WEAVING WORDS
LAW AND PERFORMANCE IN EARLY NORDIC TRADITION

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Abstract
The reference to málrúnar or ‘speech runes’ in Sigrdrifumál suggests a performative aspect to the practice of early Germanic law that transcends the swearing of oaths and the reciting of law codes attested to by literary sources. Indeed early runic texts often feature alliteration, much as do the old Scandinavian legal tracts. This parallelism suggests that early Northern legal language was not stylised merely for mnemonic purposes, but instead reflects an oral-performative praxis similar to that which appears to be reflected in early Irish sources. But the relationship between performance and memorisation has not always been demarcated clearly in recent scholarship. Oral-performative theory is often called upon today without reference to explanations of social action. The privileging of generative performance over pre-literate memory culture seems to represent only an awkward victory of the medievalistic “anthropological turn” over other key expressions of socio-cultural theory.

1. Introduction

Ba dorcha didiu in labra ro labrasatar ind filid isin fuigiull-sin 7 nirba réill donaib flathaib in brethemnus ro-n-ucsat.

‘Dark was the speech which the filid spoke in that case, and the judgement which they gave was not clear to the princes.’

This alliterating description from the Pseudo-historical Prologue to the Old Irish Senchas Már (Carey 1994, §10) provided Robin Chapman Stacey with the title of her prize-winning 2007 book Dark Speech on the performance of law in medieval Ireland. The ‘dark speech’ of the filid referred to in the Prologue seems to represent a reflection of the appearance of many highly stylised (and often well-nigh impenetrable) passages in the surviving Old Irish law tracts. Stacey duly interprets this tradition as reflecting the usual proclivity for lawyers in all cultures and climes to develop their own stylised, often inscrutable (and excluding) form of language – indeed one of a kind that might reasonably be assumed to have a counterpart in Old Norse experience too.
2. Old Norse málrúnar

The best-known instances of stylised speech used in medieval Norse legal discourse are the paired formulations which are so well attested in early Northern tradition, most such evidence for which is recorded in the form of Old Scandinavian law codes. The use of meristic pairs of this sort is well known from other legal traditions, however, so such expressions do not seem particularly remarkable from a cross-linguistic or cross-cultural perspective (cf. Tiersma 2000). But there are also some suggestions that stylised language was used in broader Norse legal practice in a manner comparable to the ‘dark speech’ of Old Irish experience. For example, Sigdrífa counsels Sigrurð concerning how to use málrúnar in the rune-lore section of Sigrdrífumál (12) in a manner that seems to represent a legalistic sensibility:

\[\text{Málrúnar scaltu kunna, if þú vilt, at magni þér heiptom gialdi harm; þer um vindr, þer um vefr, þer um setr allar saman á því þingi, er þióðir scolo i fulla dóma fara} \]

‘Speech-runes you shall know, if you want no-one to repay you harm with hatred; wind them about, weave them about, and place them all together at the assembly, where people shall for full judgment go.’

The notion of ‘weaving’ or ‘winding’ words is a well-known trope of (Indo-)European experience (West 2007, 36-38). But what málrúnar (literally ‘speech-runes’) would have to do with arguing a legal (or perhaps political) case at an assembly (þing) is not immediately clear. Relying on an etymological development of *maþl-/mahl- ‘assembly’ > mál ‘a speech (given at an assembly)’, Markey (1998, 195-96) speculates that málrúnar may have (originally) signified written pleas (etc.) made at legal hearings (i.e. at assemblies). The evidence he

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2 Cf. also Gðr I, 23.