to activate as many areas where bonds of loyalty can be created as it possibly can even if it, as Neidorf suggests, seems to plan for the potential outcome that Vikings will settle and incorporate into English society like their ninth-century forefathers. In leaving all of these doors open, the poem demonstrates the elasticity of the late tenth-century/early eleventh-century concept of “Englishness,” an identity that would not only survive the Danish Conquest, but also (eventually) the Norman Conquest as well.

Neidorf’s intervention attempts to grapple with an aspect of the poem which he thinks has been relatively overlooked in scholarship of *The Battle of Maldon*: the comparatively “benign”<sup>203</sup> presentation of the supposedly heathen Vikings who attack Byrhtnoth and his men. Citing precedent in Frederick Robinson’s observation that the poet’s terminology to describe the Vikings is relatively “restrained”,<sup>204</sup> Neidorf claims that the poem is, contrary to general scholarly consensus, actually quite accommodating of the Vikings, aiming to glorify a more abstracted sense of heroism rather than urge the English into further military action.<sup>205</sup> Suggesting that the poet is writing immediately after a tribute agreement such as II Æthelræd, which was promulgated in 994, Neidorf speculates that the poet does not wish to incite violence against a specific group lest *The Battle of Maldon* should violate the king’s edicts. The most important ones for Neidorf’s argument are as follows:

1.1 7 gif ænig sciphere on Englaland hergie, þæt we habban heora ealra  
fultum; 7 we him sculon mete findon, ða hwile ðe hy mid us beoð.  
1.2 7 ælc ðæra landa ðe ænigne friðige ðæra ðe Ænglaland hergie, beo hit  
utlah wið us 7 wið ealne here.  
6.1 Æt eallum slyht 7 æt ealre ðære hergunge 7 æt eallum ðam hearmum,  
ðe ær ðam gedon wære, ær þæt frið geset wære, man eall onweig læte, 7 nan  
man þæt ne rece ne bote ne bidde.

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<sup>203</sup>Neidorf, 451.

<sup>204</sup>Fred C. Robinson, “Some Aspects of the Maldon Poet’s Artistry,” *JEGP*, 75, 1976, 27.

<sup>205</sup>Neidorf, “II Æthelræd and the Politics of *The Battle of Maldon*,” 452-453.



1.1 “And that, if any fleet harry in England, we are to have the help of them all [the Vikings with whom Æthelræd is treating]; and we must supply them with food as long as they are with us.”

1.2 “And any region which gives asylum to any of those who are harrying England is to be treated as an enemy by us and by the whole [Viking] army.”

6.1 “6. 1. Concerning all the slaughter and all the harrying and all the injuries which were committed before the truce was established, all of them are to be dismissed, and no one is to avenge it or ask for compensation.”<sup>206</sup>

These passages from II Æthelræd are certainly conciliatory, and indicate that the king is serious in his desire to win Viking allies and prevent further damage to his kingdom.<sup>207</sup> Neidorf uses them to contextualize what *Maldon*'s characterization of the Vikings. Comparing the poem to *Judith*, Neidorf points out that if the poet wanted to paint the Vikings as irredeemably villainous, it could use significantly more polemic language.<sup>208</sup> Having performed a comprehensive cataloguing and analysis of all the nouns and adjectives used to describe the Vikings in *Maldon*, Neidorf notes that the poet uses relatively neutral words for warrior and seafarer more often than not, and that these words are not accompanied by adjectives such as *reðan* “cruel”, as appears in other English sources discussing Vikings and Danes.<sup>209</sup> Additionally, the Vikings and the English are often conflated in the poem, as similar terminology is used for both of them and during some of the fighting scenes they are both included in the pronoun *hi* in several lines, particularly when they are in combat with each other.<sup>210</sup> The poem is not as damning in its characterization of the Vikings as it could be when compared to other sources and, in the light of II Æthelræd's stipulations, Neidorf puts forward the idea this dulled down depiction of the Vikings is calculated to avoid inspiring vengeful ire.

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<sup>206</sup>Text of the laws take from Felix Liebermann, *Die Gesetze der Angelsachsen*, 1903, 222-223. The translations are Neidorf's, 455-456.

<sup>207</sup>Neidorf, 455-456.

<sup>208</sup>Ibid, 457-458.

<sup>209</sup>Ibid, 459.

<sup>210</sup>Ibid, 461.

What is perhaps most compelling about Neidorf's reading of *The Battle of Maldon* as at least reluctant to inspire anger towards specific Vikings who have potentially made bargains with Æthelræd, is that it shows an awareness on the poet's part of the hybridity of England at the turn of the millennium. Neidorf points out that the poet's audience could include not only the English, but also the very Vikings that II Æthelræd addresses, as well as Anglo-Danes who were descendants of the ninth-century Scandinavians who had settled in the Danelaw.<sup>211</sup> The admonishments about loyalty to one's lord are, at least on the surface, generic enough to appeal to both Viking and English readers, and perhaps *Maldon* even attempts to evoke loyalty and admiration from recent Viking defectors.<sup>212</sup> Since, Neidorf suggests, *Maldon* shares a heroic ethos with Norse poems such as *Bjarkamál*, which some scholars view as a potential direct source for the Old English poem,<sup>213</sup> Byrhtnoth's heroic presentation combined with a portrayal of the Vikings as generic adversaries could be an attempt to appeal to both Vikings and English people at the same time. Whether these two poems are directly linked or not, the similarities certainly show a connection between the Viking invaders and the English; perhaps, as Neidorf clearly thinks, *The Battle of Maldon* deliberately evokes these similarities to the Old Norse poetry in order to de-politicize a commemorative poem to a great local magnate, to potentially appeal to the ways in which the cultures are related in order to avoid inciting further violence from either side.<sup>214</sup>

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<sup>211</sup>Ibid, 464.

<sup>212</sup>Ibid, 465-468.

<sup>213</sup>Ibid, 464-465. For further reading see Hans Kuhn, "Die Grenzen der germanischen Gefolgschaft," *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte: Germanistische Abteilung*, 73, 1956, 1-83; Rosemary Woolf, "The Ideal of Men Dying with their Lord in the Germania and in *The Battle of Maldon*," *Anglo-Saxon England*, 5, 1976, 63-8; Joseph Harris, "Love and Death in the Männerbund: An Essay with Special Reference to the *Bjarkamál* and The Battle of Maldon," *Heroic Poetry in the Anglo-Saxon Period: Studies in Honor of Jess B. Bessinger, Jr*, Edited by Helen Damico and John Leyerle, 1993, 77-114.

<sup>214</sup>Ibid, 468.

Of course, the problem with this reading is that *The Battle of Maldon*, unlike *Beowulf*, is located in a specific time and place in recent memory, telling the story of two factions who will continue to fight even after Cnut's line finally takes the English throne in 1016. Although its rhetoric may not be as inflammatory as Byrhtferth's *Vita S. Oswaldi*, the poem still uses traditional categories to separate the English from the Vikings, and even speaks of the Byrhtnoth's soldiers seeking to avenge their lord after his passing. This is a battle that cannot be de-politicized, even if the *Maldon* poet wished to do so. For instance, one of the more glaring oversights on Neidorf's part is his insistence the word *hæðen* "heathen" takes on a more generic meaning for "other" in the poem, rather than attempting to truly make a distinction between the Vikings and the English according to their religious practices:

"Just as the various words for 'seafarer' and 'warrior' cast a neutral light over the Vikings, and as the various passages conflating English and Viking troops blur historical specificity, so the word *hæðen* could create a similar blurring effect. In Old English texts surviving in manuscripts contemporary with Maldon, *hæðen* is used in reference to a great variety of peoples and practices both real and imaginary. The word could variously evoke Middle Eastern Old Testament kings, the Greco-Roman pantheon, and figures from pre-Christian Germanic legend."<sup>215</sup>

The reasoning here is sound, but misses out a crucial detail of the use of the word *hæðen* in the poem that both Renée Trilling and Stephen Harris have observed: it appears in a passage immediately after Byrhtnoth dies with a prayer on his lips, contrasting Byrhtnoth's apparent devotion with the rabble-rousing of the pagan Vikings:

*He to heofenum wlat . . . .*  
*"Ic geþancie þe,            ðeoda Waldend*  
*. . .                            ic eom frymði to þe*  
*þæt hi helsceaðana,    hynan ne moton."*  
*Ða hine heowon        hæðene scealas.*

"He [Byrhtnoth] gazed up at the heavens: 'I thank you, Great Ruler of the people . . . I am suppliant to you, that these hell-scathers should not be able to [the peace].' Then the heathen warriors hewed him down" (172-173, 179b-180).

<sup>215</sup>Neidorf, 462. Also see notes 39-41

Although Neidorf is right that the term *hæðen* has a range of meanings in Old English, in the context of *The Battle of Maldon* it does seem create a sharp divide between Christian English and pagan Viking at this particular moment, with Byrhtnoth's piety being followed by his death at the hands of "heathen warriors."

Similarly, Neidorf may take the idea that the poem is ultimately conciliatory towards the Vikings a little too far, given how it speaks about the glory of seeking vengeance for one's lord. Although such a message could appeal to the heroic ethos of Vikings as well as English, it would perhaps be difficult for them to overlook the fact that they are the target of revenge in this scenario. For instance, the poem speaks of how Byrhtnoth and his retainers are intending to engage in *fæhðe*, or a form of retaliatory violence, with the Vikings (225). Additionally, the verb *wrecan* "to avenge", appears four times in various forms in the space of about twenty lines near the end of the fragment (257b, 258b, 264b, 279a). Once Byrhtnoth has passed on, the heroic mode shifts from bravely standing with one's lord and defending the shore to avenging him. While a Viking audience might certainly understand the impetus to seek revenge for a lord's death, the language still does seem incendiary. If, as Neidorf himself argues, the audience for *Maldon* included Vikings who could have been at the battle itself, they would be hard-pressed to completely detach this message from its specific historical context.<sup>216</sup> While it's possible that *Maldon* is attempting to ameliorate the potential for continued conflict through the relatively faceless Viking foes, the poem does, on the whole encourage retaliation as the honorable course of action and it does posit that Scandinavian sea-raiders are the legitimate targets of violence in this case.

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<sup>216</sup>Neidorf, 469.

In contrast with Neidorf, both Trilling and Harris acknowledge the Christian aspect of the poem and role it plays in fostering a sense of unique English identity, although they take different approaches. For Trilling, the Christian elements of the poem, although present, are tangential to its main work of fostering a historiographical heroic ethic specifically for the English people.<sup>217</sup> In fact, she argues that the poem ultimately eschews the type of salvation narrative preferred by Wulfstan, where history is always looking forward to the Day of Judgment, and instead looks backward to a heroic past.<sup>218</sup> Trilling draws particular attention to the role that poetry plays in evoking this nostalgia, writing,

“Through the poetic medium, the heroic history of a long-lost Germanic homeland finds new life in the present, and nostalgic longing drives the narrative of what it means to be English. *The Battle of Maldon* serves as a nexus for this constellation of nostalgia, aesthetics, history, and ideology.”<sup>219</sup>

Ultimately, according to Trilling, *The Battle of Maldon* disentangles itself from a teleological framework that is the norm for understanding the pagan invasions, and instead opts for a historicizing sense of nostalgia that recalls “the success and unity of English troops under Æthelstan and Edmund decades before”<sup>220</sup> by using the same form and stylistic formulas as poetry which previously celebrated English victories against the Danes.<sup>221</sup> In her reading, the threat of the Vikings acts as an impetus for fostering a unified English identity; and, although the poem is nominally Christian, that Christianity only serves to distance the Vikings from the English, to make them more distinct groupings than Neidorf has posited.<sup>222</sup> In doing so, the poem moves away from the Wulfstanian understanding of history as both cyclical—patterns of social

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<sup>217</sup>Trilling, 132-133

<sup>218</sup>Ibid, 135.

<sup>219</sup>Ibid, 136

<sup>220</sup>Ibid, 190.

<sup>221</sup>Ibid, 190.

<sup>222</sup>Ibid, 195.

change repeating themselves and constantly mirroring the Bible—and as constantly moving forward in a linear fashion towards the Day of Judgment.<sup>223</sup>

Harris also notes the emphasis on Byrhtnoth's Christianity in his dying moments, but extrapolates, in contrast with both Trilling and Neidorf, that the poem as a whole is embedded with typology alluding to the Israelites fleeing across the Red Sea, and that its sense of historiography acts as a warning to the English that the Vikings could easily be the next inheritors of England, the New Israel.<sup>224</sup> Byrhtnoth's death scene, he posits, "contextualizes the battle within a tradition of spiritual warfare,"<sup>225</sup> since the prayer he utters locates the events of the battle within a Christian framework. Whereas Trilling sees contrasts between Wulfstan's works on the failures of the English and *Maldon*'s attempts to bolster a sense of English unity through nostalgia for a heroic past, Harris reads Wulfstan's narrative of sin and punishment into *Maldon*'s narrative. Drawing attention to the poet's repeated use of the verb *þolian*, which means to suffer in the extreme, Harris notes that this word appears quite often in biblical poetry for the suffering of Christ and martyrs, and that it is also deployed in Wulfstan's *Sermo Lupi Ad Anglos* to describe the English enduring the Viking onslaughts.<sup>226</sup> Unless the English turn away from sin and stand strong against the Vikings, they may share the same fate as the Britons in the fifth century. The poem is imbued, Harris suggests with tropes from the English's own "ethnogenesis", but it uses this framework to look ahead to a dire future.<sup>227</sup> In Harris' understanding of the poem, the Vikings take on yet another valence: not only do they threaten

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<sup>223</sup>Ibid, 132.

<sup>224</sup>Harris, 174.

<sup>225</sup>Ibid, 174.

<sup>226</sup>Ibid, 165-166.

<sup>227</sup>Ibid, 184.

violence which must be resisted, but they could herald the end of the English fighters' identity as God's Favored.<sup>228</sup>

All three of these critics set up their understandings of *The Battle of Maldon* as opposed, trying to fit it into one cohesive narrative with an explicit message about the Vikings and the source of the power in an English identity. However, although we can only ever conjecture based on the small amount of the poem that survives, another possibility for interpreting the poem is that it is confused about how to address the Viking threat itself and activating as many discourses about ethnicity and identity as it can as it tries to work through the many problems presented by the Vikings. As both Neidorf and Harris note, the Vikings share a cultural heritage with the English, who are, as Trilling points out, invested in crafting an identity for themselves based on nostalgia for an imagined heroic past. Neidorf sees this connection between the two groups as an impetus for reconciliation, one which is strong enough to potentially temper the poet's language.<sup>229</sup> For Harris, the connection makes the Vikings into an existential threat, the potential successors of the English, who become like the obliterated Israelite tribe of Reuben in the book of Numbers, part of Israel but also cut off from sharing in its glory because of their sins.<sup>230</sup> The poem, although speaking of the Vikings in relatively generic terms, does let the reader glimpse at the ways in which the two groups are connected ethnically; for example, Harris notes, there is no indication that the Vikings and the English struggle to communicate in their flyting before the battle.<sup>231</sup> Trilling, in turn, showcases the ways in *Maldon* defends the "integrity" of a united England by imagining a historical battle through a heroic lens, glorifying an ancient ethic which

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<sup>228</sup>Ibid, 184.

<sup>229</sup>Neidorf, 471.

<sup>230</sup>Harris, 171.

<sup>231</sup>Harris, 181.

could potentially also be claimed by their attackers.<sup>232</sup> Although these readings seem to conflict on the surface they all address a problem the tenth and eleventh-century English faced: how to manage a sense of ethnic identity when confronted with an enemy who shared their heritage and some of their values, who had integrated with their society decades before and were now coming to settle parts of the country again.

In the extant fragment of *The Battle of Maldon*, the poem does not appear to fully settle its unease about who the Vikings are in relation to the English. Although Neidorf's argument perhaps pushes too far on just how politic the poet is attempting to be about the Vikings, the fact that the poem's language is not overly inflammatory, combined with the statutes of II Æthelræd which urge the English to cooperate with Vikings who have defected, perhaps an awareness of the possibility of integration. As Harris notes briefly in passing, the poem demonstrates an understanding that such an integration of Scandinavians and English has already occurred by giving some of Byrhtnoth's thegns Danish names.<sup>233</sup> At the same time, a battle has been lost, a great leader must be commemorated, and the threat posed by the Vikings seems to strike at the very core of a burgeoning English identity. As outlined above, Alfred wielded the idea of a unique and unified English kingdom as their island societies were faced with an existential threat from the first wave of Viking attacks; it was constructed precisely to ward off the type of fate that Byrhtnoth and his men face in the poem. Indeed, the poem comes to us in a transcription from a manuscript that also contains the only extant copy of Asser's *Life of King Alfred*, as well as a *vita* of St. Elphege, who also refused to pay tribute to Danes.<sup>234</sup> Clearly, at least one person thought *Maldon* belonged with Alfred's life and other works which celebrated taking a hard stance against the Danes. However, *Maldon* is also a product of post-Danish settlement England,

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<sup>232</sup>Trilling, 180.

<sup>233</sup>Harris, 114.

<sup>234</sup>Bernard James Muir, "The Battle of Maldon," *Leod : Six Old English Poems: a Handbook*, 1989, 81-82.



a time when many Anglo-Danes are living peacefully among the English. It therefore has an advantage to Alfred's works in some ways; it is created for and by a world which has already witnessed the combining of these two groups, one which recognizes the hybridity of English society even as it struggles to recast England as relatively stable.

## CHAPTER THREE

### THE THREAT OF PEACE: IDENTITY AND HYBRIDITY IN IV EDGAR

While Alfred is a towering figure in modern scholarship of early English law, his grandson Edgar was of equal if not greater fascination to medieval readers. In the aftermath of his reign, King Edgar (r. 959-975) gained a reputation as a particularly devout English king who ushered in an era of peace and prosperity for the island of Britain. Later chroniclers attributed this peace to his unification of the disparate populations of the island, as well as his support of the Benedictine reform. His efforts, according to later writers such as Archbishop Wulfstan of York (d.1023) and William of Malmesbury (c. 1095 -1143), earned him the favor of God and a pause in the Viking raids that had plagued his predecessors. However, Edgar's ability to appease foreigners and prevent wars supposedly came at a hefty price; while his attested admiration for Danes in particular may have encouraged treaties and cooperation between the two groups, later chroniclers argued that his openness left English culture vulnerable to moral dilution. To them, these lapses of Edgar's judgment created weaknesses exploited by later foreign conquerors such as Cnut and William.

This chapter posits that the tenth-century law code IV Edgar is an important crossroads for the rhetoric of hybridity developed in previous English codes and mobilized by Alfred in his *domboc* and treaty with Guðrum. The code itself attempts to assimilate Danes and Britons into Englishness by reaching for a type of insular identity that is encompassed in the concept of *leodscipe*. While many dictionaries and A. J. Robertson's translation of IV Edgar often interpret this word as "nation" or "people" like its component *leod*, I will argue here that IV Edgar uses

*leodscipe* to mean something more along the lines of “community.”<sup>235</sup> In this law code, *leodscipe* refers almost always to a combination of English, Britons, and Danes, and only appears when Edgar wants a set of groups to cooperate for some specific end. IV Edgar is concerned with fostering and then leveraging an insular bond between distinct cultural groups to combat a deadly plague, a threat that could cross community lines, and convincing everyone Edgar theoretically rules to unite under his authority for their own health and safety. Edgar’s legal corpus became a source of guidance for later lawmakers, including Wulfstan for both Edgar’s son Æthelræd and the Danish conqueror Cnut and later Norman rulers. The identity-building strategies present in this document and the rhetoric of hybridity it develops therefore serve as templates for foreign rulers to solidify their claims not just to English territory, but also English identity.

However, the eleventh-century reception of Edgar in particular points to a significant amount of anxiety with this strategy for gaining authority by emphasizing the viability of a diverse community. Edgar’s story as recorded by later chroniclers reveals their complicated and ambivalent relationship with cultural hybridity; for them, Edgar’s idea of an insular community could not withstand supposed “invasions” and “corruptions” from foreign customs. These writers mythologized his rule to process their own political upheavals, such as the Viking attacks of the early eleventh century or the Norman conquest of England. As this chapter will demonstrate, their admiration for Edgar’s ability to foster apparently harmonious communities seems genuine; everywhere he is mentioned, Edgar is regarded as a model king, beloved by God. Rather, these medieval historians complain that his project of befriending and incorporating Danes, Britons, and others into English communities is bound to corrupt no matter how well-meaning Edgar’s intentions were. The narrative they tell is that the possibility of such peaceful communities is a noble dream, but one that is apparently not possible within their world.

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<sup>235</sup> “Leod-scipe,” *Bosworth Toller’s Anglo-Saxon Dictionary Online*, Retrieved March 15, 2021.

The English identity imagined in Edgar's own law codes reveals a slightly more dubious relationship with the concept of cultural diversity than these later authors suggest. Certainly, Edgar makes room for Danes and Britons to practice their own legal customs, but he brings these communities under English authority and creates a new insular identity tied to being a resident of Britain. While this approach may at first seem inclusive, it is also proprietary and seeks to enmesh these other groups into Englishness. It also seeks to categorize everyone living within the island into distinct groups, using terms such as "Danes" which they may not have used for themselves before settling in Britain. Terms such as Dane, Briton, and English are reductive in and of themselves, and they are the terms the Old English law codes select for various groups rather than identities they claim for themselves. Consequently, although Edgar's rhetoric is not always that of conqueror and he acknowledges the rights of people who do not identify as English, he does erode the boundary between Englishness and Islander to extend his claims of authority. His own concern in IV Edgar of preventing a plague that spreads through all populations in close proximity regardless of their cultural boundaries resounds through the work of later chroniclers, who frame his willingness to cooperate with others as a form of infection in and of itself. In this way, he is unable to fully control the discourse strategies he tries to employ, as within the span of a few generations, it is turned against him.

In spite of all their criticisms, Edgar was still ultimately celebrated and used as a model, forever associated with a kind of English ideal that even foreign rulers tried to emulate. Perhaps Edgar was well-placed to become such a ruler in later medieval imaginations. His older brother Eadwig was unpopular with the northern nobles and churchmen seeking monastic reform during his reign. Their political maneuvering prompted Eadwig to divide rulership of the English between himself and his younger brother in 957, giving Edgar authority over territory to the

north of the Thames and Mercia, while he managed all territory to the south.<sup>236</sup> As Eadwig's sole heir upon his death at the age of nineteen and with the backing of the powerful northern nobles and church reformers, Edgar's accession unified the two halves of the kingdom. Additionally, no Viking attacks were recorded during the reign of Edgar; they paused in 954 when Erik Bloodaxe abandoned York and did not begin again until 980.<sup>237</sup> Therefore, Edgar's legacy is at least in part the result of fortuitous circumstances.

The criticisms appear after Edgar's death, first in the northern recensions of the *Anglo-Saxon Chronicle*, manuscripts D and E, in a poem attributed to Wulfstan, and then later still in Anglo-Norman chronicles.<sup>238</sup> Modern scholars have noted the peculiar dearth of records of Edgar's reign from his own time;<sup>239</sup> instead, an understanding of Edgar's rule comes to us primarily from medieval authors looking back at the mid-tenth century as both a golden age for the formation of England and a time when the seeds of its own undoing were sown.<sup>240</sup> Wulfstan, for instance, advised Edgar's second son Æthelræd during the invasions of the Dane Sweyn Forkbeard and his son Cnut, the latter of whom eventually conquered and ruled England. The archbishop's understanding of Edgar's relationships with foreigners was informed by the appearance of these Danish conquerors whose influence, to Wulfstan's mind, the morally corrupt English were unable to properly resist. Similarly, the Anglo-Norman chroniclers John of

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<sup>236</sup> Simon Keynes, "Eadwig (c.940-959)," *The Oxford Dictionary of National Biography*, 2004. Keynes, *Edgar King of the English, 959-975: New Interpretations*, edited by Donald Scragg, *Publications of the Manchester Centre for English Studies*, v. 8 (Woodbridge: The Boydell Press, 2008), 7-9.

<sup>237</sup> Sean Miller, "Edgar," *The Wiley Blackwell Encyclopedia of English England*, 2ed (Oxford: Wiley Blackwell, 2014), 163-4.

<sup>238</sup> Ann Williams, "Edgar [Called Edgar Pacificus] (943/4-975)," *The Oxford Dictionary of National Biography*, 2004. See also the entries for 959 in G.P. Cubbin, ed, *The Anglo-Saxon, A Collaborative Edition, MS D*, v 6 (Cambridge: D.S. Brewer, 1996), 45 and Susan Irvine, ed. *The Anglo-Saxon Chronicle, A Collaborative Edition, MS E. v. 7* (Cambridge: D.S. Brewer, 2004), 56.

<sup>239</sup> Frank Stenton famously reflected, "It is a sign of Edgar's competence as a ruler that his reign is singularly devoid of recorded incident." Stenton, Frank, *English England*, 3<sup>rd</sup> ed (Oxford: Oxford University Press, 1971), 368.

<sup>240</sup> Ibid. Keynes, "Edgar, *Rex Admirabilis*," 4, 56-58.

Worcester (the first to title Edgar “Pacificus”)<sup>241</sup> and William of Malmesbury recognize Edgar’s reign as the highest moment of English kingship before the Conquest, informed as they are about the eventual fate of Edgar’s descendants. While they are eager to praise his sublime ability to bend the inhabitants of the island to his will, they also claim that Edgar’s supposed indulgence of foreigners is the beginning of the end.

Clearly, these later narratives about Edgar are informed by their own political contexts, but their understanding of the population of Edgar’s subjects as varied and diverse are corroborated by sources closer to Edgar’s time. He became king only a century after Danes had settled in the northern part of the island and only eight years after Edgar’s uncle Eadred had gained control of Northumbria from Scandinavian rule.<sup>242</sup> He also apparently earned the allegiance of British and Scottish kings, who pledged oaths to him at his coronation in Chester in 973, although the source material about this event is unclear.<sup>243</sup> Certainly Edgar had imperial ambitions, often styling himself as either ruler of Britain or ‘Albion’—a Greek name for the island of Britain that made it into early English discourse through Bede and Pliny.<sup>244</sup> Even more intriguing, Edgar did not try to impose the same kind of cultural hegemony among the people on the island as he did among English monastics. Instead, much of Edgar’s legislation accepts diversity of custom, provided that a few key practices are shared among the English, Danes, and Britons together. In doing so, he posits an insular identity that can incorporate all the English polities alongside the Danes and Britons, finding more political possibilities for dominion and stability than dangers in cultural hybridity.

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<sup>241</sup> Indeed, this title is attached to Edgar’s name almost every time he is mentioned in the chronicle. See John of Worcester, *The Chronicle of John of Worcester*, v.2, edited by R.R. Darlington, and P. MacGurk, translated by Jennifer Bray and P. McGurk (Oxford: Calrendon Press, 1995), years 959, 964, 967, 969, 972, 973, 975.

<sup>242</sup> Keynes, “Edgar *Rex Admirabilis*,” 6.

<sup>243</sup> Williams, “Edgar.”

<sup>244</sup> Michael Lapidge, *The Cult of St. Swithun*, 258-9, n. 34. See also Julia Crick, “Edgar, Albion and Insular Dominion,” *Edgar King of the English, 959-975: New Interpretations*, edited by Donald Scragg, *Publications of the Manchester Centre for English Studies*, v. 8 (Woodbrige: The Boydell Press, 2008), 158-170.

This chapter therefore examines Edgar's rhetorical strategy for both coping with the diversity of the populations under his rule and ambitiously styling himself as sovereign of the island. Rather than struggle for complete cultural domination, Edgar tests the limits of the group identity-building strategies employed by his West-Saxon forebearers and discussed above in chapter two.<sup>245</sup> Whereas Alfred supported a cultural narrative where migrating to the island from disparate yet similar continental societies made the English, Edgar theorizes that sharing the island can be an identity in and of itself, and there is not necessarily a need for sharing all identity markers as long as they uphold the Catholic faith and agree on some notions of civil order. Of course, Edgar has authority over the Danelaw and British kings because his predecessors conquered these people, but in their wake, he seeks to maintain that authority by, at least to his understanding, permitting some forms of cultural mingling to continue and authorizing certain communities to maintain their own customs. His rhetoric is aided by the geographical reality of Britain, an island with obvious boundaries that can lead one to understand it as a cohesive whole. In Edgar's discourse, most prominently displayed in his law codes, acknowledging hybridity is a tool for establishing order, where for many other medieval authors it represents a kind of chaos that must be resolved.

Previous studies of Edgar's laws have tended to emphasize Edgar's imperial ambition and the severity of the punishments he inflicted upon criminals, particularly thieves.<sup>246</sup> However, what goes relatively unremarked even in discussions of Edgar's policy is the hybridity that is an important component of his own rhetoric, and how he attempts to leverage it for cultural construction purposes. As noted in this project's introduction, the kind of hybridity imagined by Edgar necessarily cannot be the same hybridity of cultures responding to and coping with

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<sup>245</sup> See chapter 2.

<sup>246</sup> Julia Crick, "Edgar, Albion and Insular Dominion," 158-170. Shashi Jayakumar, "Some Reflections on the 'Foreign Policies' of Edgar 'the Peaceable,'" *The Haskins Society Journal*, 10 (2001), 17-37.

colonial rule, and he never uses the word “hybrid” when imagining his insular identity. However, Edgar’s relative tolerance of diversity and formation of a society that could allow for it acknowledged the amalgamate nature of Britain. The historical reality that Britain was culturally diverse and English kings could acknowledge this diversity and even see it as peaceful challenges our modern notions of the Middle Ages as a time of singular, pure identities which modern identitarians may look back to in order to establish their ethnic heritage. Medieval identities could be hybrid, nebulous, and shifting, convenient constructs of the moment rather than something static, rooted in a sense of biological fact. In this sense, hybridity is perhaps a useful concept for discussing the mixed identity Edgar imagines, since it acknowledges the blending of cultures which, as established in the previous two chapters, were already conglomerations of other cultures into new identities. A term like hybridity exposes the process of establishing these cultures and questions the dominant assumptions of scholarship about medieval national identity-formation; that it could not tolerate this necessary hybridity and almost always had to vanish it to establish unity.

This chapter is arranged to mirror my process of researching IV Edgar and analyzing its patterns of discourse. It begins with the theoretical parameters that bind this dissertation together, tracing rhetorics of hybridity through pre-Conquest law and how they might apply in IV Edgar’s specific case. From there the chapter provides context for Edgar’s reign—first, its medieval reception and then the specific circumstances of conflict, trade, and settlement that provide the backdrop for IV Edgar’s concept of *leodscipe* and insular identity. As noted in this introduction, Edgar’s mixed legacy offers insight into what his laws may have been trying to accomplish. With all of these frameworks of interpretation in mind, this chapter then turns to IV Edgar itself, to explore in depth how its conception of *leodscipe* shores up a hybrid conception of Englishness—



building both upon his grandfather's work and laying the stones for Wulfstan and later writers of law.

### *Enabling Metaphors and Persuasive Discourse*

Like the *witan topos* and the porous boundaries of treaties, this chapter argues that IV Edgar employs *leodscipe* as a kind of “enabling metaphor” like the American “melting pot” myth described by Françoise Lionnet.<sup>247</sup> In IV Edgar, as we will see, the threat of a plague functions as both a literal form of contamination that must be staved off and the source of a metaphorical “contamination” that is an important component of Lionnet's theory of hybridity.<sup>248</sup> In order to manage the spread of both sickness and cultural contact, IV Edgar argues for a level of unity while maintaining a degree of individuation. This is its strategy to maintain the greater community that is bounded by the edges of the island, contending that the various groups inhabiting the space must connect, contaminate, and create something similar to the “Third Space” that Bhabha describes.<sup>249</sup>

As laid out in the introduction, discussions of medieval theories of hybridity have tended to emphasize either how hard medieval European societies strove to disguise it, or the ways in which hybridity manifested despite the best efforts of clergy, kings, and other powerful influencers. Jeffrey Jerome Cohen, for example, has written comprehensively about the ways in which the various cultures inhabiting Britain from the Roman Conquest in the first century BCE to the Norman Conquest negotiated their necessary hybridity. He states the central dichotomy of his work from the outset of his book *Hybridity, Identity, and Monstrosity in Medieval Britain*: cultures sought to reify themselves and project their identities back into the past to understand

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<sup>247</sup> Françoise Lionnet, “*Logiques métisses: Cultural Appropriation and Postcolonial Representations*,” *Postcolonial Representations: Women, Literature, Identity* (Ithaca: Cornell University Press, 1995), 12. See introduction, 5-9.

<sup>248</sup> *Ibid*, 15. See introduction, 5-9.

<sup>249</sup> *Ibid*, 15. Homi K. Bhabha, *The Location of Culture* (London: Routledge, 1994), 36-37.

themselves as stable, fixed groups, erasing the hybridity that must necessarily have appeared through their interactions with each other.<sup>250</sup> He cites William of Malmesbury's discussion of Edgar as a particular example of both reification and explicitly stated fear of hybridity, noting that William understands the Danes, Saxons, and Flemings as "infecting" the character of the English, positing that both the English and their visitors are distinct, pure categories, while contradictorily positing that the English can become infected through continued contact.<sup>251</sup> These moments of both identity-assertion and fear and disdain for mixing and overlap reveal the core instability of many early medieval identities—even admitting the possibility of hybridity challenged political hegemonies, even when medieval authors were warning against it.

While reading the methods of identity construction in Edgar's laws, we must necessarily consider scholarship on medieval ethnicity. The distinctions the code draws between groups of people seems to sort them by what more modern readers might term "ethnicities." Guy Halsall provides a concise summary of the general conversation about medieval ethnicity, in which he, building on the work of Patrick Geary, defines ethnicity as a primarily situational construct.<sup>252</sup> This means that ethnicity is fluid, determinable from all kinds of moveable elements such as language, law, custom, religion, place of origin, and these different components of identity can be activated in different situations.<sup>253</sup> Halsall also argues for different layers of ethnicity, pointing out that, in certain modern situations, being a "Londoner" or even a "South-Londoner" takes on greater importance than just being "British."<sup>254</sup> Or the fact that, to an outside perspective, a Scotsman and an Englishman can both be British, since they both carry British

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<sup>250</sup> Jeffrey Jerome Cohen, *Hybridity, Identity, and Monstrosity in Medieval Britain: On Difficult Middles* (New York: Palgrave Macmillan, 2006), 1-2.

<sup>251</sup> *Ibid.*, 26.

<sup>252</sup> Guy Halsall, *Barbarian Migrations and the Roman West* (Cambridge: Cambridge University Press, 2007), 37.

<sup>253</sup> Halsall, 37-38.

<sup>254</sup> *Ibid.*, 38.

passports, but Scottish ethnicity is often defined in opposition to English rule.<sup>255</sup> For Halsall then, the broadest definition of ethnicity is a “multilayered” identity which one can sometimes choose and publish, and which one is sometimes subjected to by a dominating power.<sup>256</sup>

Recent work on ethnicity in the middle ages has also tended to focus on how societies employed ideas of race and difference to stabilize their own self-conceptions. For example, Geraldine Heng examines how the Church’s transcendence of territorial boundaries allowed individual medieval societies to build their own ethnic identities by differentiating themselves from a perceived racial other, the Jews. Laws such as the Fourth Lateran council’s Canon 68, which required all Jews to be visibly marked in some fashion, “enabled the legal manipulation of Jewish populations within territorial boundaries: so that, in England, a distinctively *English* communal character was able to emerge through its posited difference from, and opposition to, the Jewish minority within England’s borders.”<sup>257</sup> In her book, Heng argues that race and ethnicity are not anachronistic terms to studying the European middle ages, but useful for understanding how they conceived of difference themselves as well as for tracing the trajectory of modern racisms. Stephen Harris has similarly argued that a study of past conceptions of race and ethnicity cannot be divorced from our modern uses of these terms, but also that understandings of an English “race” have influenced writings about them from the eighteenth century to today.<sup>258</sup> All race is constructed rather than biological, Harris observes, and constructing a unified race was an important project for self-identified English from Bede’s time forward.<sup>259</sup> Hybridity and merger threatened distinctiveness, and so while migration and merger

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<sup>255</sup> Ibid, 38-39.

<sup>256</sup> Halsall, 39.

<sup>257</sup> Geraldine Heng, *The Invention of Race in the European Middle Ages* (Cambridge: Cambridge University Press, 2017), 32.

<sup>258</sup> Stephen Harris, *Race and Ethnicity in English Literature* (New York: Routledge, 2003), 4-5.

<sup>259</sup> Ibid, 3-5.

probably formed the basis of the British societies of Gildas and Bede, the narrative of the English conquest of the island was born to explain their political and (in Bede's work in particular) ecclesiastical sovereignty.

What remains less studied are other ways in which medieval European rulers, specifically English ones, may have, like modern American politicians, attempted to coopt hybridity for their own hegemony building purposes. Harris has argued that the archbishop Wulfstan framed eleventh-century Englishness not through race, as Bede and Alfred did, but through adherence to a shared moral legal code,<sup>260</sup> but this is not necessarily the same thing as permitting hybridity which, as we have seen, Wulfstan found more threatening than his predecessors.<sup>261</sup> This chapter posits instead that acknowledging diversity was the key to Edgar's identity-building strategy, as was imagining Britain as a kind of international space. Like the American melting pot "enabling metaphor," however, Edgar's appropriation of hybridity is calculated to maintain his own power; he is uninterested in exploring Bhabha's third space and all the implications of cultural hybridity, permitting diversity to maintain his power. Still, this is a rhetorical deviation from previous English kings, and it challenges the idea that medieval societies primarily sought to contain the threat of hybridity.

### **Hæðene þeawas: *Narratives of Edgar's Rule***

In Byrhtferth of Ramsey's *Vita S. Oswaldi*, written shortly after Oswald's death in 992, Edgar is eulogized as *armipotens Eadgar . . . iura regni bellica potestate regaliter protogens, cuncta inimicorum superba colla pedibus suis strauit.*<sup>262</sup> As Shashi Jayakumar observes, Byrhtferth

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<sup>260</sup> Ibid, 108.

<sup>261</sup> See chapter 2.

<sup>262</sup> "Edgar, mighty in arms . . . regally protecting the laws of the kingdom with militant authority, had trampled under his feet all the proud necks of his enemies." Text and translation from Byrhtferth of Ramsey, *The Lives of St. Oswald and St. Ecgwine*, edited and translated by Michael Lapidge (Oxford: Clarendon Press, 2009), 74-75.

paints a surprisingly severe portrait of Edgar, one which emphasizes how fear compelled other kings into his service—and one which was not taken up by later chroniclers.<sup>263</sup> It was also not precisely the image Edgar projects in his law code IV Edgar, where he lays out procedures for tithing and apprehending thieves for everyone subject to his rule—the English, the Danes, and the Britons. As will be discussed below, while IV Edgar makes demands of people in the Danelaw, it is more deferential in tone, it is not ordering obedience as much as requesting it. Perhaps he had the authority to request because he was the most powerful king in England at the time, but his rhetoric is still one of entreaty rather than command.

Possibly this tone is one of the reasons why Edgar evolves into a somewhat contradictory figure in later medieval interpretations of the relatively slight textual evidence for Edgar's reign; he is at once splendid for the peace he is able to foster and potentially dangerous for supposedly allowing foreign influence on English culture to go unchecked. His peace is cast as almost miraculous. He mythologized, cast as almost impossibly good—and, perhaps for the Anglo-Norman chroniclers, Edgar is the last good English king, albeit one with significant faults that can portend the weakness of English kings that will lead to their doom.

Edgar's reputation for maintaining control over a wide dominion begins at the very end of his life with Lantfred of Winchester's *Translatio et Miracvla S. Swithvni*, written sometime in the 970s. This text celebrates the translation of Saint Swithun's body from the Old Minster into the church at Winchester, which occurred during Edgar's reign and with his permission. In marking the time of the Saint's translation, Lantfred glorifies Edgar's leadership:

Edgaro regnante, basileo insigni atque inuictissimo, prepotente ac clementissimo necnon glorissimo sceptrigera ditione et feliciter gentibus imperante compluribus habitu

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<sup>263</sup> Jayakumar, "The 'Foreign Policies' of Edgar 'The Peaceable,'" 19-20.

distantibus, uoce atque moribus, diffuse in insula commorantibus quae ‘Albio’ nuncupate legitur ab Anglorum fore veteribus.<sup>264</sup>

The profusion of superlatives describing Edgar’s kingship—*inuictissimo*, *clementissimo*, *glorissimo*—offer only the highest praise to both the unchallengeable totality of Edgar’s power and his bountiful mercy. All of these words suit the title his accorded here, *basileus* or “emperor.” This Greek honorary terminology coordinates with the “Albion” that appears later in the passage—as mentioned at the beginning of the chapter, this is Greek word for Britain. These word choices emphasize not only Edgar’s imperial aspirations, but also invoke an ancient past for the island that extends back beyond the migratory period. In using this language, Lantfred grants Edgar dominion over an ancient imperial seat and connects him with the most celebrated conquerors of Greece and Rome.<sup>265</sup>

Part of Edgar’s success is his ability to rule over people *distans* in appearance, language, and custom, who were scattered through his island dominion of Albion, here described as an English word to perhaps emphasize that Edgar represents English authority. His mercy, while a generally good quality for a Christian ruler, is also here linked to the cultural multiplicity of his reign, perhaps indicating that a generous attitude towards others leads to peace.

The word *distans* and its double meanings of “distinct” and “far apart” seems particularly apt for describing Edgar’s understanding of his own realm, as it links space and difference.<sup>266</sup>

Foreign people are “far apart” from the English and yet also, as Edgar’s laws indicate, close at

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<sup>264</sup> “With Edgar reigning, that renowned and unconquerable king, powerful and most merciful and fully glorious in his scepter-bearing sovereignty, blessedly commanding several peoples distinct in appearance, speech and custom, dwelling widely scattered in the island which was reportedly called ‘Albion’ by the early English.” Text and translation from Lantfred, “Translatio et Miracvla S. Swithvni,” *The Cult of St Swithun*, edited and Translated by Michael Lapidge (Oxford: Clarendon Press, 2003), 258-259.

<sup>265</sup> Crick, “Edgar, Albion and Insular Dominion,” 160-163. See also, Eric John, *Orbis Britanniae and Other Studies* (Leicester, 1966), 5-10.

<sup>266</sup> It comes from the verb, *disto*, *distare*, to be far apart or distinct. See Lewis and Short, “Disto, -are,” *Logeion*, *University of Chicago*, accessed April 2019.

hand. The Danes are distinct individuals but there are now *in insula*, and this close special proximity, as we will see in IV Edgar, is what ultimately binds them all together. *In insula*, the spatial component of identity, is the primary binding agent, unlike in previous renderings of English identity. In making the primary binding agent between peoples their geographic proximity on the island, Edgar also opens the possibility for communities to be bonded and yet distinct: a hybrid society.

In contrast, the later medieval chroniclers and historiographers look back on Edgar's reign are more critical of his tolerance for diversity and the hybrid island identity he favors over Englishness, although they express admiration for the extraordinary success of his reign as well. Edgar's rule was followed by a particularly tumultuous time, with the political fracturing around the accession of his sons Edward and Æthelræd and a new wave of Scandinavian raids and invasions at the end of the millennium. In retrospect, Edgar's allowances for Danes living in Britain looked foolhardy, weakening the English's eventual ability to prepare for and withstand another conquest.

For example, when William of Malmesbury describes the 959 accession of Edgar in his twelfth-century history *Gesta Regum Anglorum*, he offers a curious mix of praise and censure. According to William, Edgar *nullas insidias domesticorum, nullum exterminium alienorum sensit*, but this peace with foreigners came at a high cost to William's notion of a collective English character. He writes:

Unde factum est ut, fama eius per ora omnia uolitante, *alienigenae* Saxones, Flandritae, ipsi etiam Dani, huc frequenter annauigarent, Edgardo *familiares* effecit; quorum aduentus magnum prouintialibus detrimentum peperit, quod a Saxonibus *animorum inconditam ferocitatem*, a Flandritis *corporum eneruem mollitiem*, a Dani *potationem discerent*, homines antehac in talibus integri et naturali simplicate sua defensare, aliena non mirari [my italics].<sup>267</sup>

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<sup>267</sup> "The was that, as his fame 'flitted o'er the lips of all men,' foreigners in crowds, Saxons, Flemings, even Danes, visited this country and became Edgar's friends; and their arrival had a very bad effect on its inhabitants, who learnt

By William's reckoning, Edgar's fame as a prominent king is rightfully earned, and draws outsiders to him and his court specifically, but his decision to then allow these *alienigenae* into his inner circle as his *familiares* has consequences that extend far beyond his individual person. Each group is distilled to a single negative trait—violence, effeminate weakness, and drunkenness—and the supposedly previous unified English fall prey to all of them. To William's understanding, looking back from the other side of the Norman conquest, allowing foreigners influence corrupted not only Edgar's particular court, but also the very nature of Englishness itself.

Jeffrey Jerome Cohen points to this passage as an example of a threatening hybridity, for William's disdain for the "infected" (to borrow Cohen's word) English is obvious.<sup>268</sup> Certainly, for William, the influence of these outside cultures on Edgar's people jeopardizes the moral fiber and strength of the English, even as it is Edgar's mostly exemplary rulership that ironically attracts all these foreigners to his court in the first place. Yet, this is William, a Norman historian, looking back on a period of pronounced internationality in the British Isles. He betrays his twelfth-century concerns about hybridity and the rotted essence of Englishness but cannot necessarily speak to the way this flux and hybridity was understood by the English who experienced it. While William understands co-mingling of cultures as damaging for the previously stabilized group of people known as the English, Edgar's own writings—or, writings recorded in his name—indicate not only a more tolerant view of hybridity, but also its role in early English identity.

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from the Saxons unalloyed ferocity, from the Flemings a spineless physical effeminacy, and from the Danes a love of drinking, though previously they had been immune from such failings and had maintained their own standards naturally and simply without coveting those of others." Text and translation from William of Malmesbury, *Gesta Regum Anglorum*, v.1, translated and edited by R. A. B. Mynors, R. M. Thomson, and M. Winterbottom (Oxford: Clarendon Press, 1998), 240-241.

<sup>268</sup> Cohen, 23.



William selects this vision of Edgar’s reign from Old English sources. Criticism of Edgar’s friendships with outsiders appears in only two recensions of the Anglo-Saxon chronicles, most notably the two of the later manuscripts, the Worcester chronicle (D) and the Peterborough Chronicle (E). These two chronicles record a poem for Edgar’s accession in 959, written by Wulfstan, archbishop of York from 1002 to 1023, when he died. Much like William’s annal, this poem begins with rejoicing that God granted Edgar peace and dominion over *cyningas 7 eorlas . . . butan gefeohte*,<sup>269</sup> but ends with this description of his fault:

Ane misdæda he dyde þeah to swiðe  
 þet he ælpeodige unsida lufode  
 7 hæðene þeawas innan þysan lande gebrohte to fæste  
 7 deoriende leoda bespeon on þysan earde.<sup>270</sup>

Wulfstan is harsher than William in his criticism of Edgar in some ways, asserting that he loved (*lufode*) the vices (*unsida*) of foreigners where William only criticizes the king for enjoying their company. Similarly, Edgar actively entices (*bespeon*) these dubious characters to him, whereas in William’s version, Edgar’s reputation as an astounding king compels outsiders to visit him and he welcomes them with disastrous, abiding consequences. William does write that “Inde merito iureque culpant eum litterae,”<sup>271</sup> but there is also a critique of the English themselves that is missing from Wulfstan’s poem. For William, there is a collective English identity to be corrupted, while the Old English chronicles merely lament that Edgar introduces new customs to the land; for Wulfstan, Edgar’s subjects suffered, but for William it was Englishness itself.

Shashi Jayakumar has argued that Wulfstan is not criticizing Edgar’s policy for the Danelaw, since the Danes settled there were not “heathens” and he preserves IV Edgar with his

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<sup>269</sup> “Kings and earls . . . without fighting.” My translation. Old English text from *The Anglo-Saxon Chronicle: A Collaborative Edition*, v. 7, MS E, edited by Susan Irvine (Cambridge: D.S. Brewer, 2003), 56. The same poem also appears in MS D, which has been edited for the same series by G.P. Cubbin.

<sup>270</sup> “However, he made one mistake too much—he loved foreign sins and brought and fixed heathen customs throughout this land and enticed harmful people to this place.” My translation. *Ibid*, 56.

<sup>271</sup> “For this the texts properly and rightly blame him.” William of Malmesbury, *Gesta Regum*, 240-241.

own law texts.<sup>272</sup> Wulfstan himself legislated distinctions between customs of Danes and English, seemingly taking Edgar as a model.<sup>273</sup> Jayakumar instead looks to this passage for confirmation that Edgar’s “cosmopolitanism” attracts new Danes, potentially mercenaries who maintained a fleet for him, to Britain.<sup>274</sup> This reading seems likely, but does not touch on Wulfstan’s curious phrasing *gebrohete to fæste*, meaning something like “brought too fixedly,” suggesting that Edgar played a role in “fixing” or “fastening” these customs into the general culture. It is unclear how exactly Edgar may have “fixed” their customs outside of his laws, but perhaps the tolerance IV Edgar extends to Danes already settled in Edgar’s domain indicate something of his attitude towards incoming foreigners as well.

Wulfstan’s censure of Edgar for inviting “heathen” customs into England can perhaps be further illuminated by his *Sermo Lupi ad Anglos*, a scathing critique of English behavior at the turn of the millennium claiming that they deserved to be destroyed by the invading Danes, much like the Britons had deserved to be pushed out of Britain by the English. In this sermon, Wulfstan speaks constantly of the corruption of the people, enumerating their extensive sins which include *hæþene unsida*, “heathen vices,” two words that appear in his reproach of Edgar in his poem for the king’s accession.<sup>275</sup> In comparison, in the chronicle poem, Wulfstan writes of Edgar’s personal love for *unsida* and that, as a result, he has invited *hæðene þeawas* “heathen customs” into their land. The repetition of this phrasing creates one tentative link between the sermon and the poem—if the English have fallen into heathen vices by the time of Æthelræd, then some of the blame must fall back onto Edgar who invited them in the first place.

Tellingly, Wulfstan also looks back to Edgar’s time in this sermon, lamenting that,

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<sup>272</sup> Jayakumar, “The ‘Foreign Policies,’” 24-25.

<sup>273</sup> Ibid, 24-25.

<sup>274</sup> Ibid, 25-30.

<sup>275</sup> “Heathen vices,” Old English text from *Sermo Lupi ad Anglos*, edited by Dorothy Whitelock, (London: Methuen’s Old English Library, 1939), 36.

*ac soð is þæt ic secge: þearf is þære bote forþam Godes gerihta wanedan to lange innan þysse þeode on æghwylcan ænde, & folclaga wyrseðan ealles to swyþe, syððan Eadgar geendode.*<sup>276</sup>

Here the end of Edgar's reign marks the moment of complete dissolution and corruption.

Although no mention of Edgar's promotion of *hæþene unsida* is mentioned here, Edgar is perhaps once again an ambiguous figure who oversaw a time of peace and law-keeping but also laid the groundwork for the English's eventual downward spiral. However, in a different point in the sermon, Wulfstan seems to flip the expected script of the bad influence of the heathens on its head; instead, he negatively contrasts the English with "heathens"—presumably the Danes—who at least know better than to begrudge their false gods offerings or insult their false gods; the English cannot remember to properly behave this way with their own God.<sup>277</sup> In this way, he actually suggests that the English have sunken so low that they could even stand to learn from the heathens, for when they had the full knowledge of Christian practices and devolved into even worse behavior than people who have never known any differently. Instead of converting the heathens upon contact, the English adapt their behavior without any of their heathen innocence and treat the Christian God worse than heathens treat their own. This is the ironic legacy of Edgar, who otherwise sought to uphold the laws of God, that his own acceptance of the "heathen" and "love" for vices should eventually undo his work.

Both of these texts by Wulfstan, like William of Malmesbury's chronicle, envision the English as some kind of body or unit which can be corrupted. For William, this corruption is visceral and bodily in-and-of-itself; the influence of Danes, Flanders, and Saxons instills the vices of drunkenness, physical weakness, and extreme violence. For Wulfstan, the vices

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<sup>276</sup> "But what I say is true: there is need of a remedy because God's rights have waned too long in this land among this people in every place, and the peoples' laws have worsened all too much, since Edgar died." My translation. Old English text from *Sermo Lupi ad Anglos*, 26-27.

<sup>277</sup> *Ibid*, 25-26.

undertaken by the English are much more customary and less physically tangible—they murder, steal, sell each other into slavery, violate each other’s rights, and, most importantly, they do not offer their tithes unto God or respect his earthly representatives.<sup>278</sup> The individual English body does not yet take on physical weaknesses, but still there is the sense that the presence of the foreign instills some form of ill-health upon the collective identity of the English. The foreign is a contagion which, for Wulfstan, is still remediable if the English look to their habits and return to the lesson they should have learned from Edgar—for William, the bodily damage is already far advanced.

This narrative of Edgar simultaneously celebrates his peace and questions its cost. On the one hand, peace without war, earned by dedication to God’s laws and by a formidable reputation, is miraculous. William indeed casts it as such, recording that Edgar’s birth carried an angelic prophecy: “‘Pax Angliae quam diu puer iste regnauerit.’”<sup>279</sup> Even though William notes that Edgar’s success as king is partially is “sedulo deuotione animi et uicacitate consilii,”<sup>280</sup> it is primarily through God’s grace and will that Edgar’s peace is maintained. Edgar cherishes the Church, building monasteries and maintaining Christian order throughout his dominion, so he is successful in spite of his penchant for foreign friends. In both the chronicles’ and William’s accounts of his life, it is clear that Edgar himself does not feel the immediate effects of inviting outsiders, but it is something insidious that comes about from the type of peace Edgar is able to establish. He does not fight any wars to maintain his power, and therefore lives in concord with people his chroniclers consider dangerous. In this way, the peace Edgar offers becomes somewhat threatening, a calm before the eventual storm of his son Æthelred’s reign, when Danes would begin raiding in the British Isles once again.

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<sup>278</sup> Ibid, 26-37.

<sup>279</sup> “‘Peace be to England, as long as this child is king’.” William of Malmesbury, *Gesta Regum*, 238-239.

<sup>280</sup> “By the devotion of his spirit and the vigor of his policy,” Ibid, 238-239.

Tellingly, as Simon Keynes observes in his introduction *Edgar King of the English, 959-975*, many of Edgar's biographers were monastics from that very Benedictine movement, whose perspectives on peace and stability must have been informed by their own flourishing.<sup>281</sup> Keynes further notes that Edgar's reputation was primarily solidified during the reign of King Æthelred, when Vikings from Denmark and Norway began raiding again in England, a continuing conflict which ended with the Dane Cnut's accession in 1016.<sup>282</sup> In fact, Cnut's proclamation to the English in 1020, he cites Edgar's laws, saying *ic wylle þæt eal þeodscype, gehadede 7 læwede, fæstlice Eadgares lage healed þe ealle men habbað gecoren 7 to gesworen on Oxenaforda*.<sup>283</sup> The agreement referenced in these laws is marked by the D and E manuscripts of the *Anglo-Saxon Chronicle*, for only the D manuscript mentions that the Danes and English formally agreed on Edgar's law.<sup>284</sup> As a king with a particular reputation for stability, it follows that Cnut would want to style himself as restoring that old order to an area that had seen constant conflict for nearly thirty years by the time the Danes finally succeeded in their conquest.

Perhaps Edgar was also an appealing English king to serve as Cnut's model because he maintained power over a similarly diverse kingdom. Cnut was an aspiring emperor, ending his life as lord of the English, the Danes, and Norwegians in 1035. As mentioned previously, Edgar also began his reign as a unifier, partially by circumstance. George Molyneux has observed that it was Edgar's reign more than any of his West-Saxon predecessors that solidified England as coherent kingdom unlikely to splinter back into rival kingdoms competing for dominion.<sup>285</sup>

Additionally, as William of Malmesbury notes, Edgar compelled British kings to attend his

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<sup>281</sup> Keynes, "Edgar, *Rex Admirabilis*," *Edgar King of the English, 959-975*, 3.

<sup>282</sup> *Ibid.*, 3-5.

<sup>283</sup> "And it is my will that the whole nation, ecclesiastics and laymen, shall steadfastly keep the law of Edgar to which all have given their adherence at Oxford" (Translation, Roberston, 142-143) *Die Gesetze*, 20

<sup>284</sup> G.P. Cubbin., ed, *The Anglo-Saxon Chronicle, A Collaborative Edition, MS D*, v 6 (Cambridge: D.S. Brewer, 1996) and Irvine, Susan, ed. *The Anglo-Saxon Chronicle, A Collaborative Edition, MS E*. v. 7 (Cambridge: D.S. Brewer, 2004).

<sup>285</sup> George Molyneux, *The Formation of the English Kingdom in the Tenth Century*, 150.

courts and maintained order in the Danelaw. In Edgar's time insular dominance became not only a matter of maintaining military power over his subjects, but imagining a unified insular community in much the same way his predecessor Alfred envisioned the community of the English.

### *The Context of Edgar's Legislation*

As stated in the introduction to this chapter, Edgar's codes were promulgated in a lull in Scandinavian incursions to England, after Scandinavian conquest. Beginning in the late eighth century, Vikings started raiding in Britain regularly, which eventually led to the great *here* or "army" occupying the north and east of England in the ninth century.<sup>286</sup> According to *The Anglo-Saxon Chronicle* and *The Life of Alfred*, only the kingdom of Wessex prevailed against the *here*, pushing the Danish forces back to East Anglia and Northumbria. A treaty between Alfred and the Danish leader Guðrum, which was promulgated sometime between 878 and 890,<sup>287</sup> outlines the boundaries of Danish controlled territory as *up on Temese, 7 ðonne up on Ligan, andlang Ligan oð hire æwylm, ðonne on gerihte to Bedanforda, ðonne up on Usan oð Wætelingastræt*.<sup>288</sup> Archbishop Wulfstan, a contemporary of Æthelræd and Cnut who wrote laws for both of them in addition to his famous *Sermo Lupi ad Anglos*, termed this area of control the *dena lagu* or "Danelaw", a region where Alfred and later Edgar and Cnut permitted Danes and Anglo-Danes to keep some of their customs which might otherwise be at odds with the laws of the English.<sup>289</sup>

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<sup>286</sup>For more on why the *The Anglo-Saxon Chronicle* primarily uses *here* to distinguish Viking forces from "real" English armies, see Richard Abels "Alfred the Great, the *Micel Hæðen Here* and the Viking Threat," *Alfred the Great: Papers from the Eleventh-Centenary Conferences*, Edited by Timothy Reuter, 2003, chapter 15.

<sup>287</sup>See F.L. Attenborough, "Treaties with the Danes," *The Laws of the Earliest English Kings*, 1922, 96-97.

<sup>288</sup>"Up the Thames, and then up the Lea, and along the Lea to its source, then in a straight line to Bedford, and then up the Ouse to Watling street." Attenborough, F.L. "Alfred and Guthrum," 98-99.

<sup>289</sup>Matthew Innes, "Danelaw Identities: Ethnicity, Regionalism, and Political Alliance," *Cultures in Contact: Scandinavian Settlement in England in the Ninth and Tenth Centuries*, Edited by Dawn Hadley and Julian Richards, 2000, 76.

Even once the north of England was conquered by Alfred's grandson Æthelstan in the mid tenth century, there remained an awareness that this region was distinct in some ways, even as attempts were made to bring the Anglo-Danes into the fold of a burgeoning English identity.<sup>290</sup>

A concept of "Englishness" as a political identity comes to fruition in the writings of Alfred of Wessex. Building off the eighth-century monk Bede's discussion of the *Angles* in his *Historia Ecclesiastica Gentis Anglorum*, Alfred attempted to consolidate all of the people outside of the Danelaw into a single culture under his rulership.<sup>291</sup> As Sarah Foot has noted, in order to create this idea of an *Angelcynn*, Alfred appealed to shared legal, historical, and religious traditions that bound the diverse English kingdoms together.<sup>292</sup> Although certain factions such as Mercia and Northumbria would continually balk at the West-Saxon hegemony, Alfred was ultimately successful at co-opting Bede's identification of an *Angle* ethnic group and at generating a sense of almost national identity. As Stephen Harris, Samantha Zacher, Nicholas Howe, and Patrick Wormald have all convincingly demonstrated, a key factor of this burgeoning English identity was and identification of the current English with the ancient Israelites.<sup>293</sup> Alfred styled the English as a New Israel in his political writings. This identity also contrasted the Christian English with the pagan Danish invaders, defining the two groups in opposition to each

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<sup>290</sup>Eric John, "The Age of Edgar," *The Anglo-Saxons*, Edited by James Campbell, 1982, 160-162. As George Molyneux observes, there is little way to tell exactly how many Scandinavians settled here, only that there was a way in which this area was distinct. He also argues that *denu lagu* or Danelaw is such a late term that it makes no sense to use it as scholars do now, but the distinctions between Danish law and English law go back to Alfred's *domboc*, so there is a case for using this term to loosely denote the same distinction. See Molyneux, George, *The Formation of the English Kingdom in the Tenth Century* (Oxford: Oxford University Press, 2015)

<sup>291</sup> See Sarah Foot, "The Making of Angelcynn: English Identity before the Norman Conquest." *Transactions of the Royal Historical Society*, 6, 1996, 25-49; Samantha Zacher, *Rewriting the Old Testament in English Verse: Becoming the Chosen People*, 2013; Patrick Wormald, *The Making of English Law: King Alfred to the Twelfth Century*, 1999.

<sup>292</sup> Foot, 26.

<sup>293</sup> See Harris, "King Alfred's Christendom," *Race and Ethnicity in English Literature*, 83-106; Patrick Wormald, *The Making of English Law: King Alfred to the Twelfth Century*, 1999; Zacher, *Rewriting the Old Testament in English Verse: Becoming the Chosen People*, 30-31; Nicholas Howe, *Migration and Mythmaking in English England*, 1989.

other. Alfred's rhetorical maneuvering laid the groundwork for the concept of an English people which continues to thrive to this day.<sup>294</sup>

However, once the Danes had settled in England and were intermarrying with the English, steps had to be taken to connect the two groups and bring the Danes into the English fold. Alfred laid the groundwork for this move by stipulating that in order for Guðrum and his armies to remain in England, they had to convert to Christianity: the treaty between them asserts that both the English and the Danes are *Godes miltse reccen* "eager for God's favor," for instance.<sup>295</sup> Asser's *Life of King Alfred* also attests that Alfred himself baptized Guðrum, binding the Danish leader to himself as a god-son.<sup>296</sup> How this conversion affected Guðrum's personal religious convictions and practices in reality is unclear, but the fact that it was recorded into the story of Anglo-Danish relations in multiple sources provides a way for the Danish settlers to eventually be incorporated into the fold of "Englishness" once Alfred's descendants Edward and Æthelstan had managed to claim the northern and eastern territories for the house of Wessex.<sup>297</sup>

Once the Danelaw was integrated into England, the Anglo-Danes were at once Danish, English, and also marked by distinctions which made them "northern."<sup>298</sup> As Matthew Innes has argued, it's difficult and ultimately counterproductive to try to fix these people down to a single ethnic origin. Rather they, like the nominal English, had a "complex series of overlapping identities: regional and regnal, legal and political, local and ethnic."<sup>299</sup> Different aspects of these identities could be activated at different periods of time depending on events. For the purposes of

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<sup>294</sup> For a discussion about how Alfred's story came to be used for building an imperialist English identity in the nineteenth century (thereby becoming the problematic foundations of a modern English identity, see Kathleen Davis, "National Writing in the Ninth Century: A Reminder for Postcolonial Thinking about the Nation," *Journal of Medieval and Early Modern Studies*, 28, 1998, 611.

<sup>295</sup> Attenborough, 98-99.

<sup>296</sup> In *Alfred the Great: Asser's Life of King Alfred and Other Contemporary Sources*, Edited by Simon Keynes and Michael Lapidge, 2004, 85.

<sup>297</sup> John, 160-162.

<sup>298</sup> Innes, 68.

<sup>299</sup> Innes, 67.



unification, they are English, but they retain certain rights based on their residency in the Danelaw and their Danish background.<sup>300</sup> They can also be turned into pure “Danes” when, for instance, the king feels compelled to eliminate an “enemy” that has been lurking within the community for too long. For example, King Æthelræd II famously initiated the St. Brice’s day Massacre in 1002, calling the Danish community of Oxford “cockles” that had sprouted up amongst England’s “wheat.”<sup>301</sup> Although there is some debate about who exactly these Danish people were—whether they were recent arrivals, members of raiding parties, or families who had been living in England for generations—Æthelræd’s own language suggests ethnic purging.<sup>302</sup> Danishness could therefore be defined in opposition to Englishness when politically expedient. In fact, as Stephen Harris has pointed out, the territories which composed the Danelaw had only come back under English control two decades prior to the St. Brice’s Day massacre of 1002, meaning that it is not so implausible that tensions between the Anglo-Danish and English communities could have existed, particularly given the West-Saxon dynasty’s penchant for trying to create a sense of English unity to advance their own political interests.<sup>303</sup> Æthelræd certainly felt as if purging the Danes would strengthen his control over England during the Danish attacks.

At the same time, there was a recognition that just as the many English kingdoms shared a migratory past from a continental homeland, so too did these more recent Scandinavian arrivals. As Nicholas Howe has cogently demonstrated, the English were forging an identity as migratory people and starting with Bede (as far as the modern reader can tell from extant sources), the idea of a great Germanic migration became an important part of the English origin

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<sup>300</sup>Ibid, 66.

<sup>301</sup>Ibid, 66

<sup>302</sup>Harris, 106-107. Dawn Hadley, “‘Cockle amongst the Wheat’: The Scandinavian Settlement of England,” in Frazer, *Social Identity*, 111–35.

<sup>303</sup>Harris, 107.

myth. As Howe, Harris, and Zacher, have argued, this myth eventually served as the basis for building up of an English people, led by the West-Saxon line of kings.<sup>304</sup> As Stephen Harris and Howe have discussed, within the typology of this migration myth comes the potential for history to repeat itself; the Vikings, who come from a similar origin as the fifth-century peoples who first migrated to England, present a threat in that they could become the new “chosen ones”, destined to wrest the island from sinful English control.<sup>305</sup> This recognition of a similar cultural trajectory certainly informs some of the panic surrounding the arrival of the latest round of Scandinavian invaders.

Additionally, not only did the Danes come from a closely related culture from across the sea, there is a high probability that Old English and Old Norse were mutually intelligible, so much so that Matthew Townend has proposed that England was a bilingual polity.<sup>306</sup> Although most of the vernacular writing in tenth and eleventh-century English England are in Old English, Townend argues that people in the North, particularly recent settlers, would have spoken Danish Old Norse and would still have been able to communicate with English who only understood Old English.<sup>307</sup> Given that both a shared vernacular and a peculiar pride for that vernacular were staples of the English identity as constructed and disseminated by Alfred in the ninth century, it must have been troubling that the language itself was more of a barrier—if, however, Old Norse and Old English were mutually intelligible, it becomes more difficult to create distinct barriers between the two cultural identities, especially when there are not many visible markers of difference. Although most of the articles of statecraft such as laws and charters would continue to primarily be written in English (or, particularly in the case of certain charters, in Latin), this

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<sup>304</sup>Howe, 35. Harris, 124-25. Zacher, 26.

<sup>305</sup>Harris, 124-125. Howe, 1-7.

<sup>306</sup>Matthew Townend, “Viking Age England as a Bilingual Society,” *Cultures in Contact: Scandinavian Settlement in England in the Ninth and Tenth Centuries*, Edited by Dawn Hadley and Julian Richards, 2000, 89-90.

<sup>307</sup>Ibid, 90.

similarity and the ease of communication that it would have provided between the two groups (perhaps more so than between the earliest English colonists and the native Britons, for instance) could both facilitate the integration of the Danes into English society and potentially foster unease about how closely related these two groups of people were.<sup>308</sup>

Building on the work of Anthony Smith on the construction of ethnicities, Jacqueline A. Stodnick has argued that a sense of shared space was particularly important for the formation of an English identity.<sup>309</sup> Stodnick discusses how the term “Brittania” was particularly moveable in the work of Bede, no longer tied to the “ethnie” of the Britons (as it was in Roman sources) but could now simultaneously represent both the island as a whole and rough conglomerates of people living on the island, usually groups of Britons and English.<sup>310</sup> Quite often, she notes, Bede excludes the Irish and the Picts from his vision of “Brittania” as well as from his word for the Northumbrian Angles, *Nordanhymbri*, even though in other places of his *Historia* he recognizes their presence. She argues that “Brittania” cannot be read as a stable “container” for English history, as the term was so moveable.<sup>311</sup> The very instability of “Brittania” perhaps prompted the need for a separate word to talk about the land belonging to the English, an “English-land.”<sup>312</sup>

Stodnick also notes the blurry boundaries between English place names and people names that gradually shifts to a more static understanding of a place bound to a people.<sup>313</sup> According to Stodnick, the changing vocabulary demonstrates that ethnicity was becoming bounded by place rather than be a essential sense of sharing a “cyn.” She looks specifically at

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<sup>308</sup>Ibid, 93-94.

<sup>309</sup> Jacqueline A. Stodnick, *Writing Home: Place and Narrative in Anglo -Saxon England*, University of Notre Dame, Ann Arbor, 2002, 74. Smith, Anthony D. *The Ethnic Origins of Nations* (Oxford: Blackwell, 1987), 183.

<sup>310</sup> Stodnick, 87.

<sup>311</sup> Ibid, 96.

<sup>312</sup> Ibid, 96.

<sup>313</sup> Ibid, 102-104.

chronicle and linguistic evidence to make this claim, but it may also be substantiated by Edgar's laws and charters. Edgar was able to imagine himself not only as a ruler of peoples, but as a ruler of territory bounded mostly by the edges of the island. In styling himself as an "imperator," he used the bounds of the island to define his ambitions as a ruler. In doing so, he must have imagined a society that incorporated many different peoples.

#### **IV Edgar**

The narratives of Edgar's reign discussed above describe his policy in general terms, at once praising his ability to command respect from other rulers but also expressing reservations about his tolerance and acceptance of outsiders and other customs. An examination of IV Edgar does not by any means confirm that Edgar was actively inviting foreign people to the island and does not even prescribe "foreign" customs for the English; rather, the code appears to project a unified ideal for all the English, Danes, and Britons living under Edgar's rule, permitting some differences in the name of greater cohesion. In the process of doing so, the text posits that there is an island identity binding all of these groups into a *leodscipe* or, as I will translate it, "community," under Edgar's rule together. More specifically, IV Edgar imagines the different groups inhabiting the island of Britain as composing a body, whose real and spiritual health depends on extensive cooperation even if the components remain somewhat autonomous and separate.

IV Edgar was promulgated under particular circumstances, which it makes known almost immediately in its preface: there has been a plague. The only record of this plague aside from IV Edgar is the A manuscript of the *Anglo-Saxon Chronicle*, which records both a *swiðe micel*

*mancwealm* “a very great plague” and a great fire in London in 962.<sup>314</sup> By framing the sickness as problem which both laws and kings can solve, IV Edgar sets up an extended metaphor where the solution for problems with bodily health is to turn to spiritual help that be earned through following the king’s justly provided laws.

The code dramatizes its own conception in the first lines of the preface; “Her is geswutelod on þisum gewrite, hu Eadgar cyningc wæs smeagende, hwæt to bote mihte æt ðæm færcwealme, ðe his leodscipe swyðe drehte 7 wanode wide gynd his anweald.”<sup>315</sup> The gerund *smeagende* “considering” lends an immediacy to this preface, humanizing Edgar in a manner that seems peculiar even for Old English law codes. His thoughts turn to a *bot* or a remedy for the plague (here the almost *hapax legomenon* *færcwealm*, which translates quite literally to “sudden pestilence”); implicit in this introduction is that law is the cure or *bot* for the peoples’ ailment, connecting the well-being of individual bodies to the well-being of the political body. However, who constitutes this assemblage is not immediately clear, as it was in codes up until Alfred’s time, when the rhetorical figure of the king would often directly address his specific subjects: the Kentish, the West-Saxons, or, eventually, the English.<sup>316</sup> In this code, Edgar’s kingly persona considers the far less explicit concepts of *his leodscipe* “his people” and *his anweald* “his rule.” These are not bounded and specific terms, and could include almost anyone, be they English, Dane, or Briton. Beginning with Æthelstan’s legislation, kings begin to omit this claim to lordship over a particular people, and this styling is not picked up again until Æthelræd’s legislation, at the end of the tenth century and beginning of the eleventh. This coincides with the

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<sup>314</sup> See *The Anglo-Saxon Chronicle: A Collaborative Edition*, MS A, edited by Janet Bately (Cambridge: D.S. Brewer, 1986), 75. It is assumed that this code dates to 962-963 because of this reference. See Liebermann, Felix, *Die Gesetze der Angelsachsen*, Band III, 2ed (Scientia Aalen, 1960), 138, and Roberston, A.J., *The Laws of the Kings of England from Edmund to Henry I*, (Cambridge: Cambridge University Press, 1925), 4.

<sup>315</sup> “It is published here in this writ, how King Edgar was considering what could be given as a remedy to the sudden pestilence that has greatly afflicted and lessened his people widely throughout his dominion.” My translation. Text from Liebermann, Felix, *Die Gesetze der Angelsachsen*, Band I, 2ed (Scientia Aalen, 1960), 206.

<sup>316</sup> See, for example, the codes of Æthelberht, Holþere and Eadric, Wihtred, Ine, and Alfred.

period when English kings were most likely to style themselves as rulers of all Britain in their charters, perhaps an indication of both their ambition and the porosity of group identities on the island at this time.<sup>317</sup>

This is where the conception of *leodscipe* could be expanded from how it is usually translated by modern editors of these laws. A search of the Old English corpus reveals that *leodscipe* first appears in law in Edgar's codes, to be used again by Wulfstan writing for Edgar's successor Æthelræd. Previous law codes only use the term *leod* without the –scip suffix, which suggests a state of being.<sup>319</sup> Perhaps the code means to emphasize a “state of being a people,” or, as I suggested at the outset of this chapter, a “community.” IV Edgar is tied in the surviving Old English corpus for the place with the most appearances of this term with Ælfric's letter to Sigeward, which occurs five times. Four of these times, the term extends beyond the English and specifically includes Danes, the Britons, or both. The fifth time the wording is somewhat ambiguous. Nevertheless, it seems that in most instances, this word *can* function as something beyond the traditional boundaries of these groups.

The metaphor continues *bot*, while certainly a medical remedy, more often in law refers to a “compensation” to be paid to another person for a received injury.<sup>320</sup> This sets up another extended metaphor within the law code: the people must remedy their sickness by paying a *bot* to God for their sins, which provoke God to inflict this wrath upon them. Following the short preface, Edgar's *witan* contributes the first provision meant to remedy this unfortunate situation. They propose enforcing more stridently the collection of tithes for the Church. As we have seen in chapter one, *topos* of the *witan*, although here governing one specific set of statutes, still

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<sup>317</sup> See George Molyneux, “Why Were Some Tenth-Century Kings Presented as Rulers of Britain?” *Transactions of the Royal Historical Society*, vol. 21, 2011, pp. 59-91.

<sup>319</sup> From the term “shape”

<sup>320</sup> “Bot,” *The Dictionary of Old English: A to I*, 2019.

appears early in the law code to indicate that it is a collaborative effort.<sup>321</sup> This first clause also proposes an overall reason for why this plague afflicts the population; God is upset with the sins of the people.

Ðæt is þonne ærest, þæt him þuhte 7 his witum, þæt þus gerad ungelimp mid synnum 7 mid oferhyrnysse Godes beboda gearnod wære, 7 swyþost mid þam oftige þæs neadgafoles, þe Cristene men Gode gelæstan scoldon on heora teoðingsceattum.<sup>322</sup>

The collective body of the *witan* helps Edgar diagnose the reasoning behind the plague damaging the collective body over which he rules. God's laws collapse into Edgar's; the king and his advisors must enforce God's laws, which the people are disregarding. The stakes of obeying the Lord by following the king's law are high:

Ðonne beode ic 7 se arcebisceop, þæt ge God ne grymman, ne naþer ne gearnian ne þone færlican deað þises andweardan lifes, ne huru þone towardan ecere helle mid ænegum oftige Godes gerihta; ac ægðer ge earm ge eadig, þe ænige tylunge hæbbe, gelæste Gode his teoðunga mid ealre blisse 7 mid eallum unnan, swa seo gerædnys tæce.<sup>323</sup>

There are temporal punishments for not paying tithes in a timely manner, namely death at the hands of bailiff and lord,<sup>324</sup> but that pales in comparison to dying because of the plague or suffering for eternity in hell. Any Christian, Edgar reasons, would want to escape both these fates, and so he expects that anyone identifying as such under his power will conform to his rules.

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<sup>321</sup> See chapter 1.

<sup>322</sup> "In the first place, it seemed to him and his *witan* that, thus considered[?], this misfortune has been earned through sin and contempt for God's commands, and especially through the holding back of the tribute which Christian people should fulfill to God in their tithes." My translation. Text from Lieberman, *Die Gesetze*, 206.

<sup>323</sup> "I and the archbishop enjoin, therefore, that you do not, by withholding any of God's dues, provoke Him to wrath, and incur either the sudden death [which is befalling you] in this present life or, still worse, the death to come in everlasting hell; but everyone, both rich and poor, whose property has yielded him anything, shall, with all gladness and willingness, render his tithes to God." [Robertson's Translation, 31], Liebermann, *Die Gesetze*, 206-208.

<sup>324</sup> The punishment prescribed in IV Edgar 1.2. Liebermann, *Die Gesetze*, 206.

Importantly, Edgar stipulates that these laws about paying tithes to the church are to be followed *æghwær gelice on minum anwealde* “everywhere, alike, under my power.”<sup>325</sup> The threat of the plague effects all the people of the island equally, regardless of their personal identities and political affiliations, and Edgar makes it clear that refusal to cooperate with his decree risks not only individual punishment, but the continued punishment of the island. Edgar reminds all practicing Christians under his rule—theoretically everyone in Britain, since Alfred’s treaty with Guðrum demanded that his Danish army convert before they settled<sup>326</sup>—that rendering their tithes to the Church is their duty. The plague is constructed as an enemy that must be warded off in cooperation with and adherence to Christian tenants.

The first mention of a specific people, the Danes, appears in what modern editors designate as 2a.1. After warning that all of his subjects should pay their tithes, Edward suggests that the next potential source of the plague is a disrespect for the laws of the laity. God not only punishes his people for withholding their dues to the Church, but also for disrespecting the secular law. Edgar is particularly concerned with being deprived of his own dues and that his thegns should keep their ranks over the course of his lifetime. However, he acknowledges that this “preservation of the rights of the laity” will take different forms among different people:

7 ic wille, þæt woruldgeriht mid Denum standan be swa godum lagum, saw hy beste  
geceosan mægen  
Stande þonne mid Anglum þæt ic 7 mine witan to minra yldrena domum geyhton, eallum  
eodscipe to þearf.<sup>327</sup>

In these statutes, Edgar makes allowances for Danish sovereignty, but there is still the sense that he is bestowing independence upon them where he says *ic wille* “I will” that the Danes maintain

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<sup>325</sup> Liebermann, *Die Gesetze*, 208.

<sup>326</sup> Liebermann, *Die Gesetze*, 126-128.

<sup>327</sup> “And I will that secular rights be upheld among the Danes by such good laws as they can choose. Then among the English, I and my *witan* uphold the older of my laws that [we] added, for the whole people because of their need” My translation. Text from Liebermann, *Die Gesetze*, 210.



their old laws for the most part. Furthermore, Edgar terms these laws *lagu*, using the Old Norse loan word *lagu*, while he calls English law *dom*, the more traditional English legal term.<sup>328</sup> At this moment, Edgar seems to be allowing a distinction between two forms of laws depending on identity—for the Danes, *lagu*, for the English, *domes*—even as he reminds the Danes of his authority over them by framing their rights as his individual will.

More intriguing yet, is that after Edgar makes these distinctions, he adds a third statute which applies to not only the English and the Danes, but the British under his power as well.

Sy þeahhwæðere þes ræd gemæne eallum leodscipe, ægðer ge Anglum ge Denum ge Bryttum, on ælcum ende mines anwealdes, to þy þæt earm 7 eadig mote ágan þæt hy mid riht gestrynað 7 þeof nyte, hwær he þyfe befæste, þeah he hwæt stele, 7 him swa geborgen sy heora unwilles, þæt heora to fela no losigen.<sup>329</sup>

Here, Edgar envisions a group constituted of *eallum leodscipe* “all the people” and then specifies the three groups under his *anweald* “power.” There is obviously still a distinction between the various factions, but there are some laws which apply to “all.” As stated above, *leodscipe* and *anweald* are both non-specific, and could denote the whole island. In the twelfth statute, Edgar reiterates the Danes may continue maintaining *swa gode laga swa hy betste geceosen* “As good a law as they can best decide upon” and reminds them, “ic heom á geþafode 7 geþafian wille, swa lange saw me lif gelæst, for eowrum hyldum, þe ge me symble cyddon.”<sup>330</sup> As in 2.2, Edgar asserts his authority over the Danish law by framing it as concession allowed to them and, expanding on his previous tactic, by reminding the Danes that he grants them their law for their

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<sup>328</sup> Sara M. Pons-Sanz notes this usage in both her article “Norse-Derived Terms and Structures in The Battle of Maldon,” *The Journal of English and Germanic Philology*, vol. 107, no. 4, 2008, 441, and in her book, *Norse-Derived Vocabulary in Late Old English Texts: Wulfstan’s Works, A Case Study* (Odense: University Press of Southern Denmark, 2007), 231-235.

<sup>329</sup> “This command, however, will be common to all people, whether the English, the Danes, or the Britons, in every place under my power; that both the poor and the prosperous may possess that which they acquire by right and that the thief not know where he may store what he has stolen, though he steal it; and that they be secured though they be unwilling, that not too many of them escape” My [rough] translation, Liebermann, *Die Gesetze*, 210.

<sup>330</sup> “I have always permitted [this] and will continue to permit it, as long as my life lasts, because of your allegiance, which you have continually shown me” My translation, Liebermann, *Die Gesetze*, 212.

*hyldum* “loyalty” (36-37) which they have *symble* “constantly, always” given him. The Danes are, by his construction, subjects to whom he permits self-governance, and their relationship has been such, by Edgar’s reckoning, forever.

Similarly, he adds the exception here that the Danes must conform to his laws on the matter of cattle thieves: “7 þæs wilnige, þæt þes án dom on swylcere smeagunge sy ús eallon gemæne, to gebeorge 7 to friðe eallum leodscipe.”<sup>331</sup> Always the Danes are part of a larger whole, an unnamed island people beholden to the English king. Edgar writes here of a *friðe eallum leodscipe* “peace between all people” once again establishing his right to rule and care for some overarching “all.” He also uses “ús,” incorporating himself into the same political body as the Danes. The Danes may keep their rights within England but must also do their part to protect the island from an internal threat that extends beyond boundaries of individual communities. The law code concludes with an unusually contractual tone for royal legislation, with Edgar writing, “Ic beo eow swyðe hold hlaford þa hwile þe me lif gelæst, 7 eow eallum swyðe bliðe eom, for þý þe ge swa georne ymbe frið syndon.”<sup>332</sup> Of particular curiosity is the phrase *eow eallum swyðe bliðe eom* “I am very pleased with you all,” since it is not clear to whom it is addressed. Felix Lieberman (and Robertson following him) has suggested that this line is a direct address to his counselors.<sup>333</sup> However, there has been a consistent “all” throughout the text, namely the occupants of Britain who are cooperating and who indeed, according to Edgar, must cooperate to maintain a public peace. Furthermore, Edgar has previously used this phrasing when directly addressing the Danes, promising them his continued graciousness as their overlord and also tasking them to do their part of the *frið*. There is the sense, then, that Edgar

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<sup>331</sup> “And I desire that this one decree on such investigations be established among us all for security and peace for all the people.” My translation, Liebermann, *Die Gesetze*, 212.

<sup>332</sup> I will be a very gracious lord to you while my life lasts, and I am very pleased with you all, because you are so eager for there to be peace throughout [the people].” My translation, Liebermann, *Die Gesetze*, 214.

<sup>333</sup> See A.J. Robertson, *The Laws of the Kings of England*, note 16.1, 310.

understands a cooperative political collective consisting of the whole island which, while under his dominion, still maintains some elements of autonomy.

What is distinct about Edgar's vision of his population is that he imagines both the maintenance of separate rules and customs, as with the Danish, but also times when everyone must cooperate and form a whole with each other. In a sense, this makes Edgar's Britain a hybrid society where different cultures interact and share influence and some systematic structures but do not necessarily form a supposed whole. Difference is acknowledged and sanctioned, even at threat to the king's individual authority to legislate for the Danes. In his history looking back on Edgar's reign, William of Malmesbury condemns Edgar's permission of "infectious" others to permeate English values, but in this document, Edgar seems to be offering alliance with Englishness and new possibilities for identifying with each other, a much more mutual process.

## CHAPTER FOUR

### THE BAD EXCHANGE: *BEOWULF*'S ANXIETIES ABOUT HYBRID BOUNDARIES OF FEUD

#### *Introduction*

Although the epic poem *Beowulf* dramatizes conflicts between kin-groups and peoples, it is often ambivalent about the notion of “sides”; boundaries must be drawn in order to make sense of a series of complex interpersonal relationships, but the poem frequently steps back to offer some sort of perspective on how arbitrary and confusing those distinctions between these groups can be. Even conflicts that should be fairly straightforward—i.e. the “monster” fights between the titular hero Beowulf, Grendel, Grendel’s mother, and the Dragon—blur the boundary of monster and human and complicate the system of exchanging violence to restore in-group honor. At first glance, Grendel’s mother’s vengeance seems like it should be a clear-cut case: following a system we now term “feud,” she goes to the Danish hall the night after Beowulf kills her son and takes the life of King Hrothgar’s righthand man as a form of justice. However, Grendel’s mother mirrors the emotions of the human women in the poem. These women are therefore aligned in spite of the monster-human dichotomy that should theoretically act as a divide, even as Grendel’s mother plays the more commonly masculine role of an avenger. Her position “in between” expected gender roles goes hand-in-hand with how she embodies the annihilating aspect of feuding, a practice that was much more limited in early English legal codes than Scandinavian ones. Given that the poem is written in Old English but about ancient Scandinavians, Grendel’s mother might represent both a meeting point and critique of a practice that was simultaneously familiar and “foreign” to the eleventh-century English audience of the surviving manuscript of *Beowulf*.

In the immediate aftermath of Grendel's mother's raid on Heorot, where she has killed an important man named Æscere in compensation for the life of her son, the poem offers two seemingly contradictory readings of the night's events that ultimately sympathize with Grendel's mother's bereavement. Initially, the narratorial voice emphasizes the emotional impact of loss, not just for Danes, but also for Grendel's mother, mourning alongside the characters: "... Ne wæs þæt gewrixle til/ þæt hie on ba healfa bicgan scoldon/ freonda feorum" (That was not a good exchange/ That those on both sides must pay/ With the lives of friends).<sup>334</sup> Here, the narrator commiserates with both sides' grief, putting the deaths of Grendel and King Hrothgar's friend and advisor Æschere on the same level. Then, after arriving on the scene and listening to Hrothgar's account of the attack, Beowulf prescribes action to alleviate the heartache, advising, "Selre bið æghwæm/ þæt he his freond wrece þonne he fela murne" (It is better for each that he avenge his friend than that he mourn much).<sup>335</sup> The repetition of the word "freond," (friend, intimate)<sup>336</sup> in these two linked passages draws attention to Grendel's mother's and Beowulf's shared philosophy for coping with loss and the way it perpetuates a cycle of exchange; as long as an avenger survives, more grief will come when the blow is inevitably returned. While Beowulf counsels Hrothgar to continue the cycle for the satisfaction of both his feelings and his honor, the poem hesitates, weighing the psychological costs of such logic.

To resolve the apparent tension between these understandings of revenge and feud, John M. Hill has suggested the narratorial voice is not actually opposed to Grendel's mother and Beowulf's shared belief that vengeance is better than mourning, but that the poem presents the situation as bad because Beowulf's killing of Grendel did not do enough to properly conclude the

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<sup>334</sup> *Beowulf*, lines 1304b-1306a.

<sup>335</sup> *Beowulf*, lines 1384b-1385.

<sup>336</sup> "Freond," *The Dictionary of Old English: A to I*, 2019.

feud.<sup>337</sup> In Hill's reading, vengeance is an unavoidable fact of this society's life, sometimes tragic and painful, but ultimately a necessary and just way to maintain honor and delineate kin groups. Such a stance would explain why the narratorial voice both sympathizes with Grendel's mother's feelings and also celebrates Beowulf's defeat of her—both actions are part of the same system of justice. However, these particular lines stress the perceived value of the exchange (*gewrixle*), commenting on the price of a sale—both sides *bicgan* (buy or pay for) the lives of their loved ones with a killing. As David Day has noted, *Beowulf* often puns on the language of compensation (exchanging goods or money for perceived wrongs) in its descriptions of violence, a rhetorical maneuver that draws attention to how violence is being chosen over peacemaking, reminding the reader that both responses are part of the same social system of conflict resolution.<sup>338</sup> In this instance, Beowulf and Grendel's mother both deem the exchange "good" (*til*) to a certain extent because they both understand the social and personal value in seeking revenge for the injury of losing a loved one. To respond to the readings of Day and Hill, the narratorial voice therefore *does* offer a contradictory opinion to the characters; if continuing the cycle of vengeance perpetuates so much grief, perhaps honor and personal comfort gained this way are not actually "worth" the price, since it a "bad" exchange. In this moment, the poem seems to be commenting not on the unstoppable nature of fate, but on the way in which this society is organized so that the only acceptable way to grieve is to seek vengeance, an act that will inevitably buy (*bicgan*) more grief for both parties. In such a system, Beowulf's actions must be celebrated because they are right and honorable, but it is unfortunate that grief must be exchanged at all.

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<sup>337</sup> John D. Hill, *The Cultural World of Beowulf*, 30.

<sup>338</sup> David Day, "Hwanan sio fæhð aras: Defining the Feud in Beowulf," *Philological Quarterly* 78 (1–2), 88–89.

These two lines are but a small sample of from a three thousand one-hundred-and-eighty-two-line poem, but they offer a useful starting place for re-examining the conflict at the center of *Beowulf*; it seems the actions of individuals are not under question in this passage, but rather the social norms that prompt them to act. Everyone in the poem “buys in” to the idea that vengeance is the correct course of action, but the voice of the poem holds back, splitting us away from the characters in this brief moment—and it is here that I hope to intervene and raise the guiding questions of this dissertation once again. As noted above, *Beowulf* is a cultural product caught in the midst of several “times”—there is the time of the writing, which is difficult to date, the time of the specific extant copy (which can be calculated), and the time inhabited by the poem’s characters. Even within the poem itself, as Osborn has noted, the poet assumes that the reader has the “key” provided by the Christian Bible to make sense of phenomenon that the pre-conversion pagan characters cannot.<sup>339</sup> For instance, Grendel and his mother are the kin of Cain and hoard treasure belonging to a time before the flood which Beowulf and Hrothgar can only interpret through a lens darkly.<sup>340</sup> These coded elements could extend beyond the obvious pre/post-conversion split; Beowulf belongs to the Geats and Hrothgar to the Danes, and no main character is English or determined to be a direct ancestor for English people. Instead, they exist primarily in a mythologized ancient Scandinavia. There is a self-awareness about the collapsing of time between the date of the story (which does include a few historical figures to ground it) and its English audience. Most important for the purposes of this dissertation’s analysis, Scandinavia writ large and Danes in particular might prove particularly interesting for the English audience of the extant manuscript’s time at the turn of the millennium, as Vikings were once again raiding in England. For these reasons, it might be worth considering *Beowulf* a

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<sup>339</sup> Marijane Osborn, “The Great Feud: Scriptural History and Strife in Beowulf,” *The Beowulf Reader*, ed by Peter S. Baker (New York: Routledge, 2000), 111-126.

<sup>340</sup> *Beowulf*, lines 1687-1699.

product of a hybrid temporality that also speaks an emerging hybridity within England at the time of the manuscript's copying. This chapter will argue that the anxieties presented about feud within the poem are anxieties about a current mixture.

At the heart of this particular exchange is also the unusual gender of Grendel's avenger. In order to critique this process of repaying violence with violence, the poem offers a grieving mother for Beowulf's adversary. Her presence at the center is usually read as a disruption to the masculine order of the poem's world, a terrifying anomaly that must be silenced for that order to be restored.<sup>341</sup> However, neither Hrothgar nor Beowulf have difficulty in understanding Grendel's mother's behavior, nor do they condemn her violence as specifically outside of gender norms.<sup>342</sup> Indeed, not even the narratorial voice comments on the inappropriateness of her attack, emphasizing her sorrow instead.<sup>343</sup> The prescribed method for dealing with her is presumably the same as if she had been a man; and yet Grendel's mother is certainly abnormal, standing out as the only secular female avenger in extant Old English literature. In both the narration's and Hrothgar's descriptions of her approach to Heorot, her gender is withheld for several lines, and Hrothgar reveals to Beowulf that the Danes knew of another, female Grendelkin, but apparently did not see fit to prepare for her possible reprisal.<sup>344</sup> Her identity is therefore meant to shock, but not to be completely irreconcilable with the society's values. She is unexpected but not impossible. Tellingly, she stalks into the story after the poem relates the tragic fate of Hildeburh

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<sup>341</sup> However unsuccessfully. See Kevin Kiernan, "Grendel's Heroic Mother," 13. M. Wendy Hennequin, "We've Created a Monster: The Strange Case of Grendel's Mother," 512. Keith P. Taylor, "Beowulf 1259a: The Inherent Nobility of Grendel's Mother," 21. Renée Trilling, "Beyond Abjection: The Problem with Grendel's Mother Again," 1-2. James Paz, "Æschere's Head, Grendel's Mother, and the Sword That Isn't a Sword: Unreadable Things in *Beowulf*" *Exemplaria: A Journal of Theory in Medieval and Renaissance Studies* 25 (3): 231-51.

<sup>342</sup> Wendy M. Hennequin in particular notes that the vocabulary to describe Grendel's mother's behavior and violence is not as derogatory as it has been translated into modern English. See Hennequin, "We've Created a Monster: The Strange Case of Grendel's Mother," *English Studies*, vol. 89, no. 5 (2008), 503-523 and "Her Own Hall: Grendel's Mother as a King," *The Heroic Age*, 17 (2017).

<sup>343</sup> When Grendel's mother approaches the hall she is described first as "yrmþe gemunde" mindful of her sorrows. *Beowulf*, 1259b.

<sup>344</sup> *Beowulf*, 1345-1349a.



(whose son and brother die fighting on opposites of an inter-group conflict) and predicts queen Wealhtheow's own tragic loss of her sons to her nephew Hrothulf. Bound together by the title of *ides* (noblewoman), these three women at the core of this apparently masculinist poem very obviously share concerns about the violence their male relatives visit upon each other.

Of course, Wealhtheow and Grendel's mother have long been understood as foils of one another, with Grendel's mother representing a corruption of Wealhtheow's queenly peace-weaving. In this reading, she is the antitype Wealhtheow must not become.<sup>345</sup> However, as mentioned above, Grendel's mother is never directly reproached for violating the boundaries of gender. In the poem, it is the *exchange* that is not good, and the logic of exchange is what prompts Grendel's mother to leave her watery hall and attack Heorot. Instead of being a corruption of Wealhtheow or a usurper of masculine power, the poem seems to be pointing instead to the ways in which women are *already* deeply involved in this system of revenge justice. Hildeburh and Wealhtheow's stories reveal their investment in the process of defining their kin groups, and the anguish they suffer mirrors that of Grendel's mother over the loss of her son. Thus, it is this paper's contention that the Grendel's mother is not a warning for Wealhtheow or women more generally against seeking violence, nor a warning for men about women's potential to undermine their monopoly on it, but rather a commentary on feud-violence itself. In a society that feuds, the participation of women is inevitable, and that inevitability has consequences—namely, it necessitates the destruction of whole groups of people in order truly reach peace.<sup>346</sup> The exchange under evaluation, therefore, is not merely exchanging Grendel and

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<sup>345</sup> Shari Horner, "Voices from the Margins: Women and Textual Enclosure in *Beowulf*," *The Discourse of Enclosure: Representing Women in Old English Literature* (Albany: State University of New York Press, 2001), 65-100. Jane Chance Nitzsche, (1980), "The Structural Unity of *Beowulf*: The Problem of Grendel's Mother." *Texas Studies in Literature and Language*, 22(3): 287-303.

<sup>346</sup> Jay Paul Gates, "Discursive Murders: The St. Brice's Day Massacre, *Beowulf*, and Morðor," *Medieval and Early Modern Murder: Legal, Literary and Historical Contexts*, ed Larissa Tracy (Suffolk: Boydell & Brewer, 2018), 47-76.

Æschere, but potentially exchanging whole societies as the cycle perpetuates into infinity, striving for an impossible equilibrium.

More than any other piece of extant Old English literature, *Beowulf* is preoccupied with *fæhp*, a state of enmity between two people or groups of people that some critics have identified with feud. Readings of Grendel's mother in *Beowulf* tend to accept her violence as a form of feuding, where feuding is understood to mean ongoing, reciprocal, and murderous hostility between two groups.<sup>347</sup> Certainly, her seizure of Æschere, King Hrothgar's "leofost"<sup>348</sup> (dearest) retainer and counselor, is vengeance for her son's death. *Beowulf* introduces her as a "wrecend"<sup>349</sup> (avenger) first and foremost, and Hrothgar labels her assault on his hall part of a "fæhðe"<sup>350</sup> with the Grendelkin. Yet John D. Niles, following the work of Guy Halsall, has recently disputed whether the Old English "fæhð/fæhp" does indeed correlate to Modern English's "feud," and thereby whether the early English participated in feuding at all.<sup>351</sup> For the purposes of his reassessment, he argues that Grendel's mother's actions cannot constitute a feud even though, in other cultures, they might instigate one.<sup>352</sup> According to Niles, the fact that she is a monster who cannot theoretically negotiate a settlement with the Danes forbids a feud; instead, there is only juridical punishment for her crimes on the parts of Hrothgar and Beowulf.<sup>353</sup>

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<sup>347</sup> William Ian Miller has noted the difficulty in generalizing about feud, as its exact practices and symbolisms vary from culture to culture. See, William Ian Miller, "Choosing the Avenger: Some Aspects of Bloodfeud in Medieval Iceland and England," *Law and History Review* 1.2 (1983), 160 and *Bloodtaking and Peacemaking: Feud, Law, and Society in Saga Iceland*, (Chicago, 1990), 179. Cyclical revenge based in group culpability is roughly the definition that Miller settles upon, and the definition referenced in most scholarship on Grendel's mother. See Kevin Kiernan, "Grendel's Heroic Mother," *In Geardagum* 6 (1984), 13-33; Wendy M. Hennequin. "We've Created a Monster: The Strange Case of Grendel's Mother," *English Studies* 89 (2008), 503-523; Keith P. Taylor, "Beowulf 1259a: The Inherent Nobility of Grendel's Mother," *English Language Notes* 31.3 (1994), 13-25;

<sup>348</sup> *Beowulf*, line 1296b.

<sup>349</sup> *Ibid*, line 1256b.

<sup>350</sup> *Ibid*, lines 1327b, 1340b.

<sup>351</sup> John D. Niles, "The Myth of Feud in Anglo-Saxon England," *Journal of English and Germanic Philology* 114.2 (2015), 163-200.

<sup>352</sup> *Ibid*, 191.

<sup>353</sup> *Ibid*, 191.

However, while compelling, Niles' argument does not consider the unique doubled audience for Grendel's mother actions. Certainly, the poem should be read in its early English context since it is written in Old English, but its main actors are Scandinavians, who demonstrably feuded, and the extant manuscript dates from the early eleventh-century, in the midst of renewed Danish conquest in England.<sup>354</sup> Even if versions of *Beowulf* had circulated previously, its presence in Cotton Vitellius A.xv, in Old English, speaks to its relevance to an English language audience in its time. Regardless of the story's date of origin, the extant poem represents a point of cultural contact between early English and Scandinavians, where all the events are first observed by fifth-century pagan Danes and Geats, and then reinterpreted for an Old English speaking and reading audience. Therefore, even if the English themselves did not feud, they may have understood Grendel's mother's actions through such a framework. Indeed, the early English may have been particularly preoccupied with feud as their culture was connecting and merging with a feuding society. Therefore, part of the terror of Grendel's mother's attack on the hall might be the specific semi-foreign form of violence she represents in an early English context: the potential of the endless feud.

This interpretation demands a synthesis of two different but related scholarly conversations about Grendel's mother. First, there is the question of whether or not she is feuding, and what feuding might mean to an early English audience specifically. Niles' re-examination of feud in England reveals a core assumption on the part of many *Beowulf* scholars reading this passage: namely, that Grendel's mother's behavior fits neatly under the header

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<sup>354</sup>Major sources on the dating of *Beowulf* include Kevin S. Kiernan *Beowulf and the Beowulf Manuscript*. New Brunswick, N.J.: Rutgers University Press, 1981. Colin Chase, ed. *The Dating of Beowulf*. Toronto: Published in association with the Centre for Medieval Studies, University of Toronto by University of Toronto Press, 1981. Leonard Neidorf, ed. *The Dating of Beowulf: A Reassessment*. Cambridge: D.S. Brewer, 2014.

“Germanic feud.”<sup>355</sup> Niles’ questioning of this easy category is warranted, as the distinctions to be made between early English and Scandinavian revenge practices reveal that Grendel’s mother’s behavior very closely aligns with Scandinavian legal procedures for feuding while, as Niles has noted, the royal English codes never outline a method for feuding.<sup>356</sup> However, this article pushes back against Niles’ argument that Grendel’s mother *cannot* settle because she is monstrous and incapable of language—she appears very capable of communicating in calculated ways without speaking, and Hrothgar is able to interpret her motivations and actions, while no one besides the nameless narrator can determine the purpose of her far more inscrutable son. Her ability to communicate nonverbally allows Hrothgar and the audience to recognize her actions as extending beyond vengeance and into the realm of feud.

Secondly, there is the ongoing discussion of whether the poem’s audience would have found Grendel’s mother heroic if she is feuding.<sup>357</sup> In addition to the question of whether the poem views feuding in general as heroic, Grendel’s mother’s position as a woman and a potentially monstrous social outcast may undermine the justness of her revenge. As James Paz and Renée Trilling have argued, she is a character who defies easy interpretation, with Paz claiming that this “unreadability” enhances her horror.<sup>358</sup> Acknowledging that the process of interpreting such a multi-valenced character is highly fraught, this paper aims to hone in on the specific question of why this character in particular—a woman, a mother, a mysterious

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<sup>355</sup> John D. Niles, “The Myth of the Feud in Anglo-Saxon England.” *Journal of English and Germanic Philology*, 2015, 114 (2): 163–200.

<sup>356</sup> *Ibid*, 164.

<sup>357</sup> Kevin Kiernan, “Grendel’s Heroic Mother,” 13, M. Wendy Hennequin, “We’ve Created a Monster: The Strange Case of Grendel’s Mother,” 512, Keith P. Taylor, “*Beowulf* 1259a: The Inherent Nobility of Grendel’s Mother,” 21.

<sup>358</sup> James Paz, 2013. “Æschere’s Head, Grendel’s Mother, and the Sword That Isn’t a Sword: Unreadable Things in *Beowulf*.” *Exemplaria: A Journal of Theory in Medieval and Renaissance Studies* 25 (3): 231–51.

Renée Trilling, 2007. “Beyond Abjection: The Problem with Grendel’s Mother Again.” *Parergon* 24 (1): 1–20.

“mearcstapa”<sup>359</sup> (mark-wanderer) who occupies a desolate, watery hall—should play the role of archetypal “feuder.” Each of these categories yields potentially contradictory evidence; in Scandinavian societies, women could and may have even felt obliged to carry on a feud if they had no male relatives to do so, and yet Grendel’s mother also holds court in an eerie hall that seems monstrous, even if it is debatable whether she is herself a monster.<sup>360</sup> In an English context, where there is seemingly no equivalent trope of women who can become men in order to fulfill the duties of feud, Grendel’s mother’s actions may, indeed, appear more monstrous, even though her motivations are more understandable and sympathetic to Beowulf and the Danes than Grendel’s endless, incomprehensible violence. However, as a woman, she may also have a unique position on violence, since, as the poem itself elaborates, women are more likely to be the objects of violence than its agents. Hence, this paper offers a slightly different approach to Grendel’s mother; her femininity may be horrifying and threatening to the patriarchal world of the poem, but it is a threat made possible by the logic of feud, a practice that may have been more controlled in England than in other parts of medieval Europe. As seen in Scandinavian feuding cultures, continuing feud eventually introduces and even demands the participation of women avengers. Medieval Scandinavians may have had a more fluid conception of gender than the Early English, so that women’s violence would not automatically threaten masculine social dominance.<sup>361</sup>

Consequently, for an early English audience, *Beowulf* perhaps reveals the troubling contradiction that women are at the heart of feud-logic, for they are the conduits for the endless

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<sup>359</sup> *Beowulf*, line 1348. The line has the noun in the plural, “mearcstapan,” referring to both Grendel and Grendel’s mother.

<sup>360</sup> Carol J. Clover. 1993. “Regardless of Sex: Men, Women, and Power in Early Northern Europe.” *Speculum* 68 (2): 363–87. Hennequin, “We’ve Created a Monster: The Strange Case of Grendel’s Mother,” 512.

<sup>361</sup> Clover. 1993. “Regardless of Sex: Men, Women, and Power in Early Northern Europe.” *Speculum* 68 (2): 363–87.

continuation of feuds, and they have real social stakes in maintaining their family lines. Choosing Grendel's mother as the perfect "feuder," who follows Scandinavian laws and expectations perfectly and exactly, emphasizes this potential and signals how feud disrupts specifically English ideals of social order. The poem is sympathetic to the emotions and ideologies of honor that inform feud-logic, but not to their consequences, expressing anxiety about the coexistence of competing philosophies of vengeance.

### **Feuding**

Both sides of the debate on whether pre-Conquest England feuded look to *Beowulf* for confirmation without fully considering the poem's characters and setting. There are no English people in the poem at all, nor does it take place on the island of Britain, much less in the kingdom of England. Instead, all the drama plays out between groups of fifth-century Scandinavians. We do not need to assume that the Danes, the Geats, and the Swedes are stand-ins for the early English, only that their stories would mean something to them or an Old English reading audience in the eleventh century. The laws and customs which bind them do not need to be readily applicable to the early English, only understandable. Therefore, the poem itself is not a particularly good measure of knowing whether early English feuds existed or what those practices consisted of, only of how someone who identified as English who encountered feuding—if we accept that *Beowulf* does describe feuds—would have reacted to them.

Of central importance to a reevaluation of Grendel's mother's vengeance, therefore, is identifying and defining the conceptions of feud at work in the episode. One logical place to turn for assistance in outlining feud are law codes, but then there is the question of which ones to read alongside *Beowulf*. There is textual evidence for English royal legislation from the beginning of

the seventh century up to the time of the *Beowulf* manuscript. This paper will follow Niles' example and consider all Old English royal legislation to come to an understanding of feud, although particular emphasis will be put on the later laws, such as those promulgated under Æthelræd and his Danish successor Cnut, since these laws fit the period of the *Beowulf* manuscript. For the second legal context, the earliest Scandinavian law codes are recorded significantly after the manuscript of *Beowulf*, in the twelfth and thirteenth centuries. The metric for selection is therefore which laws contain the most information about feuding, and this is undoubtedly the Icelandic *Grágás* "Grey Goose" code.<sup>362</sup> Significantly, the *Grágás* code has specific provisions for feuding, that, as will be outlined further below, Grendel's mother follows particularly closely. It is, of course, important to note the Icelanders did not have kings or king-given law until they accepted Norwegian sovereignty in 1262.<sup>363</sup> The island's earliest laws were therefore promulgated and disputed at "þing" assemblies, and not attached to a king's name, as is the case for much of Early English law.<sup>364</sup> As John M. Hill and Paul Hyams have demonstrated, feuding and centralized authority under a monarch could have co-existed, but the existence of an executive authority in both eleventh-century England and the imaged fifth-century world of *Beowulf* creates situations of executive punishment that were absent medieval Iceland.<sup>365</sup>

Feuding had real social force in medieval Iceland, as many of the sagas depend on kin-violence, group culpability, and attempts at reconciliation for their narrative tensions.<sup>366</sup> The Icelandic *Grágás* also arbitrate the circumstances under which one can participate in a feud of honorable standing. On the other hand, extant early English sources are much less clear about

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<sup>362</sup> These laws are also recorded in the earliest extant manuscript of Scandinavian legal code, from the early twelfth-century. *The Laws of Early Iceland*. "Introduction," 13.

<sup>363</sup> *Ibid*, 13.

<sup>364</sup> *Ibid*, 13.

<sup>365</sup> John Hill. "The Jural World." *The Cultural World of Beowulf*. (Toronto: Toronto University Press, 1995), 72. Hyams, Paul. "Feud and the State in Late Anglo-Saxon England." *Journal of British Studies*. 40.1 (2001): 1-43.

<sup>366</sup> Miller, *Bloodtaking and Peacemaking*, 179.

the composition of a “fæhþ” and it is uncertain, according to Niles, that a modern audience could easily recognize one as a feud.<sup>367</sup> Scholars of early English law and literature have gone back and forth about the existence of feud in England and the extent to which it was practiced. The primary information for a culture of violent exchange, as Paul Hyams has noted,<sup>368</sup> are the lists of “wergeld,” or compensation payments, which make up a large portion of an early English legal corpus: these payments, one form of legal reconciliation, also exist in the earliest Icelandic laws, suggesting that a process similar to feuding could be occurring in England.<sup>369</sup> However, what one does *not* see in Old English codes are provisions for lawful feuding: instead, when one involves the law in a personal conflict one must settle with compensation. Although this lack does not necessarily mean, as Hyams also argues, that feuding did not occur in England, the absence of a legal outline for the correct procedures of feud discourages one from viewing feud as a cultural obligation or necessity.

The laws pertaining to “fæhþ” are difficult to decipher for an easy definition of their subject. The Scandinavian analogues, unfortunately, offer little to clarify the implications of the word, for, as Miller observes, Old Norse has no word for “feud:” instead feuds are often talked about as disputes, transactions, enmity, and even coldness.<sup>370</sup> Feuds in Icelandic sagas and legal practice do, however, quite obviously follow the reciprocal pattern of violence between two groups of people implied by the modern English word. In an extended argument for why the modern conception of feud—namely, a series of reciprocal hostile acts that involve group culpability—did not exist in England, Niles argues that modern “feud” is not a linguistic reflex of “fæhþ” at all, but rather a related word coming back into English from Old French that gained

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<sup>367</sup> Niles, “The Myth of Feud in Anglo-Saxon England,” 169-172.

<sup>368</sup> Paul Hyams. “Feud and the State in Late Anglo-Saxon England.” 11

<sup>369</sup> See, the “Wergeld Ring List” in *The Laws of Early Iceland*, 175.

<sup>370</sup> Miller, 181.



its modern meaning from the politics of the Scottish border in Tudor and Stuart England.<sup>371</sup> The legal category of *fæhð* must therefore come under suspicion, since the linguistic link between it and “feud” is doubtful. Building on Stefan Jurasinski’s argument that many of the modern ideas about feud in England depend on nineteenth century scholarship that wanted to emphasize the solidarity of Germanic cultures,<sup>372</sup> Niles goes back to the laws referencing *fæhð* to build a new definition. Cross-referencing II Edmund 1, *The Laws of Ine* section 74.2, I Cnut 5.2b, and the section 42 of Alfred’s *domboc* which is titled *Be fæhðe*, Niles comes to the conclusion that the legal term can refer to three conditions: first, an act of illegitimate or criminal violence which necessitates individualized response; second, an act of sanctioned violence which repays a crime; and third, general enmity between two parties, usually a group against an individual.<sup>373</sup> Niles deems that the essential feud-like element of open-ended group culpability is missing from these definitions *fæhð*, although it is of great importance to the Icelandic and modern conception of a feud. In light of this more nuanced reading of *fæhð*, Niles argues, the evidence for feuding in *Beowulf* and, indeed, Early English culture in general, is actually quite slim.

However, the laws may be responding the pressures of feud and attempting to limit its target to one individual person, rather than allow it to encompass whole kin groups as it can in the Icelandic sagas and laws. Such limitations would suggest feuding could exist, but that kings sought to regulate it before it spread to encompass too many targets. Certainly there is a sense of an entitlement to group compensation in the laws. For instance, *The Laws of Ine* section 28 indicates that if a man has captured a thief and brought him forward to face the king’s justice, *þa mægas him swerian aðas unfæhða* “his kinsmen shall swear that they will carry no vendetta

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<sup>371</sup> Niles, 170-171.

<sup>372</sup> Stefan Jurasinski. “The Ecstasy of Vengeance: Legal History, Old English Scholarship, and the ‘Feud’ of Hengest,” 648-661.

<sup>373</sup> Niles, 177-178.

against him.”<sup>374</sup> While one man has been brought to the king for punishment, an entire group of people might think they need compensation for whatever happens to him. The pronoun *him* is also ambiguous, since it could refer to only the man who has done the turning in, or it could refer to both him *and* the king (if it is dative plural), who is punishing the criminal. Either way, the family’s attempts to seek retributive justice are interrupted, since the thief’s status as a criminal negates his status as their family member, essentially breaking the kin-bond. A clearer picture of the fear of group culpability occurs in Alfred’s laws, in 42.5, under the heading of *Be fæhð*.

Although 42.5 does not use the word *fæhð*, it elucidates who is a valid subject of vengeance and who is not. It reads,

*Eac we cweðað þæt mon mote mid his hlaford feohtan orwige, gif mon on ðone halford fiohte; swa mot se hlaford mid þy men feohton* “We further declare that a man may fight on behalf of his lord, if his lord is attacked, without becoming liable to vendetta. Under similar conditions a lord may fight on behalf of his man.”<sup>375</sup>

As part of his provisions on *fæhð*, Alfred tries to limit the spread of reciprocal violence to the person most responsible for initiating the conflict: a thane fighting on behalf of his lord is not an acceptable target of revenge, since he is not directly responsible for the hostility and is fighting under an obligation to his lord. That Ine and Alfred felt the need to legislate these limits implies group culpability in *fæhð* did occur and kings used law to interrupt those patterns.

*Beowulf* itself suggests that *fæhð* could include feud-like group culpability as well, although Niles argues that it does not. David Day posits that *Beowulf* may even have its own, poetic definition of *fæhð*, since the poet also applies the word to warfare and raiding between groups, rather than only the intra-societal “peace in the feud” model John M. Hill has parsed out

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<sup>374</sup> Text and translation from Attenborough, F.L. *The Laws of the Earliest English Kings*, 44-45.

<sup>375</sup> *Ibid*, 84-85.

using social anthropological models.<sup>376</sup> Although Day does not make the same distinction that Niles does between the modern word “feud” and the somewhat more ambiguous Old English *fæhð*, he distills what he believes to be the important elements of a Beowulfian feud, and notices that the poet characterizes many of the episode of *fæhð* by the fact that an avenger almost always survives to reignite the conflict.<sup>377</sup> Grendel’s mother is one such avenger, as Hrothgar labels her two times (1333b, 1339b), seeking out justice for her son’s death. Even Niles has trouble *not* reading this instance in terms of feud, since Grendel’s mother takes Æschere on the principle of group culpability so necessary for a Norse definition of feud and hinted at in the Old English laws cited above.<sup>378</sup> While her attempt to participate in kin-feud may be voided by her status as a monster, as Niles also suggests,<sup>379</sup> the fact remains that Hrothgar *recognizes* Grendel’s mother’s attempt to seek vengeance by seizing Æschere as a form of *fæhð*. Although Niles is correct that *fæhð* appears to have a greater range of meanings than modern English’s “feud” and that the kings of the Early English certainly tried to limit the culpability of those involved in *fæhð* to prevent its spread, the term also appears to apply to an instance of feuding should it break out.

That Grendel’s mother sees her son’s death as impetus for a feud can be gleaned from reading the poet’s presentation of her motives and her actions aside the Icelandic laws. *Grágás* are one of the earliest extant written code of Scandinavian law (the earliest documentation for an attempt to collect all the laws in Iceland occurring in 1117; the earliest manuscript evidence is from 1260; the Norwegian *Gulaping* laws can only be dated broadly after 1250)<sup>380</sup> and thus are one of the closest iterations of Norse law to both the *Beowulf* manuscript (with most scholars

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<sup>376</sup> David Day. ““*Hwanan sio fæhð aras*: Defining the Feud in *Beowulf*,” 79. See also John M. Hill. *The Cultural World of Beowulf*. “Feud Settlements in *Beowulf*.”

<sup>377</sup> Day, 88.

<sup>378</sup> Niles, 191-192.

<sup>379</sup> Niles, 191.

<sup>380</sup> *The Laws of Early Iceland*. “Introduction,” 10-11. *The Earliest Norwegian Laws*, 29.

dating it at around the eleventh century) and the dates of composition for all the Old English law codes. Although Icelandic law was recorded almost a century after the Norman Conquest, it is almost certainly the culmination of judgments in the Thing courts,<sup>381</sup> and could even have an oral source like the earliest Old English laws of Æthelberht of Kent.<sup>382</sup> Thus, the recording of the proper procedure for exacting vengeance probably represents a long-standing precedent of how Icelanders dealt with homicide and feud. In fact, the late date of *Grágás* manuscript can only further a claim to some essential differences in Old English and Scandinavian attitudes towards feud: if Edmund II, composed in the tenth-century, represents the farthest reach of the English monarchy's attempt to curtail extralegal vengeance,<sup>383</sup> but the thirteenth-century portions of *Grágás* still supports it as a valid form of legal recourse, the dissonance between English and Norse attitudes toward feud was probably present even at the time when the scribe was copying or recording *Beowulf*. In addition to a general difference of opinion about the importance of feud between Scandinavian societies and English ones, the Norse laws and sagas also offer options (although there is no social obligation) for women to participate in feud; this option is lacking in any English code through a complete silence on the subject. The problem with Grendel's mother in an early English context that she is following through on kin-feud at all.

The Icelandic feud laws found in *Grágás* cover every possible offense that could trigger a feud-response, from trading blows to killing another person. The law legislates a distinction between killing and murder: a killing is a larger category that is not automatically illegal but a murder is any violation of legal forms of killing, namely treating the corpse improperly, not acknowledging that one has killed the victim, not publishing the death of the victim within the specified amount of time, and not providing the correct number of witnesses that one's decision

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<sup>381</sup>Miller, 43.

<sup>382</sup>Lisi Oliver, *The Beginnings of English Law*, 35-37.

<sup>383</sup>Hyams, 10.

to kill was lawful.<sup>384</sup> In the most basic feud prescribed by the law, if one has the right to avenge a killing one becomes a principal in the killing case. As the principal, one can avenge the killing up until the time of the next General Assembly when one is required to bring the case before a larger governing body and work out a settlement. Until that time, the person responsible for a killing is forfeit of immunity, although proper publishing procedures will have to be followed after his or her injury or death to prevent the continuation of a feud. A principal may legally take a group of men with him or her to avenge the death, although anyone not immediately in the principal's company cannot take vengeance after twenty-four hours.<sup>385</sup> Once the vengeance has been exacted it must be published within twelve hours: to publish a revenge killing, the avenger must go to the first house he or she thinks will not be a danger to him or her and inform the householders "There was an encounter between us . . . I publish those wounds as my work and all the injury done to him" and name the person killed and where the encounter happened.<sup>386</sup> The avenger must cover the corpse so that it cannot be eaten by wild animals, and he must inform his neighbors of the body's location. The process of publishing must be repeated before five neighbors, who will then serve on a panel of nine neighbors to discern whether the avenger was in the right.<sup>387</sup>

This is Icelandic feud law at its most basic. In the case of Grendel's mother, the fact that Grendel died of mortal wounds after he escaped Heorot, rather than in the hall itself, further complicates matters. Beowulf rips off Grendel's arm as Grendel attempts to flee: *Licsar gebad/ atoll æglæca him on eaxle wearð/ syndolh sweotal seonowe onsprungon/ burstan banlocan./ Beowulf wearð guðhredð gyfe* "The terrible creature/ took a body-wound there; a gaping hole/

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<sup>384</sup> K 86, K87, K88. *The Laws of Early Iceland*, 139-148

<sup>385</sup> K 86. *The Laws of Early Iceland*, 141.

<sup>386</sup> K 87. *The Laws of Early Iceland*, 146.

<sup>387</sup> K 87. *The Laws of Early Iceland*, 143.

opened upon his shoulder; tendons popped/ muscle slipped bone. Glory in battle was/ Given to Beowulf” (815b-819a). Grendel escapes back to the *fen-hleoðu*, to the marshy hills, where the poet reveals that he dies (820b-823a). *Grendles grape* is left behind at Heorot, where Beowulf fastens it to the roof as sign of his victory (833b-836). Within *Grágás*, avenging a death by a mortal wounding actually widens the scope of those whom vengeance can be exacted upon. The law states that “[The avenger] may choose to publish it as a charge against one man if he wishes, but is also lawful to publish it against as many of the men at the killing as there were wounds classed as mortal on the dead man.”<sup>388</sup> Although there is only one wound which kills Grendel, this law raises the question of whether Grendel’s mother knows exactly which of the denizens of Heorot killed her son. All she can know for certain is that it happened while he was among the Danes, and as such can offer justification for choosing any of the hall-thanes as her target, although since there is only one wound she may only choose one. William Ian Miller notices a similar logic of group liability in the sagas, where while vengeance itself can only be physically carried out against one person, it need not necessarily be the person who performed the original offense.<sup>389</sup>

Within the constraints of these laws, almost all of Grendel’s mother’s actions, with the exception of her mutilation of Æschere’s corpse, are entirely justified. She enacts the archetypal kin-feud. Although the *Beowulf* poet could not possibly have had access to the exact iteration of the customs in the K manuscript, the similarity of the kin-feud model is striking. As the next of Grendel’s kin, Grendel’s mother has recourse to seek legal action. She appears rather suddenly in the story, the night after the feast to celebrate Heorot’s freedom from Grendel’s attacks. From the moment she creeps into the poem she is a *wrecend*, an avenger (1256b). She takes one man,

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<sup>388</sup> K 87. *The Laws of Early Iceland*, 146.

<sup>389</sup> Miller, 180.

Æschere, who *wæs Hroþgare hæleþa leofost* (1296) “To Hrothgar . . . the dearest warrior,” and she also reclaims the arm of Grendel, a testament to her son’s mortal wound (1302-3). As soon as the Danish court begins to wake up, Grendel’s mother makes her escape: the poet writes that *heo wæs on ofste wolde ut þanon/ feore beorgan þa heo onfunden was* “In a rush she came in, and left quite as soon/ to save her life, once they had discovered her” (1292-3). By taking the life of one man, the most beloved of Hrothgar’s Danish thanes, she fulfills her feud by choosing someone of equal worth to Hrothgar as her son was to her:<sup>390</sup> she does not need to remain.

Although Hrothgar mourns the loss of his friend and renewed strife within his hall, he recognizes the significance of Grendel’s mother’s actions. *Heo þa fæhðe wræc/ þe þu gystran niht Grendel cwealdest/ þurh hæstne had heardum clammum* ““She avenged that feud/ in which, last night, you killed Grendel/ with fierce grips in your violent strength”” he says, acknowledging the reciprocal nature of her attack (1333b-1335). He also concedes her kin connection to Grendel, which under *Grágás* could give her the right to seek vengeance: *ond nu oþer cwom/ . . . wolde hyre mæg wrecan* “now another has come/ . . . [who] would avenge her son,” he says, addressing her motive (1338b-1339). However, the Danish king also judges her, saying that she has taken the vengeance *ge feor* “too far” (1340), a phrase which has no legal reflex in the Old English laws, but suggests that she has either waited too long to seek justice (which seems unlikely, given the evidence for her timing above) or exacted an extreme form of justice.<sup>391</sup> The poet validates Hrothgar’s sense of the situation by himself naming her a *wrecend* (1256b) and summing up her attack with *Ne wæs þæt gewrixle til/ þæt hie on ba healfa bicgan scoldon/ freond feorum* “No good exchange/ that those on both sides had to pay with the lives/ of kinsmen

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<sup>390</sup> See also Kevin Kiernan. “Grendel’s Heroic Mother,” 19.

<sup>391</sup> A Search in the *DOE Corpus* confirms that the phrase does not appear in any of the laws, and often refers to a physical distance in bigger phrases such as “ge neah ge feor” or “ge feor ge wide.” It is unclear what Hroðgar means by “too far” in the case of avenging her son, unless it is similar to the modern expression.

and friends” (1304b-1306a). While he is passing judgment on the course of the feud, he acknowledges the pain of both parties, recognizing some validity in the urge for vengeance on the part of Grendel’s mother.

The question of publishing is the only moment where Grendel’s mother may violate the Icelandic feud laws. Both Grendel and his mother appear to be non-verbal entities, human-like in feeling and action but unable to communicate with speech.<sup>392</sup> This inarticulateness complicates any attempt to publish her actions as lawful: without verbal communication, Grendel’s mother may always be somewhat outside of the law. With that shortcoming acknowledged, the very public nature of her attack could be understood as an attempt to publish non-verbally. All of the thanes in the hall spring up as soon as she grabs *Æschere*, drawing their blades to protect themselves from her *gryre* or terror (1282). The Danes certainly fulfill all the requirements for neighbors who can legally accept a publishing: they are legal residents of Heorot who are not related to Grendel’s mother in anyway, at least certainly not more than the required second cousin or farther stipulation.<sup>393</sup> In addition, when Hrothgar summons Beowulf back to the hall to report the loss of his beloved thane, he is, by some accounts, publishing the crime to a neighbor; he tells Beowulf *Æschere*’s name, the place where he was killed (*on Heorote*), the person who killed him, the *handbanan/ wælgæst* “the hand-slayer/the spirit,” and her motivations, that *Heo þa fæhðe wræc/ þe þu gystran niht/ Grendel cwealdest* “She then avenged the feud/ in which you, last night/ killed Grendel” (1330-1334). Within this speech, Hrothgar fulfills all the duties of an Icelandic legal witness by communicating basic information about the attack and offering an opinion as to whether there was some justification for it. Although Hrothgar’s epithets for

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<sup>392</sup> See Gillian Overing. “The Women of *Beowulf*: A Context for Interpretation,” 221. Overing has also noticed Grendel’s mother’s speechlessness and links it to her monstrosity.

<sup>393</sup> See K 87 for publishing to neighbors, 146, K 79 for legal resident status, 128, and K 89 for who can participate in legal cases, 149.



Grendel's mother reveal his opinion of her actions, he does not pretend to misunderstand their source and meaning, and speaks for her as a man might speak of a women at an Icelandic assembly.<sup>394</sup>

Æschere's head also presents a problem to Grendel's mother's possible attempts to publish her feud. While the mutilation of a corpse violates *Grágás'* statutes for publishing feud, such an action also embodies the spirit of a feud as an exchange. When the Danes and Geats set out to the mere to pursue Grendel's mother, they find *Æsches/ on þam holmclif hafalan* "Aschere's head on the sea-cliff" (1420b-1421).<sup>395</sup> Grendel's mother has decapitated Hrothgar's most beloved thane and left it outside her home, which is later described as a *niðsele* or "battle-hall" (1513a).<sup>396</sup> The reader is struck by the reciprocity in the exact repetition of what has happened to her son. However, even if Grendel's mother killed Æschere by ripping off his head instead of cutting it off after she had already killed him (it is unclear as to exactly when and how Æschere dies), she would still invalidate the justness of her claim to vengeance by not covering the body. Even before they encounter the head, Hrothgar expresses anxiety over the fact that Grendel's mother has run off with Æschere's body: *ic ne wat hwæ[d]er/ atol æse wlanc eft-siðas teah/ fylle gefrægnod* "I do not know/ where she went with his body, flesh proud, terrible/ infamous in slaughter" (1331b-1333a). The unknowability of the whereabouts and the state of the body becomes a problem, and works against Grendel's mother's case. However, the state of Æschere's body and her insistence of repeating exactly what happened to her son both draws attention to how the Danes violated this law themselves in the treatment of her son's body and

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<sup>394</sup> Miller, 27. Women in Iceland could not speak in the assembly, even if they were the heads of their households.

<sup>395</sup> Author's translation.

<sup>396</sup> See Jane Chance (Nitzsche). "Grendel's Mother as Epic Anti-Type of the Virgin and Queen," 257-259 for a discussion of Grendel's mother's hall and Grendel's mother as negative image of a queen. See Helen Damico, "The Severed Head: Poetic Image and Historical Text" for a discussion of the twin beheadings of Æschere and Grendel compared to other folkloric and historical sources. *Beowulf and the Grendel-Kin: Politics & Poetry in Eleventh-Century England*. First edition. Morgantown: West Virginia University Press, 2015.

functions to publish the violence that was committed against Grendel. Although Grendel's mother cannot speak to publish for herself, she does everything in her power to communicate the justness of her cause without words.

If Grendel's mother's feud almost meets legal requirements for lawful Icelandic feud, the mere fact that she engages in feud at all creates many more problems for her in the second legal context of the poem, the early English one. As many critics who have studied Grendel's mother agree, Grendel's mother's gender and monstrosity make it difficult to parse the exact nature of the horror she presents to both the Danes and the poem's early English audience: as Renée Trilling has observed, Grendel's mother's "inhuman affiliation and propensities make it hard to distinguish what is monstrous from what is female."<sup>397</sup> The reader cannot be sure if Grendel's mother's monstrosity motivates her to take revenge, as is John Niles' argument,<sup>398</sup> or if she is monstrous because she is a woman and a mother attempting to engage in male pursuits of vengeance, as Jane Chance, Paul Acker, and Renée Trilling argue.<sup>399</sup> However, her status as doubly Othered could arguably be moved to triply Othered since her adherence to a set of rules contrary to the laws of the poem's audience position her as a foreigner; although Grendel's mother's motivations seem relatable and even mostly lawful under the Scandinavian feud laws, she interrupts the Danish social order and engages in a custom that would be significantly more problematic for the English audience. Hrothgar acknowledges her desire for vengeance but does not allow it to go unpunished, shifting her into the category of "outlaw" as well as the "abject" states of motherhood and femaleness identified by Trilling and Acker.

Although Niles may be right to say that there is not much Old English legislation pertaining directly to *fæhð*, there are laws which set limitations on violence and, like the *wergeld*

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<sup>397</sup> Trilling, 2.

<sup>398</sup> Niles, 191.

<sup>399</sup> Paul Acker "Horror and the Maternal in *Beowulf*," 703. Chance (Nitzsche), 225-256. Trilling, 19.

laws noted by Hyams, suggest attempts to discourage conflicts which were likely happening. One of the most important of these legal themes is that concept of *mund*. The assertion king's *mundbyrd* stretches back to the earliest Old English laws of King Æthelberht of Kent. Every freeman among the Early English had a *mund*, properties and people who legally fell under his protection; violation of those properties, from breaking a fence<sup>400</sup> to kidnapping his daughter or another maiden under his protection<sup>401</sup> required compensation. As with all other monetary compensations in Old English laws, the price due for each infraction scaled up with the rank of the man whose *mund* had been compromised. Under Æthelberht the compensation due a king for damaging his own *mund* was 50 shillings.<sup>402</sup> While *Grágás* does stipulate certain people under a man's protection, within the homicide procedures Grendel's mother's entrance into Heorot is not an immediate problem.<sup>403</sup> David Day has observed that Grendel's second biggest offense (besides killing and eating hall-thanes) is a violation of the king's *mund* by driving the Danes from the hall with his violence; while Grendel's mother's violence is less extreme, it still falls within the category of injury to those under the king's protection.<sup>404</sup> Since Grendel's mother stormed into the king's sanctuary *on Heorote* (1330a) and killed his *runwita* "run-counsellor" and *rædbora* "adviser" (1325) who has stood shoulder-to-shoulder with him in the shield-wall (1326-1328a), she has both damaged his home and hurt someone under his protection.

After Alfred the Great, the Early English kings emphasize a personal *mund* less and instead establish a "king's peace;" this tradition, tellingly, begins in the laws of the first king of

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<sup>400</sup> See Æthelberht 27 in Attenborough's *The Laws of the Earliest English Kings*. pp. 8-9. Very similar laws about violations of *mund* appear in codes up to the time Alfred suggesting they become entrenched traditions. The price for fighting in a commoner's house, for instance, stays at six shillings from Æthelberht to Alfred.

<sup>401</sup> Æthelberht. 82. Attenborough, 14-15.

<sup>402</sup> Æthelberht. 5. Attenborough, 4-5.

<sup>403</sup> K 90. p. 154.

<sup>404</sup> Day, "Hands Across the Hall: The Legalities of Beowulf's Fight with Grendel," 320

England, Æthelstan,<sup>405</sup> and grows out of the principle of the king's *mund* and the penalties associated with fighting in his presence. Within this context, the fact that Grendel's mother has attacked a Dane at all becomes problematic, let alone that she carried him off in front of Hrothgar. The idea that a king's space affords peace does go back to Æthelberht's laws but receives more clout in later codes. For instance, twofold compensation is due for any of the offenses listed in Æthelberht's code if the king is feasting at the house where it occurs.<sup>406</sup> That Grendel's mother has instigated violence (rather than defended against it, as Beowulf protected himself against Grendel's attack at the beginning of the poem) in the vicinity of Heorot and insults the king's authority. Grendel's mother not only brawls in Heorot but murders someone as well. Killing someone *in cyninges tune* "in the king's premises" also results in a fine of 50 shillings to be paid to the king under Æthelberht, presumably in addition to the person's *wergeld*.<sup>407</sup> Ine significantly increases this penalty to a forfeiture of all property if someone should *gefohte on cyninges huse*<sup>408</sup> and it will be up to the king to determine if he or she will lose their life or not. Alfred, II Edmund, and III Edmund contain similar laws with the exact same penalty for violating the peace of the king. Æthelstan also champions a concept of a public peace, *ure frið*, which is violated in the case of rebels and thieves.<sup>409</sup> Edmund and Æthelræd transform all illegal activity into a violation of the king's *grið*, Edmund in particular forbidding any homicide access to himself until the man has both atoned to the church and compensated the family.<sup>410</sup> Iceland, in contrast, had no kings until two years after *Grágás* were promulgated, so

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<sup>405</sup> See Sarah Foot. *Æthelstan: The First King of England*. New Haven: Yale University Press, 2011.

<sup>406</sup> Æthelberht. 3. Attenborough, 4-5.

<sup>407</sup> Æthelberht. 5. Attenborough, 4-5

<sup>408</sup> *The Laws of Ine*. 6 and 6.2. Attenborough, 38-39.

<sup>409</sup> V Æthelstan. Preface, 1-3. Attenborough, 152-153.

<sup>410</sup> III Æthelræd 1. II Edmund 4. A.J. Robertson. *The Laws of the Kings of England from Edmund to Henry I*, 65, 10-11.

peace was or was not maintained by the people rather than an executive power.<sup>411</sup> Therefore, Beowulf's venturing into Grendel's mother's hall may be justified by early English legal practice, as she has forfeited any right to property, such as the legendary giant's sword and the ownership of her den. While Grendel's mother practices a form of feud which reflects Norse precedent which should be recognized by the Danish and Geatish characters of the poem, she is condemned by the early English legal tradition.

In addition, Grendel's mother is revenging her son who is a homicide and therefore a lawbreaker. Harboring fugitives and avenging criminals is forbidden in many of the later Old English codes. Ine, as seen above, makes it illegal to avenge a thief who has been caught and turned in for the king's justice.<sup>412</sup> Æthelstan reinforces this ban and widens it to include anyone who has been outlawed for a crime: if a family is caught harboring a fugitive they will *scyldig his selfes 7 ealles þæs he age* "forfeit [themselves] and all [they] own."<sup>413</sup> As John Hill has demonstrated, Beowulf's *sacu* with Grendel in his first fight can mean "battle as settlement of illicit strife" indicating that Grendel has been judged by the law and condemned.<sup>414</sup> Therefore, Grendel's mother was harboring a fugitive (another crime which requires her to forfeit her property) and has no right to seek vengeance. At the same time, as an agent of the king's justice Beowulf is not participating in feud with Grendel's mother in a technical sense, even though he frames his journey to Grendel's mother's mere as avenging Hrothgar's *freond* (1385a); he is rather enacting justice for the king. In fact, Beowulf never, throughout the poem, participates in a feud for himself when he is not in the capacity of a king. Instead, *Beowulf* promises that he will seek out Grendel's mother in a sweeping manner:  *Ic hit þe gehate: no he on helm losað/ ne on*

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<sup>411</sup> Miller, 17-20.

<sup>412</sup> *The Laws of Ine* 28. Attenborough, 44-45.

<sup>413</sup>V Æthelstan Preface and 3. See also IV Æthelstan 3.1. Attenborough, 152-153, 146-147.

<sup>414</sup> John Hill. "The Jural World," *The Cultural World in Beowulf*, 72.

*foldan fæþm ne on fyrgen-holt/ ne on gyfenes grund ga þær he wille.* “I promise you this: she will find no escape/ in the depths of the earth nor the wooded mountain/ nor the bottom of the sea let him go where he will” (1392-1394). Although Beowulf has no direct connection to Æschere, he offers to settle the dispute for King Hrothgar, to seek out the criminal and eradicate her, thereby restoring order to the kingdom.

To further condemn Grendel’s mother, the swiftness of her vengeance does not validate it as it would under *Grágás*. The second code of Edmund strives to slow feuds down, if not to criminalize them altogether. II Edmund 1 states *Gif hwa heonanforð ænigne man ofslea, þæt he wege sylf fæhð, butan he hy mid freonda fylste binnan twelf monðum forgyldre be fullan were, sy swa boren swa he sy* “Henceforth, if anyone slay a man, he shall himself [alone] bear the vendetta, unless with the help of his friends he pay compensation for it, within twelve months, to the full amount of the slain man’s *wergeld*, according to his inherited rank.”<sup>415</sup> Where *Grágás* would give Grendel’s mother until the time of the next General Assembly (about a year) to exact her vengeance before it became a matter for the courts, Edmund penalizes the families who do not wait a year for the person who wronged them to provide apt compensation. II Edmund 7 elaborates on a payment plan where the *wergeld* will be paid out to the family in installments, and a *mund* payment is to be made to the king.<sup>416</sup> While the law does not technically prevent the family from taking vengeance within a year, it attempts to stagger the violence and force a reconciliation, as is probably Edmund’s goal in light of his preface to the law *Witan scylan fæhðe sectan* “the Witan must put a stop to vendettas.”<sup>417</sup> Although Grendel’s mother could not receive royal justice for her son anyway, since he was a criminal himself, the immediacy of her vengeance might also be problematic for an early English audience.

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<sup>415</sup> II Edmund 1. Robertson, 8-9.

<sup>416</sup> II Edmund 7. Robertson, 10-11.

<sup>417</sup> II Edmund 7. Robertson, 10-11.

### *The Woman Avenger*

Up until now, this paper has focused on two legal contexts of Grendel's mother's *fæhð*, examining the bare legalities of her actions without considering her peculiarities as a character in particular depth. However, it is impossible to understand the place of this character in *Beowulf* without discussing her gender. Even in the Scandinavian laws and sagas, a female avenger is unexpected, and there are no models for a woman taking personal vengeance in extant Old English literature. However, in the Icelandic sagas in particular, there is at least a place for women avengers in the cycle of feud, even if women rarely participate in feud directly, instead acting as "whetting women" who goad male relatives into maintaining the family's honor. As Carol Clover has argued, there is a specific type of woman who may act as a "surrogate son" to carry on the obligations of her family if no men are around to do so.<sup>418</sup> These obligations extend to feud, Clover argues from saga and historical evidence, as well as citing a passage in the *Gràgàs* that allows women to receive compensation on behalf of their family if they are the last of their direct line. It is perhaps this role that Grendel's mother takes up upon the death of her son, and this potential for feminine avengers that makes Grendel's mother unusual for her English audience.

Previous readings of Grendel's mother tend to rely on psychoanalytic theory for explaining the monstrous horror she must represent to the English reader. She transgresses from the female world into the patriarchal sphere of violence and domination, ruling in her hall and wrestling Beowulf to the ground, almost killing him. In doing so, she shows how permeable these boundaries between the supposedly masculine and feminine are. In other readings, she

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<sup>418</sup> Carol J. Clover 1986. "Maiden Warriors and Other Sons." *Journal of English and Germanic Philology* 85 (1): 35-49.

represents the unknowable more broadly, refusing to participate in a clearly delineated society and challenging the idea that order is even possible.<sup>419</sup> Such a reading is intriguing, but reifies our modern association of the mysterious and mystical with women. As discussed above, there is a third strand of modern criticism asserting that Grendel's mother is heroic, and merely represents a sympathetic antagonist for Beowulf to fight.<sup>420</sup> However, since women avenging family wrongs do not appear in Old English literature, these analyses fail to answer a fundamental question; why is Beowulf's second foe, who is at the center of this poem, a woman? What does this detail, repeated and commented upon several times by the narrator, signify in the course of this poem?

Perhaps Grendel's mother is not an outlier infringing on feud and the patriarchal order it represents, but something inherent to feud that the narrator of *Beowulf* finds disturbing. In Carol Clover's analysis of Scandinavian societies, female avengers serve a particular and practical role; they mark the possibility for the continuation of the family by maintaining its honor in the absence of men.<sup>421</sup> As Guy Halsall has argued, feuding is partially about establishing and maintaining a kin group, marking those who are insiders and those who are outsiders.<sup>422</sup> In societies where feuding is an important and common way for keeping order and organizing groups, the job of continuing the feud may come to supersede other ways of organizing, such as gender, for example. Clover has noted that in Icelandic literature in particular, women can serve as "conduits" for their family until they marry and produce sons. That way, as long as there is at

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<sup>419</sup> James Paz. 2013. "Æschere's Head, Grendel's Mother, and the Sword That Isn't a Sword: Unreadable Things in Beowulf." *Exemplaria: A Journal of Theory in Medieval and Renaissance Studies* 25 (3): 231–51.

<sup>420</sup> Kiernan. "Grendel's Heroic Mother," 13 Hennequin, "We've Created a Monster: The Strange Case of Grendel's Mother," 512 Taylor, "*Beowulf* 1259a: The Inherent Nobility of Grendel's Mother," 21.

<sup>421</sup> Clover, "Maiden Warriors and Other Sons." *Journal of English and Germanic Philology* 85 (1): 35–49.

<sup>422</sup> Guy Halsall. "Reflections on Early Medieval Violence: The Example of the 'Blood Feud.'" *Memoria y Civilización* 2, no. 7–29 (November 1, 1999): 7–29.



least one person representing the family, there is the possibility of continuation and regrowth.<sup>423</sup> Additionally, as Clover has also argued, gender was more flexible in medieval Scandinavia than other places in Europe, praising anyone who was active (*hvatr*) over those who were passive (*blauðr*) regardless of anatomy.<sup>424</sup> For instance, old men who could no longer fight would be looked down upon more than women who did, although the same expectations of fighting and feuding were never placed on women. There was no loss in honor in them being passive, as there was for men, only honor to be gained by taking agency.<sup>425</sup> Therefore, not only could female avengers exist in this society, but they were also sometimes necessary for the proper continuation of the family.

Read through this lens, Grendel's mother's attempt to feud at first seems even more honorable. As they last of her line, it behooves her to defend her family's honor and assert their in-group boundaries by feuding with the Danes. In this context, she represents not only the archetypal kin-feud as laid out in Scandinavian laws, but the logical endpoint of feud; once all the more honorable male targets are out of the picture, a woman will have to take their place. However, in an English context, where feuding is more carefully curtailed, where men seem to have a monopoly on committing honorable personal vengeance, Grendel's mother reveals that women have stake in these honors as well and will be called upon to fight for them eventually. Therefore, killing Grendel's mother is of the utmost importance, because her death signals not only the next step in the feud, but its complete destruction. No other avengers will appear out of

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<sup>423</sup> Clover. 1993. "Regardless of Sex: Men, Women, and Power in Early Northern Europe." *Speculum* 68 (2): 363–87.

<sup>424</sup> *Ibid.*, 363-87.

<sup>425</sup> *Ibid.*, 363-87.

the night, as Grendel's mother does so mysteriously. There is no possibility for this cycle of violence to continue, because the very conduit of its continuation has been destroyed.<sup>426</sup>

However, as laid out in the introduction, Grendel's mother is the third woman to appear in the center of this poem. The first of these we meet in *Beowulf* is Hildeburh, who must burn his son and his uncle in the same pyre after an outbreak of violence between her family and her husband's family, an enmity that she was supposed to settle. After the funeral, she returns to her family, and we hear nothing more of her. The assumption is that she resumes a quiet life, but Grendel's mother opens other possibilities. Could she strike out at her family for the death of her son? The same questions could be asked of Wealhþeow, who goes silent after Grendel's mother is killed, even though the reader is told she will suffer later when her nephew betrays Hrothgar and usurps her sons, who are threat to his authority. In the logic of feud, these women have the potential to act as Grendel's mother when their sons are killed. Like Grendel's mother appearing suddenly out of the night, forgotten until her moment comes to act, these women are similar threats to their social order.

All three women are titled *ides* (noblewoman) upon their introduction, inviting comparison between them. They are three versions of the same type, disparate though Grendel's mother may initially appear from her Danish counterparts. As *ideses*, they all face with the same challenge: how to deal with the violent death of sons. At the end of this section of the poem, Hildeburh and Grendel's mother have both made choices, but Wealhþeow's test, as the poem continually reminds the reader, is yet to come. It is this paper's contention that the poem's purpose in creating these parallels is not to praise one model of response over another, but to draw the reader's attention to how feuding systems necessarily involve women, who have

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<sup>426</sup> Jay Paul Gates argues that one of the messages of *Beowulf* is that inter-group annihilation is necessary. Jay Paul Gates, "Discursive Murders: The St Brice's Day Massacre, Beowulf and Morðor." Chapter. In *Medieval and Early Modern Murder: Legal, Literary and Historical Contexts*, edited by Larissa Tracy, 47–76. Boydell & Brewer, 2018.

competing loyalties as well as the same imperatives as men to uphold their family's honor. Additionally, the fact that feud logic *already* governs women's roles in the society leads to the possibility for more Grendel's mothers—when everyone else is dead, for a woman to participate in society she will have to either produce more children who will replicate the feud or take the feud upon herself. The central positioning of women within this poem highlights how the only way out of feud is annihilation of one side, including women who are the conduits of their family's honor.

Immediately after Grendel is defeated and Hrothgar and Beowulf have made their speeches, the king calls for a feast. The poem says that men and women (*wera ond wifa*)<sup>427</sup> work together to decorate the hall, drawing attention for the first time to women as a collective to maintain Heorot. This is the first signal towards a shift in focus, a brief reminder that Heorot—and therefore organized society more broadly—is not the sole providence of men. Then, after the poem reminds the reader once again that Hrothgar and Hroþulf do not practice treachery *now* (*nalles facen-stafas . . . þenden fremedon*)<sup>428</sup>, it turns to the first ides of this section of the poem, Hildeburh. As with Grendel's mother, the poet emphasizes the psychological affects of feud upon her, calling her a mournful lady (*geomuru ides*).<sup>429</sup> Hildeburh, the *scop* sings, was married to Finn the Frisian, who had a longstanding feud with the Danes. One incident led her son and her brother Hnæf to die opposing each other. In response, Hildeburh puts both her relatives on the pyre where uncle and nephew burn shoulder to shoulder (*eame to eaxle*)<sup>430</sup>, and then she sings dirges (*Ides gnornode/ geomrode giddum*).<sup>431</sup> This public performance is not merely lamenting at the hand of providence, but an indication of how Hildeburh sees her own kinship-

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<sup>427</sup> *Beowulf*, l.993a.

<sup>428</sup> *Beowulf*, l.1018b-1019.

<sup>429</sup> *Beowulf*, l.1075b.

<sup>430</sup> *Beowulf*, l.1117a.

<sup>431</sup> *Beowulf*, l.1117b-1118a.

network. Hnæf and Finn saw themselves as opposed, part of different groups, but Hildeburh connected them and has divided loyalties. Her attempts to bind her husband and the Danes do not work, however; Hengest the Dane eventually kills Finn and then takes Hildeburh back to the Danes. Here again, the poem's choice of language points to Hildeburh's conflict of kin, saying that they *læddon to leodum*.<sup>432</sup> Hengest believes that Hildeburh's "people" are the Danes, but she was connected to the Frisians through marriage and through her son, so to her mind Hengest may actually be taking her *away* from her people.

As the scop's song about Hildeburh ends and the poem shifts to Wealhþeow, the focus is still on how women construct their own kinship networks, sometimes separately than those of their male relatives. And, as the second ides of the poem demonstrates, in the cultural world of Beowulf, a woman feels the pressures to maintain the honor of her family as much as man. As Wealhþeow approaches Hrothgar to confront him about favoring Beowulf over their sons, the poem goes reminds the reader of an impending conflict between the Scyldings:

. . . Þa cwom Wealhþeo forð  
 gan under gyldum beage þær þa godan twegen  
 sæton suhterge-fæderan; þa gyt wæs hiera sib ætgædere,  
 æghwylc oðrum trywe. Swylce þær Unferþ þyle  
 æt fotum sæt frean Scyldinga; gehwylc hiora ferhþ treowde,  
 þæt he hæfde mod micel, þeah þe he his magum nære  
 arfæst æt ecga gelacum.<sup>433</sup>

According to these lines, Heorot is on the edge of upheaval. When it speaks of the good relationship between Hrothgar and his nephew Hrothulf, the *gyt* hints at bad blood to come. They are *yet* good and true to each other. The narrator then draws attention to Unferð's presence at the king's feet, and reminds the reader once again of his reputation for killing his own kin. Unferð

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<sup>432</sup> *Beowulf*, l.1159a.

<sup>433</sup> *Beowulf*, l.1162b-1168a. My italics. "Then Wealhþeow came forward walking under a golden collar to where those two good men sat as nephew and uncle. Then their peace still held them together, each true to the other. Likewise, the spokesperson Unferð sat there at the feet of the lord of the Scyldings; each trusted his spirit, that he had great courage though he had not been to his kinsmen in sword play."

serves as Hrothgar's *pyle*, his spokesperson and someone who represents the court. Although he may not be directly involved in the eventual conflict between uncle and nephew, his presence here symbolizes its nature. As Wealhþeow comes to these men to make her appeal, we are reminded that she may eventually find herself in the middle of an intra-family conflict like her counterpart Hildeburh.

In her speech, Wealhþeow reveals where her loyalties will lie when Danish society collapses: with her sons. She uses many imperatives to order her husband not to give Heorot to Beowulf to rule, but to his nephew, whom she trusts to protect her own sons:

“ . . . bruc þendon þu mote  
manigra medo, ond þinum magum læf  
folc ond rice þonne ðu forð scyle,  
Metod-Sceaft seon. Ic minne can  
glædne Hroþulf, þæt he þa geogoðe wile  
arum healdan gyf þu ær þonne he,  
wine Scildinga, worold oflættest;  
wene ic þæt he mide gode gyldan wille  
uncran eaferan gif he þæt eal gemon,  
hwæt wit to willan ond to worð-myndum  
umbor-wesendum ær arna gefremedon.”<sup>434</sup>

The problem with Beowulf, to Wealhtheow's understanding, is that he is not her *mæg* (kinsperson) and therefore not a totally trustworthy protector of her son, presumably because, in the organizing logic of their society, Hrothful will have a vested interest in his own cousins. Of course, the narratorial voice reminds the reader that just because society privileges kinship networks, does not mean that kin are infallible. Wealhtheow puts her trust in this system because it is what she knows and understands—Beowulf, although obviously strong and fond of Hrothgar, has no particular reason to protect her sons besides loyalty to Hrothgar. As much as Hrothgar makes overtures to Beowulf to incorporate them into their family, Wealhtheow privileges blood more. She is not, however, completely naïve about Hrothulf's investment in

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<sup>434</sup> *Beowulf*, l.1177b-1187.

their family, commenting that in treating Hrothulf well (and continuing to treat him well), he will remember his debts and behave honorably. Wealhtheow's address to Beowulf also focuses on her sons, urging him to treat them well and to be a teacher to them.<sup>435</sup> Just as she did when she confronted her husband, Wealhtheow is again defining her family boundaries, marking Beowulf as a friend, but an outsider. Once again, we are shown not only that she has an investment in her kin-network, but that her understanding of where the borders lay is different than her husband's, as was the case for Hildeburh. She also, when speaking with Beowulf, reminds him of her power in the hall, saying that all the men of the company *doð swa ic bidde* (do as I bid).<sup>436</sup> Hrothgar is the leader of the hall and the head of the family but, as Wealhtheow reminds Beowulf, she has own investment in the social order and her own power to render her visions true.

Wealhtheow's speech is last of the banquet before Grendel's mother appears to take her vengeance. The poem first speaks of the doomed men sleeping in the hall, unsuspecting, and then of a *wrecend* (avenger) for Grendel is coming to Heorot to take a life.<sup>437</sup> Only after the poem has built this tension around who is coming does it specify *Grendels modor/ides aglæc-wif yrmþe gemunde* (Grendel's mother, a lady, a female adversary, mindful of her sorrow).<sup>438</sup> The poem perhaps expects a somewhat shocked response, but at the same time points backwards to all the *ides* discussed just before her interest. Like Hildeburh and Wealhtheow Grendel's mother also has an investment in the honor of her kin, and represents one possible response of a woman thoroughly imbedded in this social system: kin-feud. A female avenger like her is improbable perhaps, but not impossible. That this is a feud is indicated by the poem immediately reminding the reader that Grendel's mother represents the line of Cain, from whom *woc fela/ geo-sceaft-*

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<sup>435</sup> *Beowulf*, l.1219b-1220a.

<sup>436</sup> *Beowulf*, l.1231b.

<sup>437</sup> *Beowulf*, l.1251-1258a.

<sup>438</sup> *Beowulf*, l.1258b-1259.

*gasta; wæs þæra Grendel sum* (arose many fated spirits/ Grendel was one of them).<sup>439</sup> There is a cosmic conflict between the kin of Cain and the Danes now, and Grendel's mother is taking her turn in the exchange, grieving for her son.

Just as the poem's structure sets the reader up to potentially be surprised by the identity of the avenger in this archetypal kin-feud, Hrothgar exposes that the Danes were similarly caught off guard by her sudden appearance. Importantly, he does not condemn Grendel's mother for her vengeance because she is a woman, and neither does Beowulf; as discussed above, within Scandinavian feuding societies women could and did have to take feud upon themselves when they were the end of the line. Hrothgar explains the situation to Beowulf:

Ic þæt lond-buend, leode mine,  
sele-rædende secgan hyrde  
þæt hie gesawon swylce twegen  
micle mearc-stapan moras healdan,  
ellor-gæstas. Ðæra oðer wæs,  
þæs þe hie gewislicost gewitan meahdon,  
idese onlicnæs; oðer earm-sceapen  
...  
þone on gear-dagum Grendel nemdon  
fold-buenda; no hie fæder cunnon,  
hwæþer him ænig wæs ær accenned  
dyrnra gasta.<sup>440</sup>

Hrothgar's speech reveals two important pieces of information for understanding Grendel's mother's place in the poem. First, he says that he and the Danes knew of Grendel's mother, had seen her wandering the moors with her son, but neglected to warn Beowulf about her or prepare for her arrival in their hall. They celebrated as if the threat of the Grendelkin were over, believing that Grendel's mother would not make a move. Hrothgar next contextualizes Grendel's mother's revenge and indicates why she is so particularly dangerous; no one has seen any male relatives besides Grendel, so perhaps Grendel's mother is the only person left who can avenge

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<sup>439</sup> *Beowulf*, l.1266b-1267.

<sup>440</sup> *Beowulf*, l.1345-1357a.

her son, and also the fact that they know of no father for Grendel reminds the audience that Grendel's mother is surviving source of the feud. Perhaps Grendel's father exists and will return to Grendel's mother to either continue the feud or make new sons who can continue the feud. Perhaps she will find a new father for future children who will also continue the feud. Most disturbingly, perhaps she does not need a male mate to reproduce and can make more Grendels to propagate the line as she needs. In any of these cases, fast action is required to potentially wipe out the feud once and for all, and Beowulf saddles up to immediately kill her in her own home. Grendel's mother is the avenger (literally, she is the only person called a *wrecend* in the whole poem) in *Beowulf* because women are the conduits by which families are maintained.

This paper has attempted to reconsider Grendel's mother's feud in terms of conflict between Norse law and Old English law in order to highlight an Early English ambivalence towards feud or *fæhð*, which the English kings were constantly trying to slow down and prevent through legislation. When the poet says that the exchange on both sides was not good, in that both Grendel's mother and Hrothgar lost close relations, he is lamenting the process of exchange which the legal category of *fæhð* does seem to encompass. Although it is impossible to fully unravel all the mysteries and fears that Grendel's mother may represent, her conflict with the Danes has a legal element: she believes she has the right and even the duty to exact vengeance for her son but the Danes do not. Under the legal process of feuding proscribed in *Grágás* Grendel's mother has the legal prerogative and even ability to act as an avenger, although she lacks the skill to publish because she cannot speak. Under the Old English legal tradition, however, Grendel's mother challenges the authority of the king by violating his *mund*, fighting in front of him, and seeking redress for her fugitive son. The dialogue between the disparate legal contexts for the feud ends in favor of the English tradition, with Beowulf taking the life and



property that Grendel's mother forfeited through her actions and reinstating the king's peace: in doing so, he has also killed the link between the feuds of Cain and his descendants who sought to continue the family legacy, since he extinguishes the source of the Grendelkin.

Given the argument laid out above, it is this paper's final contention that Grendel's mother's presence at the center of *Beowulf* grants the women of the poem more humanity than some modern readers of the poem seem willing to do. If Grendel's mother exists to critique how the social practice of feuding inevitability involves all members of the society, the poem is demanding that women be understood as people with desires and fears, as people who are not only affected by their social system but who also have both the will and the power to *affect* it. As laid out in the introduction, the poem does not censure Grendel's mother as acting improperly for her gender; rather, it observes that she acts when she feels she has been wronged. The poem invests an incredible amount of time outlining all the ways women are just as concerned with the boundaries of the kin-groups, all of the ways they *already* act to influence their political and social worlds. Grendel's mother's violence should therefore not be read as a defiance of humanity, but as an assertion of it; motivated by the same feelings of grief as Hrothgar, she communicates with the humans of Heorot by engaging in their system of vengeance. She too can kill, and she too is a worthy adversary for Beowulf. If the poem points out how Hildeburh and Wealhtheow could easily become her, it is not unsympathetic to their desire to do so; its emphasis on their pain and mourning, the violations they suffer or will suffer to their family honor, puts their feelings on the same metaphorical "pyre" as Hrothgar's and Beowulf's. They feel like men. Through Grendel's mother, the poem reminds us that these women may also eventually take action like men.

In forcing the reader to grapple with shocking reality of women's humanity, the poem poses its ultimate critique; feud is so destructive because it necessarily involves all members of a society. As humans with their own wills, the women of *Beowulf* are equally capable of becoming monsters as the men, and as such, feuds cannot ever end until whole kin groups or societies are completely wiped out. As long as there is a survivor, any survivor, the potential for vengeance remains. Therefore, when the poem mentions Wealhtheow watching the celebration of Grendel's mother's death, we should not think of her as properly enclosed once more, but as lying in wait. We are never told how she will react to the death of her sons, only that she expressly wishes and continuously acts to prevent their deaths. And, far from being ineffectual, her desires are respected—Beowulf does not take the throne. While she cannot predict Hrothulf's betrayal, she will certainly have feelings—in the poem's own logic, just because we look away from her or forget her does not mean that she will not burst forth from her own mere in time, determined to seek vengeance. Far from being enclosed, Wealhtheow's future behavior is left uncertain, unexpected—and perhaps, inevitable.

## CONCLUSION

This dissertation opened with a brief passage from the tenth-century Benedictine monk Regino of Prüm conceptualizing four key categories of identity: *genus* (origin), *mores* (customs), *lingua* (languages), and, finally, *leges* (laws). The four chapters above have primarily explored the final category's role in shaping a pre-Conquest English identity. While previous scholarship has discussed the ways in which medieval legal texts serve as a kind of royal literature where rulers and their counselors could express their desires and plans for the people they ruled over, generally this literature has been read as homogenizing in nature—distinct groups and identities are blended together in the service of unifying the populace into a cohesive whole, even if this cohesion is somewhat fictional or oversimplifying. However, this dissertation has posited not only the existence of rhetorics and discourses of hybridity, but also their functions within legal discourse. While hybridity is often theorized as a threat to medieval ideas of monolithic identities, I have argued here that the same hybridity could be a tool of imperialism, expansionism, and a core component of early English identity-building from Alfred forward.

To my mind, this project tests out a method of reading Old English laws as literature that needs further study and development. In identifying rhetorics of hybridity in early English royal legislation that seem consciously cultivated and aimed at supporting a unifying English identity, I propose that acknowledging hybridity had its advantages for expanding a king's power over different groups of people over time and was not understood as automatically threatening. However, the scope of this project has been relatively narrow. As noted in the introduction, I have only touched upon the possible intersections of the domains of law and literature. This project has merely provided samples of such a methodology in its comparative close readings of Bede's *Historia Ecclesiastica Gentis Anglorum*, *The Battle of Maldon*, and *Beowulf*. Through

these readings I have aimed to show the reverberations of rhetorics of hybridity across the traditional boundaries of genre; while perhaps not in direct conversation with each other, the laws and these literary pieces are formed in the same discourse community and address similar cultural anxieties and preoccupations. Because of the extremely narrow sample size out of a wide range of possibilities, I believe one place for significant further exploration is both other literary pieces and genres (histories, chronicles, sermons).

Furthermore, this dissertation has only ever occasionally touched upon the pressing questions of “Why England?” or “Why the English?” Is there something significant about the island of Britain that leads to the development of these particular rhetorics, the acknowledgement of hybridity as a useful tool for expanding authority? There is significant work being done on England as unique in its position as an island on the margin; Kathy Lavezzo has recently argued that this very marginality on a world map oriented around the medieval Christian center of Rome was a significant building block for early English identity.<sup>441</sup> According to Lavezzo, such marginality became a source of pride for the English, who over time cultivated it as an elite and wondrous status, since Britain was traditionally written of as a fecund island and the margins of the world are always the most fantastical in medieval maps. This is one element that suggests the English understood their identity as privileged, and Lavezzo’s work on monstrosity as a source of positive identity building could be another useful reference point for understanding why the English in particular opted for acknowledging and leveraging hybridity as part of their identity. This of course leads us to further questions of comparison; perhaps one possible next step for this project is comparing the rhetoric of hybridity that is seemingly prevalent in early English law to other contemporaneous medieval legal discourses from the continent and Ireland. Overall, this

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<sup>441</sup> Kathy Lavezzo, *Angels on the Edge of the World: Geography, Literature, and English Community, 1000-1534*. Ithaca, N.Y.: Cornell University Press, 2006.

dissertation has tried to offer a new method of reading legal texts on their own or alongside literature, as well as posited a new theory of pre-Conquest English identity, but all of this work will need further testing and exploration in years to come.

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