‘Unlawful Contracts and Foreign Subtlety’ – (In)Tolerance towards External Legal Customs and Traditions in Late Medieval and Early Modern Stockholm, c. 1475–1635

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1. Introduction

Although Stockholm officially became the capital of the Swedish kingdom only in the seventeenth century, it had already become an important international harbour town and market place by the thirteenth century, the biggest of its kind in the Swedish kingdom.¹ Because Sweden belonged to the interest sphere of the Hanseatic merchants, it was natural that merchants and craftsmen speaking Low German dialects visited Stockholm and other towns and regions in the Swedish realm. Several of these visitors also settled down, at least temporarily.² From the early sixteenth century onwards, the local community of Stockholm as well as several other Swedish towns felt the growing influence and presence of other foreign groups, especially Dutch, English and Scottish burghers.³

These and other immigrant groups have been dealt with in several studies, but the main interest has been in their economic, cultural or societal significance. In particular, the role of the Germans has been given a lot of consideration in studies dealing with Stockholm in the fourteenth, fifteenth and sixteenth centuries. Nevertheless, there exists a gap in scholarly knowledge regarding the interaction between different legal practices. Formally, the justice system in Stockholm followed Swedish legislation, which consisted mainly of

¹ Göran Dahlbäck, *I medeltidens Stockholm*, Monografier utgivna av Stockholms stad, vol. 81 (Stockholm, 1987), pp. 13–20, 50; Elisabet Regner, *Det medeltida Stockholm. En arkeologisk guidebok* (Lund, 2013), pp. 20–6.

² Wilhelm Koppe, *Lübeck-Stockholmer Handelsgeschichte im 14. Jahrhundert*, Abhandlungen zur Handels- und Seegeschichte, vol. 2 (Neumünster Wachholtz 1933; Kjell Kumlien, *Sverige och hanseaterna. Studier i svensk politik och utrikeshandel*, Kungl. Vitterhets-, historie- och antikvitetsakademiens handlingar 86. Stockholm, W & W 1953.

³ Ingvar Svanberg and Mattias Tyden, “Invandringen genom tiderna” in “*Sicken turk*”. *Om invandrarnas svenska historia*, ed. Gunilla Lindberg (Stockholm, 1990), pp. 7–28, here pp. 7–14.

the Town Law (Sw. *Stadslagen*) issued in the middle of the fourteenth century and valid till 1734 as well as the local and royal ordinances completing it.⁴ But since Stockholm was a multi-ethnic local community and a site of international commerce, different legal traditions met and even clashed with each other. For example, in 1486, a tavern-keeper of German origin answered in his mother tongue: '*Ja, dat ist en holmisk budh*' ('Yes, that is a Stockholmer regulation'), when a member of the town council had reminded him of the fact that he should not have any customers after the licit business hours.⁵ Apparently, the immigrant hinted that he was not so fond of following local rules.

So far, studies of the presence of foreign legal practices in Stockholm have focused on the late medieval German influence, especially on the Swedish Town Law and on the forms of town administration in Stockholm and in other Swedish towns. All in all, urban life forms and practices in Sweden – urban administration, town plans, communal norms, et cetera – were to a great extent modelled after Low German examples, thanks to the lively contacts with the Hanseatic world.⁶ But Stockholm was not a Hanseatic town because it never was an official member of the Hanseatic League. Nor were the Germans the only culturally distinct group there. Swedes came into contact with visitors and immigrants from a wide range of places. Thus, foreign legal cultures other than solely Low German ones may have influenced the local legal practices in Stockholm, but that has been virtually ignored by the research so far, the only actual exception being Sofia Gustafsson's comparison between possible German, Danish, Dutch and English patterns within the medieval Swedish town administration, Stockholm included.⁷ However, not even her study discusses whether and how different legal traditions met and clashed with each other, or if elements that were regarded as foreign were tolerated or rejected.

⁴ A modern translation of the medieval Swedish Town Law with commentary has been published as *Magnus Erikssons stadslag i nusvensk tolkning*, eds. Åke Holmbäck and Elias Wessén (Stockholm, 1966). The main part of the ordinances issued for Stockholm and other Swedish towns (till 1632) can be found in the series *Privilegier, resolutioner och förordningar för Sveriges städer*, vols. 1–7, eds. Nils Herlitz et al. (Stockholm, 1927–1985). Regarding Stockholm solely, ordinances have been also published in *Stockholms stads privilegiebref 1423–1700*, eds. Karl Hildebrand and Arnold Bratt, *Urkunder rörande Stockholms historia*, vol. 1 (Stockholm, 1900–13).

⁵ *Stockholms stads tänkeböcker 1483–1492*, ed. Gottfrid Carlsson, *Stockholms stadsböcker från äldre tid*, ser. 2, vol. 2 (Stockholm, 1944), p. 162.

⁶ See, for example, the discussion in the introduction in *Magnus Erikssons stadslag as well as in Karl Benckert, Bidrag till intekningsinstitutets historia* (Stockholm, 1920), pp. 43–52, Adolf Schück, *Studier rörande det svenska stadsväsendets uppkomst och äldsta utveckling* (Uppsala, 1926) and Sofia Gustafsson, *Svenska städer i medeltidens Europa. En komparativ studie av stadsorganisation och politisk kultur*, *Stockholm Studies in History*, vol. 86 (Stockholm, 2006).

⁷ Cf. the previous note.

Elsa Trolle Önnersfors points out in her dissertation how influences from Roman Law began to be tolerated and actively applied in Sweden during the seventeenth century, albeit not without resistance from domestic legal experts who feared excessive cultural differences and their consequences. During the seventeenth century, the number of professional lawyers acquainted with Roman Law started to grow within the Swedish realm; likewise the number of conflicts dealing with property and economy. That is why new legal sources were needed,⁸ but that development was still under way during the fifteenth, sixteenth and early seventeenth centuries.

Consequently, this article is meant to fill a gap in the existing research dealing with interaction and coexistence between Swedish and non-Swedish legal practices in Stockholm. This topic – tolerance or intolerance towards influences from foreign legislation – is highly relevant when we think of the development of the commercial law in the early modern Swedish context. Neither the Swedish central power nor any Swedish local community issued any separate coherent legislation for international commerce; instead, the commercial activities were regulated by means of national legislation like the Town Law as well as numerous ordinances issued by kings, regents and local courts. And, like the dispute regarding the closing times of taverns in Stockholm in 1486, also local legal traditions stipulated how trades should be practiced.

The main question in this article deals with if and how external legal patterns were accepted by the local justice system in Stockholm, especially the town council (*stadens råd*), which consisted mainly of local merchants and which formed the Town Court (*rådstugurätten*). During the period studied, there were also two other permanent courts that functioned in Stockholm as well. One of them was the poorly known ‘market court’ or ‘little court’ (*torgrätten, lilla rätten*) subordinated to the Town Court. In the sixteenth century, it seems to have evolved into a lesser court called *kämnärsrätten*.⁹ During the early seventeenth century, the Swedish state started to strengthen its grip on local communities and this was done, in part, by founding

⁸ Elsa Trolle Önnersfors, *Justitia et Prudentia. Rättsbildning genom rättstillämpning – Svea hovrätt och testamentsmålen 1640–1690* (Lund, 2010) pp. 76–9.

⁹ Petri Karonen, *Kämnerinoikeudet Suomen kaupungeissa suurvalta-ajan alkupuolella (noin 1620–1660)*, *Studia Historica Jyväskylänseksi*, vol. 48 (Jyväskylä, 1994), pp. 44–7; Marko Lamberg, *Dannemännen i stadens råd. Rådmanskretsen i nordiska köpstäder under senmedeltiden*, *Monografier utgivna av Stockholms stad*, vol. 155 (Stockholm, 2001), pp. 192–4.

completely new high courts, the so-called courts of appeal (*hovrätter*) that supervised the judiciary system in the realm. The first of them was the Svea Court of Appeal (*Svea hovrätt*), founded in Stockholm in 1614.¹⁰

The tolerance or intolerance towards foreign influences cannot be analysed merely by focusing on foreigners and their interactions with the Town Court. Pre-modern culture has often been labelled as xenophobic, not only against people coming from other countries but against other local communities, that is from other parts of the same realm, as well. Even a person living in a neighbouring village was seen as a stranger, at least on certain occasions.¹¹ On the other hand, pre-modern towns were dependent on continuous immigration due to high mortality rates. In towns, virtually the entire population were immigrants or descendants of immigrants.¹² Especially in greater harbour towns, it was possible to come into everyday interaction with people from several parts of the realm as well as with foreigners. But the concept of ‘foreigner’ is very complex, as there were those who had moved directly from abroad as well as those who were descendants of earlier immigrants, those who had dwelt in some other community in Sweden before moving further, and those who had come from areas that had been brought into the Swedish realm due to changes in its borders. Not all foreigners were regarded as aliens, at least not in a similar way. Likewise, there were also Finns and occasionally also Sámi living in Stockholm: they were not formally foreigners as they had become subjects of the Swedish Crown centuries ago, but nevertheless they spoke their own languages and had a partly different cultural background – thus, they were, at least occasionally, regarded as strangers, different from the Swedes.¹³ Considering the cultural mosaic that the local community of Stockholm consisted of, a study on possible foreign influences on jurisdictional practices also has to be contrasted with domestic external influences.

¹⁰ *The Svea Court of Appeal in the Early Modern Period. Historical Reinterpretations and New Perspectives*, ed. Mia Korpiola, Rättshistoriska studier, vol. 26 (Stockholm, 2014).

¹¹ See, for example, Herman Tak, “Longing for Local Identity. Intervillage Relations in an Italian Mountain Area,” *Anthropological Quarterly* 63 (1990), pp. 90–100; Keith D. M. Snell, “The Culture of Local Xenophobia,” *Social History* 37 (2003), pp. 1–30; Kirsti Mäkinen, *Lollet ja kollot. Suomalaista naapurihuumoria* (Helsinki, 2007); Marko Lamberg, “Ethnic Imagery and Social Boundaries in Early Modern Urban Communities. The Case of the Finnish Immigrants in Swedish Towns, c. 1450–1650,” in *Shaping Ethnic Identities. Ethnic Minorities in Northern and East Central European States and Communities, c. 1450–2000*, ed. Marko Lamberg (Helsinki, 2007), pp. 200–40, here pp. 211–20.

¹² These patterns are discussed for example in Chris Calley, “A Model of Early Modern Urban Demography,” *Economic History Review* 48 (1995), pp. 448–69.

¹³ Still in the seventeenth century, Sámi, i.e. members of the Nordic aboriginal population, lived in more southern areas in Finland and in Scandinavia and not just in the north, in Lapland. At least occasionally, some Sámi lived in Stockholm, too, or at least visited it temporarily. Jonas M. Nordin, “Samer i imperiets mitt. Samiskt liv i det tidigmoderna Stockholm – en glömd historia,” in *Tillfälliga stockholmare. Människor och möten under 600 år*, eds. Anna Götling and Marko Lamberg, Monografier utgivna av Stockholms stad, vol. 260 (Stockholm, 2017), pp. 45–71; Lamberg, “Ethnic Imagery”.

Although the scope of this article is holistic, its analysis excludes one important judicial factor, the Church and its law and jurisdiction. Originally, the Church was an external, transnational agent in Swedish society, but even in the Middle Ages it had already become more national in its character and during the Reformation it was connected more intimately to the national administrative and judicial system subordinated to the King.¹⁴ But because the Town Law and the ordinances issued for Stockholm mostly omitted religious and ecclesiastical matters, cases that dealt with religion, sexual behaviour or marital life were also regularly referred to the representatives and courts of the Church.¹⁵ Thus, the Town Court shared its jurisdictional authority with the ecclesiastical authorities and their practices, which stemmed from transnational traditions or, especially after the Reformation, from the aspirations of the Crown. Many members of the local clergy were the offspring of local burgher families, which must have accelerated cooperation and diminished the possibility of severe antagonism.¹⁶ The question of the role of Canon Law and other ecclesiastical influences is important, but on this occasion, the analysis concentrates on secular activities and practices, mainly in the context of interregional and international commerce. The Reformation, however, did mean that the role of the Bible in the jurisdiction was strengthened as courts started to apply it, especially the Old Testament, in issuing sentences for different crimes.¹⁷

This analysis is mainly based on the protocols from the Town Court of Stockholm between 1474 and 1635. The protocols were called *tänkeböcker*, which literally means ‘notebooks’. The term had been adapted from Middle Low German, which speaks of the German influence on local administrative practices. Not all the protocols have been preserved: besides the earlier books, which have been completely lost, there are some gaps in the preserved volumes, the biggest one concerning the years 1530–1543. The preserved records are kept at the Town Archives of Stockholm, but they are also accessible as printed source editions.¹⁸ The contents

¹⁴ Ingun Montgomery, “The Institutionalization of Lutheranism in Sweden and Finland,” in *The Scandinavian Reformation*, ed. Ole Peter Grell (Cambridge, 1995), pp. 144–78.

¹⁵ Robert Murray, *Stockholms kyrkostyrelse intill 1630-talets mitt*, Samlingar och studier till svenska kyrkans historia, vol. 20 (Lund, 1949); Trolle Önnerfors, *Justitia et Prudentia*, pp. 67–9.

¹⁶ Lamberg, *Dannemännen*, pp. 112–4.

¹⁷ Trolle Önnerfors, *Justitia et Prudentia*, pp. 67–9.

¹⁸ *Stockholms stads tänkeböcker 1474–1520*, eds. Emil Hildebrand et al. *Stockholms stadsböcker från äldre tid*, ser. 2, vols. 1–5 (Stockholm, 1917–1944); *Stockholms stads tänkebok under Vasatiden: 1524–1529*, ed. Nils Sjöberg (Stockholm, 1915) [This volume has also been published as *Stockholms stads tänkebok 1524–29 m.m. av M:r Olauus Petri Phase*, ed. Ludvig Larsson, Skrifter utgivna av Vetenskapssocieteten i Lund, vol. 11 (Lund, 1940).]; *Stockholms stads tänkeböcker 1544–1591*, eds. Johan Axel Almquist, *Stockholms stadsböcker från äldre tid*, ser. 2, N. F., vols. 1–8 (Stockholm, 1936–1948); *Stockholms stads tänkeböcker 1592–1635*, eds. Daniel Almqvist et al., *Stockholms stads tänkeböcker från år 1592*, vols. 1–24 (Stockholm, 1939–2009).

of the protocols changed a lot during the period studied, the main trend being that the medieval records are usually shorter but more varied, occasionally mentioning other things than crime affairs or administrative matters, whereas especially seventeenth-century notices are more focused but simultaneously longer and more detailed. The foundation of courts of appeal, starting from the Svea Court of Appeal, which functioned in Stockholm from 1614 onwards, created greater demands on the contents of the protocols as they had to be sent regularly to the court of appeal to be checked.¹⁹

The foundation of the Svea Court of Appeal was a part of early modern Swedish state formation, which forms a framework for this study: the kingdom of Sweden was slowly evolving into a centralised nation-state in which the role of literary communication expanded and the central power attempted to tighten its control of local communities, even in the peripheries. This process is usually linked to the Vasa dynasty (1523–1654), but its roots can also be traced to late medieval development trends, especially in Stockholm during the later fifteenth century.²⁰

Regarding the main sources of the study, it must be remembered that they were not entirely objective reflections of the existing reality. Firstly, *tänkeböcker*, like all other court protocols, follow conventional patterns in their contents, and they also omit a lot of what happened or what was actually said. Such events as changes between town scribes have also influenced the contents of the records: especially during the fifteenth and sixteenth centuries, the role of the individual scribe is very visible. Moreover, some scribes' interest in making notices seem to have diminished the longer they had been serving the town – such human development trends can also be traced in the protocols.²¹ These changes, as well as the gaps, make it difficult to trace actual changes and continuities in practices: a new feature in the records does not necessarily indicate a novel practice, and if some patterns vanish, they may still have continued to exist in reality. Nevertheless, with the above-mentioned reservations, it is possible to trace several features and discuss the motivations and mentalities behind them.

¹⁹ R. A. Wrede, "Bidrag till kännedom om processen under 1600-talet. Utdrag ur Åbo stads dombok 1623–1638," *Tidskrift utgifven af Juridiska föreningen i Finland* 48 (1912), pp. 270–271.

²⁰ Erkki Kouri, "The Reformation in Sweden and Finland," in *The Cambridge history of Scandinavia*, eds. Erkki I. Kouri and Jens E. Olesen, Cambridge History of Scandinavia, vol. 2 (Cambridge, 2016), pp. 44–59. Regarding Stockholm in particular during the later Middle Ages, see C. C. Sjöden, *Stockholms borgerskap under Sturetiden med särskild hänsyn till dess politiska ställning* (Stockholm, 1950).

²¹ Lamberg, *Dannemännen*, pp. 198, 203.

This article is structured in the following fashion: The first chapter presents a concise synthesis of migration movements to Stockholm and discusses the relationships between different ethnic groups. Because the Germans continued to be an important group amidst the growing multiculturalism in Stockholm, the second chapter focuses on Germans living in or visiting the town. The third chapter treats a special category of foreigners in the urban community, namely guests or merchants on a shorter or a longer stay. The fourth chapter deals with the Swedish legislation and its flexible character. The fifth chapter discusses the opposition to the Swedish legal traditions. The sixth and final chapter before the conclusion analyses the cooperation between the Town Court of Stockholm and courts in other places and other countries – attention is paid to how and to what extent external influences were tolerated. Finally, the results of the study are summarised and re-evaluated in the conclusion.

2. Aliens in the City

In the Middle Ages, most foreigners visiting or residing in Stockholm were German merchants, sailors and craftsmen. There were Finns, too, but they had been subjects of the Swedish Crown since the twelfth and thirteenth centuries, so officially they were not foreigners. Occasionally, court protocols or other sources also mention sporadic visits by other Scandinavians, Estonians, Russians as well as Italians and Frenchmen – but of course these ethnic concepts did not have exactly the same connotations as they have today.

The number of people who spoke German dialects in medieval Stockholm is unknown, and the same holds true for the size of the total urban population. On the basis of preserved taxation lists from the 1460s, it has been estimated that the number of the town dwellers was probably c. 4,500–5,500.²² Of course, the number must have varied a lot due to occasional epidemics, fires and periods of societal unrest. Approximately one-third of the persons in these taxation lists have names that can be regarded as German. But since in principle only the heads of the households were registered and not all single members of the households, the actual proportion of the German population was most likely smaller. The servants in the households seem mostly to

²² Sven Lilja, "Stockholms befolkningsutveckling före 1800. Metoder och förklaringar," *Historisk Tidskrift* 115 (1995), pp. 304–37, here pp. 307–9.

have been either Swedes or Finns, seldom Germans.²³ Thus it is plausible to assume that the share of the German speaking element was clearly smaller than one-third at the end of the Middle Ages and most likely even smaller later, when the town population grew and became even more ethnically heterogeneous, containing also Dutchmen, Englishmen and Scotsmen, among other nationalities. In the 1630s, the total number of all town dwellers grew rapidly, from approximately 15,000 to at least 30,000.²⁴

The influence of the Germans, especially German-speaking merchants, varied a lot over the course of history. Due to its greater economic resources and cultural lead, the German-speaking population held great influence on Swedish society in the Middle Ages: norms and forms of urban life were in many respects modelled after German examples and even the Swedish language changed rapidly due to the lively interaction with German-speakers.²⁵ However, the Swedish central power tried, in an early phase, to limit the Germans' societal and political influence: the treaties with important Hanseatic towns Lübeck and Hamburg (made in the early 1250s and in 1261 respectively) stated that all Germans who settled down in Sweden should follow the Swedish legislation and be called Swedes.²⁶ The concept of Swede (*svensk*) in this context was most likely not an ethnic one; instead, as the use of 'Swede' in several other contexts suggests, it was applied to all subjects of the Swedish Crown regardless of their linguistic, geographic or cultural background. This is also evident in late medieval laws issued for the towns and the countryside respectively: the concept of Swede seems to have covered also Finnish co-subjects and other ethnic minorities residing in the realm.²⁷

However, the concept of Swede is used in the Swedish Town Law in a way that seems to imply that it also had ethnic connotations, referring to geographical background or language or both: firstly, the town councils were supposed to be divided into two halves, one of which should be filled with Swedes and the other

²³ Nils Ahnlund, "Svenskt och tyskt i Stockholms äldre historia," *Historisk Tidskrift* 49 (1929), pp. 1–34; here p. 7; Dahlbäck, *I medeltidens Stockholm*, p. 52; Lamberg, *Dannemännen*, pp. 58–9.

²⁴ Lilja, "Stockholms befolkningsutveckling," p. 315.

²⁵ Schück, *Studier*, p. esp. pp. 308–14, 346–7; Gösta Bergman, *Kortfattad svensk språkhistoria* (Stockholm, 1968), pp. 60–4, 79–83.

²⁶ *Sveriges traktater med främmande magter jemte andra dit hörande handlingar*, vol. 1, ed. O. S. Rydberg (Stockholm, 1877), pp. 197–8, 216–8; Schück, *Studier*, pp. 266–7, 271; Kumlien, *Sverige och hanseaterna*, p. 217.

²⁷ Kumlien, *Sverige och hanseaterna*, 218; p. Marko Lamberg, "Finnar, svenskar eller främlingar? Inblickar i den finska befolkningsdelens status i det svenska riket under senmedeltiden", *Historisk Tidskrift* 120 (2000), pp. 497–526, here pp. 506–10; Marko Lamberg, "Finns as Aliens and Compatriots in the Late Medieval Kingdom of Sweden", in *Frontiers in the Middle Ages. Proceedings of the Third European Congress of Medieval Studies (Jyväskylä 10–14 June 2003)*, eds. Outi Merisalo and Päivi Pahta, *Textes et études du Moyen Âge*, vol. 35 (Louvain-la-Neuve, 2006), pp. 121–32, here p. 127; Harald Gustafsson, "The Eighth Argument. Identity, Ethnicity and Political Culture in Sixteenth-Century Scandinavia," *Scandinavian Journal of History* 27 (2002), pp. 91–113.

with Germans. There is written evidence showing that this principle was also practiced elsewhere and even before the Town Law was composed and issued. According to Nils Ahnlund, the principle may have originated from the contracts mentioned above.²⁸ Secondly, the Town Law stated that if there were not enough German burghers in the town, it was allowed to fill the empty posts in the German half of the council with Swedes, but the opposite procedure was prohibited – once again we see an attempt to regulate German societal influence. We also see how the terms signifying Swede and German had, on these occasions, clearly ethnic connotations. This interpretation is strengthened in the paragraph that stipulated that a man who had a German father should be regarded as a German, regardless of whether his mother was a Swede or a German. Such a definition left possibilities for interpretation since it was not said exactly on what grounds one's father should be regarded as a German.²⁹ Most likely, the language spoken by the individual as well as his possible background as an immigrant or as a descendant of an immigrant played an important role in the interpretations made by the community.³⁰ In 1599, Nils Eriksson, apparently a Swede and a candidate for a burgomaster's post, made a speech in which he finished by saying that he 'regarded all foreigners who had sworn their burgher oaths and who had a righteous Swedish heart as Swedes'. In other words, he shared – at least in his public relations – the view that had been maintained by the Swedish authorities since the Middle Ages.³¹

Regarding the self-perceptions and identities among the German-speaking population in late medieval Stockholm, Justyna Wubs-Mrozewicz concludes that medieval individuals did not necessarily possess fixed, stable identities, any more than modern men and women. Thus, one and the same person appears in the sources sometimes as a German, at other times as a Swede.³² Ethnic boundaries were in several cases blurred by intermarriages between German-speakers and Northerners. Hans Lambertsson, a burgher and councillor in Stockholm in the late fifteenth century, is an example of an individual who had German roots but who had adapted himself to Scandinavian cultural patterns to such an extent that he did not have a heritable family name

²⁸ Ahnlund, "Svenskt och tyskt", p. 5.

²⁹ *Magnus Erikssons stadslag*, pp. 3–4 (Konungsbalken, paragraph II); Lamberg, "Finnar, svenskar eller främlingar," p. 509.

³⁰ Lena Moberg, *Lågtyskt och svenskt i Stockholms medeltida tänkeböcker*, Acta Academiae Regiae Gustavi Adolphi, vol. 58 (Uppsala, 1989), p. 28; Lamberg, *Dannemännen*, pp. 63–4.

³¹ *Stockholms stads tänkeböcker 1596–1599*, ed. Daniel Almqvist, Stockholms tänkeböcker från år 1592, vol. 2 (Stockholm, 1954), p. 272 ('...at the främmande som sin borgere eed suoredh och et rättsijnnigt swenst hiertha vthi sigh haffua, hölle hann alle för suenske...').

³² Justyna Wubs-Mrozewicz, "Interplay of Identities. German Settlers in Late Medieval Stockholm," *Scandinavian Journal of History* 29 (2004), pp. 53–67.

any more, as most German-speakers had, but instead he had a patronymic, which was the most common feature among Swedish-speakers.³³

But considerable differences existed precisely in the family patterns of the German-speaking burghers living in Stockholm: some families were more open to intermarriage with Swedes and other language groups, whereas others stuck solely to other Germans and resisted assimilation.³⁴ There is also some evidence that at least certain German-speakers considered themselves a group of their own – a group whose societal interests differed from those of the Swedish-speakers and other groups. In some cases one can even detect a hostile attitude towards Swedish societal supremacy.³⁵

However, such findings are rare and cannot be overgeneralised. They merely tell of individual modes of thinking, not the mentality of the whole German-speaking population. It has to be stressed that there were no large-scale aggressions between different ethnic groups in Stockholm. In Bergen in Norway, the German merchants were so numerous and powerful that they could act quite independently till the middle of the sixteenth century and they were occasionally even responsible for serious violent acts which sometimes claimed numerous lives.³⁶ But nothing similar happened in Stockholm, although a late medieval tradition claimed that Germans killed several Swedish burghers in 1389 or 1392, according to one source as many as 75 men, by burning them alive, as a counteraction when King Albrecht of Mecklenburg, who was of German origin, had been forced into exile. But many details in this tradition are unclear and there is no definitive evidence from the local community of Stockholm to support the claim that this alleged massacre really took place.³⁷ In the fifteenth century, the aristocratic Swedish literature presented the Germans as an alien group that opposed the interests of the lesser social groups and the nobles fighting German and Danish kings, but such descriptions seem to reflect patriotic, proto-nationalistic propaganda. Consequently, only the supporters of the Swedish regents and kings were spoken of as Swedes in this tradition.³⁸

³³ Lamberg, *Dannemännen*, p. 64, 333 note 125.

³⁴ Ahnlund, "Svenskt och tyskt," p. 7; Sjöden, *Stockholms borgerskap*, pp. 218–314; Lamberg, *Dannemännen*, pp. 94–5.

³⁵ Lamberg, *Dannemännen*, pp. 94–5; Marko Lamberg, "Perceptions of Finns and Ethnic Boundaries in Sweden during the Middle Ages and the Early Modern Era," *Nordeuropaforum* 14 (N.F. 7) (2004), pp. 3–23, here p. 13–4.

³⁶ Knut Helle, *Kongssete og kjøpstad. Fra opphavet til 1536*, Bergen bys historie, vol. 1 (Bergen, 1982), pp. 475–85, 700–1, 766–73; Lamberg, *Dannemännen*, pp. 236–7, 291.

³⁷ Astrid Heyde, "Käpplingemorden år 1389 – ett 600-årsminne?" *Sankt Eriks årsbok* 87 (1989), pp. 9–27; Lamberg, *Dannemännen*, pp. 64–6, 171, 176, 234, 237, 243, 289.

³⁸ Lamberg, *Dannemännen i stadens råd*, pp. 62–3.

Regarding the position of the town scribe – the official employed by the council and responsible for official record keeping – the Town Law stated that he should be a Swede and never a foreigner: apparently, this was an attempt to ensure that the court records and other important documents within the urban administration would be written in Swedish.³⁹ Correspondingly, another paragraph in the Town Law stipulated that transactions with landed property had to be confirmed in official documents written in Swedish or that they should at least be noted in official record books kept by the town council. In Stockholm, both customs were usually applied and this ensured that the local textual culture remained mainly Swedish.⁴⁰ Thus, it would have been more difficult for German burghers to turn Stockholm into a Hanseatic town – if any of them ever had such aspirations.

3. Shifting Tides for Germans

The German influence diminished from the later fifteenth century onwards, partly because of growing proto-nationalistic tensions intertwined in power struggles between societal elites. In 1471, due to a political conflict that also involved Stockholm, the Town Law was changed so that no foreigner was allowed to act as a burgomaster or town councillor, or take up any other post within the urban administration and jurisdiction.⁴¹ The reform affected every town of the kingdom of Sweden, and it was carried out in Stockholm even before its formal ratification. The German burgomasters and councillors lost their positions, but some of them, like the above-mentioned Hans Lambertsson, were permitted to continue nevertheless – a practical example on how blurred ethnic boundaries sometimes were.⁴² Likewise, we occasionally meet men with German names among those who were elected to communal offices and positions of trust after the legal reform of 1471. Among them was Helmik van Nörden who acted as a town scribe in Stockholm in 1487–1511 and who was apparently bilingual.⁴³ It is evident that certain foreign traits, like German background, continued to be tolerated – after all, Swedish culture had borrowed a considerable number of words and concepts from German

³⁹ *Magnus Erikssons stadslag*, p. 4 (Konungsbalken, paragraph VI).

⁴⁰ *Magnus Erikssons stadslag*, p. 73 (Jordabalken, paragraph VI).

⁴¹ *Magnus Erikssons stadslag*, p. 21 (Konungsbalken, (new) paragraph II).

⁴² Moberg, *Lågtyskt och svenskt*, p. 28; Lamberg, *Dannemännen*, pp. 63–4.

⁴³ Moberg, *Lågtyskt och svenskt*, pp. 31–4.

speakers, among them the word *stad*, which replaced the earlier Scandinavian word *by* in the sense of ‘town’.⁴⁴ Moreover, the town council tolerated German being spoken occasionally in court; certain notices and sometimes even whole documents composed in Low German dialects were copied or written down in the court records.⁴⁵

When the Vasa dynasty cut Sweden’s ties to Denmark in the 1520s and put an end to the political supremacy of the most notable Hanseatic town, Lübeck, in the 1530s, the remains of the German influence diminished drastically, and the number of Germans in the population of Stockholm fell as well.⁴⁶ Foreigners continued to live in Stockholm nevertheless, not only Germans but also increasingly numerous groups consisting of Dutchmen and Scotsmen in particular. Several other ‘nationalities’ were sporadically present. Moreover, the direct contacts of the Swedish burghers widened considerably. On the basis of notices in court records, Stockholm in the middle of the sixteenth century was far more international than it had been in the late Middle Ages and its range of international cooperation stretched to the Pyrenees and Italy.⁴⁷ Nevertheless, even in the late sixteenth century, the formulations in royal ordinances as well as in decisions made by the town council reflected an understanding that the burgher community of Stockholm consisted of Swedes and Germans.⁴⁸

The number and role of the Germans started to grow again before the end of the sixteenth century, and the Germans received certain favours from the king, especially regarding the localities for their own congregation – the Reformation had split the earlier joint congregation of Stockholm into Swedish, Finnish and German congregations; in the seventeenth century, as the town grew, there were several Swedish congregations, and a French-English congregation was founded. But the Germans never regained their former societal or cultural position. The fact that King John (Johan) III allowed the German congregation to share its church building – a former guildhouse founded by medieval German merchants – with the Finnish congregation, which consisted

⁴⁴ Bergman, *Kortfattad svensk språkhistoria*, p. 62.

⁴⁵ For example, *Stockholms stads tänkeböcker 1568–1575*, eds. Johan Axel Almquist and Hans Hildebrand, *Stockholms stadsböcker från äldre tid*, ser. 2, N.F., vol. 4 (Stockholm, 1941), pp. 435–7.

⁴⁶ Ingvar Peterzén, *Studier rörande Stockholms historia under Gustav Vasa*, Monografier utgivna av Stockholms kommunalförvaltning, vol. 4 (Stockholm, 1945), p. 37.

⁴⁷ For example, *Stockholms stads tänkeböcker 1549–1553*, eds. Johan Axel Almquist and Hans Hildebrand, *Stockholms stadsböcker från äldre tid*, ser. 2, N.F., vol. 2 (Stockholm, 1937), pp. 242–3; *Stockholms stads tänkeböcker 1584–1588*, eds. Johan Axel Almquist and Hans Hildebrand, *Stockholms stadsböcker från äldre tid*, ser. 2, N.F., vol. 7 (Stockholm, 1947), pp. 74, 127–9.

⁴⁸ For example, *Stockholms stads privilegiebref*, pp. 59, 73; *Stockholms stads tänkeböcker 1592–1595*, p. 133; *Stockholms stads tänkeböcker 1596–1599*, p. 272; *Stockholms stads tänkeböcker 1616–1617*, ed. Nils Staf, *Stockholms stads tänkeböcker från år 1592*, vol. 9 (Stockholm, 1968), p. 287.

mostly of the poorest Stockholmers, can also be interpreted as a token of the new social hierarchies. However, after three decades, the church was given solely to the Germans.⁴⁹

According to the privileges granted to Stockholm by King Gustav Vasa in 1529, a German merchant seeking burgher rights in Stockholm should present written confirmation from the local authorities in a community where he had possessions. That is how the town council of Stockholm was expected to be able to acquire reliable information on the newcomer and whether he had fled any responsibilities.⁵⁰

King Eric (Erik) XIV felt it necessary to explicitly prohibit dual citizenship in Stockholm and in foreign, especially German, towns, when he issued privileges for Stockholm in 1563. A general prohibition against being a burgher in several towns simultaneously had already been mentioned in the privileges for Stockholm of 1436. King Eric also wanted to abolish the apparently existing state of matters that had allowed even foreigners to acquire de facto burgher rights even if they had not sworn loyalty to the Crown.⁵¹ His brother and successor, King John III, maintained the control policy in the privileges and ordinances he issued in 1570. But his ordinances also stated that disputes between domestic and foreign merchants should be handled by groups consisted half of domestic men and half of foreigners so that the matter could be clarified smoothly and so that the foreigners would not complain that injustice was done to them.⁵² While acting as a Regent before becoming King himself, the youngest brother, Charles (Karl), made it clear in 1603 to the inhabitants of Stockholm that he wanted to guarantee the judicial rights of all people living in the realm, regardless of whether they were foreigners or locals.⁵³ These principles had medieval roots: the Town Law stipulated that a member of the Council of the realm (*riksrådet*), together with a member of the archbishop's council, should visit the town twice a year, first on Whitsunday and then on Saint Jacob's day (that is, on 25 July), to ensure that justice was done to everyone, guests as well as local burghers.⁵⁴ But King John apparently stressed – or perhaps it was the wish of the town council of Stockholm – that the burghers themselves should bear responsibility for impartial examinations and fair sentences.

⁴⁹ Robert Murray, *Finska församlingen i Stockholm. Intill tiden för Finlands skiljande från Sverige* (Stockholm, 1954), pp. 12–28.

⁵⁰ *Stockholms stads privilegiebref*, p. 46; *Stockholms stads tänkeböcker 1603–1604*, p. 140

⁵¹ *Stockholms stads privilegiebref*, pp. 6, 61–2.

⁵² *Stockholms stads privilegiebref*, p. 70, 76.

⁵³ *Stockholms stads tänkeböcker 1603–1604*, p. 90.

⁵⁴ *Magnus Erikssons stadslag*, p. 127 (Köpmålabalken, paragraph XXX).

Although the principle of impartial examinations mentioned by King John did not automatically mean that foreign legal practices were to be applied in Stockholm, it underlined the role of negotiation when disputes were to be solved. The ultimate goal was to achieve an outcome that foreigners were also able to accept and regard as lawful. However, the court records do not actually state that the principle was followed in practice. In 1584, a committee was formed for reconciliation between two French merchants on one part and an apparently German ship owner on the other. The committee consisted of town councillors and burghers as well as one 'foreign' ship owner from Amsterdam. Apparently, the last-mentioned examiner was regarded as a warrant of impartiality towards foreigners.⁵⁵ But neither in this case nor at other times was it stated that the Town Court actually appointed foreign examiners for each dispute which involved foreigners. Most often, the notices refer merely to 'good men' as examiners.⁵⁶ So the actual significance of the principle of impartiality in the privileges issued by King John remains obscure. Of course, the silence in written sources does not necessarily mean that the custom did not exist – on the contrary: it may have been so commonplace that it was not considered worth mentioning. Neither do we know if the medieval rule regarding the visits of the king's and archbishop's representatives was ever followed. The protocols of the town court from the late fifteenth century and the early sixteenth century do occasionally mention the presence of one or more lay members of the Privy Council, sometimes even the Regent himself, but such notices do not concentrate on Whitsuntide or Saint Jacob's day.⁵⁷ Apparently, they merely reflect the travels of the high nobility: it was natural for the leaders of the realm to participate in the local administrative and judicial activities during their stay.

In the seventeenth century, language seemed to have become an issue: the Town Court usually required that German-speakers had their written statements and other written evidence translated into Swedish – only then the court was able to handle them. Apparently, German was felt to be, or at least was presented as, more foreign in the seventeenth century than before. Such a policy was quite new in Stockholm – for example, as late as in 1573, the sentence given by the Town Court was read aloud in German, as one party was apparently of German

⁵⁵ *Stockholms stads tänkeböcker 1584–1588*, pp. 171–2.

⁵⁶ See, for example, *Stockholm stads tänkeböcker 1601–1602*, ed. Folke Sleman, *Stockholms stads tänkeböcker från år 1592*, vol. 4 (Stockholm, 1957), pp. 118–9.

⁵⁷ See, for example, *Stockholms stads tänkeböcker 1483–1492*, p. 563; *Stockholms stads tänkeböcker 1504–1514*, eds. Johan Axel Almquist and Hans Hildebrand, *Stockholms stadsböcker från äldre tid*, ser. 2, vol. 4 (Stockholm, 1931), p. 132.

origin. Even royal sentences were occasionally written in German.⁵⁸ The new requirement posed problems for some guests – not all were able to find someone who would translate the necessary documents into Swedish.⁵⁹ One of the earliest cases in which the court demanded that documents written in German be translated into Swedish can be found among the notices dealing with the year 1601.⁶⁰ Besides proto-nationalistic tendencies, a very practical reason may explain the need for translations: High German was replacing Low German as a written code in the Hanseatic sphere as well, and this version of German was more remote from Swedish and other Scandinavian languages than Low German had been.⁶¹ Documents written in Dutch also had to be translated into Swedish before the Town Court was able or willing to accept them, although the Dutch language bore great resemblance to Low German.⁶² However, several documents written in German as well as in Latin were later copied in the court records, apparently without any problems. In 1616, a warrant written in German was read aloud before the court of Norrmalm; this medieval northern suburb of Stockholm was administered as an independent town in 1602–1635 until it was again merged with Stockholm as one of the districts in the capital. The contents of the letter were most likely understood, at least for the most parts.⁶³ Oaths were allowed to be sworn in French as well, although most likely only a few domestic burghers spoke or understood it.⁶⁴ In 1630, a widow of a local merchant, who may have been at least partly of German origin on the basis of his name (Hendrich Löök), complained that a merchant from Lübeck had caused his husband's death by having put him in jail for no legal reason. Löök had died shortly afterwards. She described the accused as a 'stranger' or a 'foreign man' (*dänne främmande mannenn*) who had had her husband jailed 'against all law and justice, yes [against] the burghers' privileges and the court's sentence' so that her husband had not been able to 'enjoy that justice which our merciful authorities and the law have mercifully allowed and permitted'. Indeed, the ordinances given by the King should have prevented a burgher of Stockholm being imprisoned in a case concerning an alleged debt, but naturally that principle was not necessarily applied abroad, where the husband

⁵⁸ *Stockholms stads tänkeböcker 1568–1575*, pp. 440–1.

⁵⁹ *Stockholms stads tänkeböcker 1616–1617*, p. 264.

⁶⁰ *Stockholms stads tänkeböcker 1601–1602*, p. 137.

⁶¹ Frédéric Hartweg and Klaus-Peter Wegera, *Frühneuhochdeutsch*, Germanistische Arbeitsheft, vol. 33 (Tübingen, 2005), p. 34. I thank fellow historian Ilkka Leskelä for pointing out this language historical fact.

⁶² *Stockholms stads tänkeböcker 1605–1608*, ed. Nils Staf, *Stockholms stads tänkeböcker från år 1592*, vol. 6 (Stockholm, 1963) p. 68.

⁶³ *Stockholms stads tänkeböcker 1568–1575*, pp. 435–7; *Stockholms stads tänkeböcker 1616–1617*, p. 400. Regarding Norrmalm's short period as a town of its own, see Lars Ericson Wolke, *Stockholms historia under 750 år* (Lund, 2001), pp. 40–7.

⁶⁴ *Stockholms stads tänkeböcker 1616–1617*, p. 159.

had been jailed. The angered widow claimed that their opponent was more ruthless than ‘a Turk or a heathen’. On the basis of her name, Elin, she was of Swedish origin.⁶⁵

Such rhetoric underlined the alien character of the German guests, at least regarding the opponent in question. But while Elin Löök attacked one single foreign merchant, the vicar of the Finnish congregation hinted that even more permanent residents and holders of burgher rights should be seen as aliens. In 1627, Vicar Thomas Georgii, of Finnish origin, considered the Germans residing in Stockholm as a separate nation of their own (*then Tydska nation*), unjustifiably favoured by the Crown, whereas the Finns were ‘compatriots’ to Sweden (*Sweriges egne Patrioter*) and should therefore receive better locales for their congregational life. He, of course, was frustrated by the fact that the Crown had given the Germans the church that they had earlier had to share with the Finns.⁶⁶

But despite occasional tensions and certain mistrust against foreigners and immigrants from abroad, it was in the interests of the local community to maintain a well-functioning relationship with foreigners. That is why the Town Court also controlled the behaviour of the town dwellers and the local officials towards visitors. Even in the fifteenth century, communal rules had stressed the importance of speaking respectfully to noblemen and noblewomen, and that was still important approximately one hundred years later, when King Sigismund arrived in Stockholm together with his companions. It was stressed that the foreign visitors should not be given a negative image of rude and uncivilised Swedes. But the Town Court paid also attention to the interests of common visitors: occasionally it had to remind inn-keepers on the necessity of marking inns and taverns with clear signs so that strangers were also able to find them. And in one respect many members of the local community sometimes preferred certain foreign elements over domestic ones: in times of economic uncertainty, especially during the internal wars in the 1590s, many Swedes distanced themselves from the official currency and preferred to receive all payments in the form of foreign coins.⁶⁷

⁶⁵ *Stockholms stads tänkeböcker 1630*, ed. Bo Elthammar, *Stockholms tänkeböcker från år 1592*, vol. 19 (Stockholm, 2002), pp. 15–6, 59–60: (‘...emott all laag och rättwijsa, iaa emoot borgerlige priuilegier och rättens doom...’, ‘...intet niutandes dänn rätt som vår nådige öffuerheet och laagenn sine vnderståter nådigest undt och effterlåthet hafuer...’, ‘iagh icke troor, att hoos enn turck eller hedninng eenn sådan obarmhertigheet finnas skulle...’). Cf. *Stockholms stads privilegiebref*, pp. 122–3 (the paragraph was repeated in certain other charters as well).

⁶⁶ Marko Lamberg, “Expressions on Ethnic Self Concepts among Low-Status Finnish Immigrants in Early Modern Swedish Towns,” in *Der Blick auf sich und die anderen. Selbstbild und Fremdbild von Frauen und Männern im Mittelalter und früh er Neuzeit*, eds. Sünje Prühlén, Lucie Kuhse and Jürgen Sarnowsky, *Nova Mediaevalia*, vol. 2 (Göttingen, 2007), pp. 113–33; here pp. 115–6.

⁶⁷ *Stockholms stads tänkeböcker 1592–1595*, pp. 42, 134, 168, 216–8, 331.

4. Temporary and Semi-Permanent Visitors

A grey zone between the burghers and foreigners was formed by those visitors – foreigners as well as Swedish subjects from other places – who stayed in the town, sometimes for a short time, sometimes longer or sometimes coming back repeatedly during subsequent sailing seasons. Then there were also those who supported themselves by commerce or by some craftsman's trade without officially being burghers or members of the crafts guilds. At least occasionally, there were also several burghers who had not sworn any oath of loyalty towards the town, although the oath was prescribed in the Town Law, which otherwise gave detailed instructions and norms regarding how one could obtain burgher rights in a Swedish town.⁶⁸

It was also possible to participate in trade without being a burgher, as a visitor, provided that one followed the legal norms regarding that status. The Town Law had adopted the term 'guest' (Sw. *gäst*) from Low German (cf. Ge. *Gast*) when it spoke of merchants visiting from other towns, foreign or domestic. Of course, the rights of guests were more limited than the rights of burghers and merchants in the town in question. Guests were prohibited from making business trips into the countryside – it was easier to control and tax import and export in towns and in licit market places. Moreover, the only form of trade allowed for guests was the wholesale trade. If the guests needed something for their stay, they were supposed to buy it from local burghers. Thus, the law clearly protected the local merchants' interests. But the law also prohibited local merchants from helping guests to bypass this rule, so there must have been domestic merchants who were willing to cooperate with foreigners in spite of competition. Because guests posed a potential societal threat to the town, especially when their number grew as usually happened during the sailing season, the Town Law prohibited foreigners from bearing weapons in the town.⁶⁹ Burghers, on the contrary, were allowed to bear weapons if they owned

⁶⁸ For example, *Stockholms stads tänkeböcker 1592–1595*, ed. Daniel Almqvist, *Stockholms stads tänkeböcker från år 1592*, vol. 1 (Stockholm, 1939), pp. 311–2; *Stockholms stads tänkeböcker 1614–1615*, ed. Nils Staf, *Stockholms tänkeböcker från år 1592*, vol. 8 (Stockholm, 1966), pp. 58, 60–2. Cf. *Magnus Erikssons stadslag*, pp. 8–10 (Konungsbalken, paragraph XV).

⁶⁹ *Magnus Erikssons stadslag*, pp. 126–131, p. 183 (Köpmålabalken, paragraphs XXX–XXXIV, Rådstugubalken, paragraph XXXIV).

an estate in the town or a considerable amount of other property – domestic guests were also allowed to keep their weapons when they visited other towns.⁷⁰

Those foreign merchants who stayed in a Swedish town the whole winter were called ‘winter lodgers’ or ‘winter stayers’ (*vinterliggare*). The Town Law prescribed that guests who stayed the time period between Christmas and Easter were obliged to pay the same taxes as the local burghers. However, the law did not mention any special fees for the stay. But even those foreigners who had sailed away but left some of their goods in the town were supposed to pay tax to the town.⁷¹ In principle, a stay over the winter was allowed only in the case that guests had been surprised by rapidly deteriorating weather conditions which prevented them from sailing back home. This idea is expressed in some versions of the Swedish Town Law, although not in the law book used in Stockholm.⁷²

The fact that the Town Law was to be read aloud to the public once a year, a day after Saint John’s day⁷³ i.e. in midsummer, during the best sailing season, was most likely meant to make Swedish legal customs known to short-time visitors from abroad as well. However, it remains unknown if the whole law book was really read aloud or merely excerpts from it, and at what time of the year this actually happened. One notice in the records of the town council shows that the law book was read, at least in 1482, in early August.⁷⁴

Nevertheless, it was customary to read aloud each year at least the local communal rules and regulations, issued by the town council and called *burspråk* (this term and this practice were also borrowed from Hanseatic traditions), which completed the Town Law. This reading seems to have happened either completely outside the sailing season, during the Christmas week, or during the early phase of the sailing season, that is around Whitsuntide.⁷⁵ That is how those rules reached, at least in principle, some visitors as well as all the foreign merchants who stayed in the town over the winter. Of course, most likely not all foreigners were able to understand the contents entirely, because the reading took place in Swedish.

⁷⁰ *Magnus Erikssons stadslag*, p. 183 (Rådstugubalken, paragraph XXXIV).

⁷¹ *Magnus Erikssons stadslag*, p. 12 (Konungsbalken, paragraph XIX).

⁷² Hugo Yrwing, “Vinterliggare: Sverige,” in *Kulturhistoriskt lexikon för nordisk medeltid*, vol. 20 (Malmö, 1976), c. 142–4; here cc. 144; *Magnus Erikssons stadslag*, p. 148 note 182; *Codex iuris urbici Magnæanus. Konung Magnus Erikssons stadslag*, ed. C. J. Schlyter, *Corpus iuris sueo-gotorum antiqui. Samling af Sweriges gamla lagar*, vol. 11 (Lund, 1865), pp. 209 note 10, 212 note 35.

⁷³ *Magnus Erikssons stadslag*, p. 15 (Konungsbalken, paragraph XXIII).

⁷⁴ *Magnus Erikssons stadslag*, p. 37 note 149; *Stockholms stads tänkeböcker 1474–1483 samt burspråk*, ed. Emil Hildebrand, *Stockholms stadsböcker från äldre tid*, ser. 2, vol. 1 (Stockholm, 1917), p. 366.

⁷⁵ Published in *Stockholms stads tänkeböcker 1474–1483*; cf. previous note.

The Vasa rulers (from 1523 onwards) sought to control local communities and foreign elements in their realm. They sought, among other things, to see that guests would not stay longer in Sweden than was prescribed.⁷⁶ Their policy is also reflected in several royal ordinances as well as in notices in court records, in the form of recurring rules and regulations that were read aloud to the town dwellers and that contained an obligation to report the presence of any stranger or foreigner to the local authorities.⁷⁷ But this surveillance had in fact begun even earlier, in the 1480s at the latest: the preserved municipal ordinances (*burspråk*) from the 1450s–1470s stressed that each burgher should be careful whom he lodged because he was responsible for his guest's actions, but in the 1480s this paragraph received an addition that required burghers to report their guests to the royal bailiff and the burgomasters.⁷⁸ Already in the 1450s and possibly even earlier, the guests themselves had been obliged to report to the town council before they left the town.⁷⁹

Moreover, the town council occasionally appointed burghers to collect information on the inhabitants of each house.⁸⁰ This had already been customary in the Middle Ages, when the town council had appointed burghers to act as 'quarter masters' (*kvartermästare*) or 'district scribes' (*mantalskrivare*) for different parts of the town.⁸¹ Of course, such examinations and supervision activities were enacted not only to control visiting merchants but the whole population in general.

In one case in 1616, the Town Court had a letter written in Scottish translated into Swedish. After that, a burgher from Nyköping, of Scottish origin, testified that its contents were trustworthy. He did this by putting one hand on the law book, as 'our law requires' (*som vår lagh kräfu*).⁸² Thus it can be concluded that a

⁷⁶ Åke Sandström, *Mellan Torneå och Amsterdam. En undersökning av Stockholms roll som förmedlare av varor i regional- och utrikeshandel 1600–1650*, Monografier utgivna av Stockholms stad, vol. 102 (Stockholm, 1990), p. 60.

⁷⁷ For example, *Stockholms stads privilegiebref*, p. 79; *Stockholms stads tänkeböcker 1553–1567*, eds. Johan Axel Almquist and Hans Hildebrand, *Stockholms stadsböcker från äldre tid*, ser. 2, N.F., vol. 3 (Stockholm, 1939), pp. 227–8, 260; *Stockholms stads tänkeböcker 1568–1575*, p. 349; *Stockholms stads tänkeböcker 1575–1578*, eds. Johan Axel Almquist and Hans Hildebrand, *Stockholms stadsböcker från äldre tid*, ser. 2, N.F., vol. 5 (Stockholm, 1943), p. 285; *Stockholms stads tänkeböcker 1578–1583*, eds. Johan Axel Almquist and Hans Hildebrand, *Stockholms stadsböcker från äldre tid*, ser. 2, N.F., vol. 6 (Stockholm, 1945), p. 253; *Stockholms stads tänkeböcker 1592–1595*, p. 80; *Stockholm stads tänkeböcker 1603–1604*, eds. Folke Sleman and Göran Setterkrans, *Stockholms stads tänkeböcker från år 1592*, vol. 5 (Stockholm, 1959), p. 18.

⁷⁸ *Stockholms stads tänkeböcker 1474–1483*, p. 487.

⁷⁹ *Stockholms stads tänkeböcker 1474–1483*, p. 492.

⁸⁰ For example, *Stockholms stads tänkeböcker 1592–1595*, p. 137.

⁸¹ These appointees have been occasionally listed in the court records (*tänkeböcker*), but more consequently in the office holder lists. The first preserved 'book of offices' (*ämbetsbok*) begins with the year 1419; it has also been published as a source edition whereas the later lists are available at the Town Archives of Stockholm; see *Stockholms stads ämbetsbok 1419–1544*, ed. Johan Axel Almquist, *Stockholms stadsböcker från äldre tid*, ser. 4, vol. 1 (Stockholm, 1927).

⁸² *Stockholms stads tänkeböcker 1616–1617*, pp. 86–7.

background outside the town and even from abroad did not necessarily diminish the legal credibility of a person. After all, many if not most town dwellers were migrants or children of migrants, although the majority originated from areas where the population spoke Swedish.

The prohibition against acting as a burgher in several towns caused a curious outcome at least once. In 1617, a burgher living in Lübeck was denied any claim towards a house in Stockholm, with the reason that it was against the law to have a house and be a burgher simultaneously in Stockholm and in Lübeck. When the man asked, via a representative, if his children were allowed the right of inheritance towards the same house, it was replied that ‘the children do not go before the father – if the father cannot come [to the inheritance], the children come neither’.⁸³ The Town Law did not allow people living abroad to own real estate in Swedish towns, but it gave such an heir one year to sell the estate he had inherited. Thus, being a burgher in a foreign town should not automatically have been an obstacle to receiving an inheritance.⁸⁴ For some reason, the Town Court of Stockholm wanted to prevent a foreign burgher from getting his share of the inheritance in question. But since foreigners occasionally won their cases, even against local burghers of Swedish origin, it cannot be said that the Town Court was systematically suppressing the rights of the foreigners.

5. Flexible Jurisdiction

As has already appeared above, in several cases, the Town Court justified its rulings by reference to the Swedish Law and ‘our law’ (*vår lag*). Of course, this concept usually meant the Town Law and, on certain occasions, the ordinances and rules completing it. For example, in 1612, the Town Court of Stockholm justified one verdict by referring to Swedish law and the orders of the King.⁸⁵ The Town Court was also able to make jurisdictional additions by means of municipal ordinances, *burspråk*, as mentioned above.

However, it must be remembered that as a law text, the Swedish Town Law, although formally codified and maintained by the king, was not an entirely homogeneous entity. In practice, it contained considerable local

⁸³ ‘*barnen gå icke för en, kan fadren icke der till komma icke kommer barnen der till*’: *Stockholms stads tänkeböcker 1616–1617*, p. 264.

⁸⁴ *Magnus Erikssons stadslag*, p. 9 (Konungsbalken, paragraph XV).

⁸⁵ *Stockholms stads tänkeböcker 1608–1612*, ed. Nils Staf, *Stockholms stads tänkeböcker från år 1592*, vol. 7 (Stockholm, 1964) p. 149.

variation. Firstly, until 1618, all the existing versions of the Town Law were hand-written books. As was the case with any other manuscript, the copying processes occasionally led to involuntary errors and thus there were small differences between different versions. Secondly, the written law book was also intertwined with local traditions, which were never written down but nevertheless had an influence on how societal practices were structured within the local community. This is sometimes implied in the court records in Stockholm: In 1575, it was stated that it was ‘since ages customary here in the town’ (*så är och af ålder här i staden brukligt*) that children who had renounced their right of inheritance were not held responsible for the debts of the deceased parent.⁸⁶ And, regarding house and land transactions made in the suburbs of Norrmalm and Södermalm, Stockholmers seem to have applied legal practices that differed slightly from what was expressed in the Town Law. This becomes evident in a dispute which took place in 1594 and where the involved parties are, on the basis of their names, Germans or possibly Dutchmen. The Town Court explained to the quarrelling parties that transactions regarding estates in the suburbs were to happen in a different way from transactions regarding estates in the town. The Town Court stated that ‘for ages the custom had been’ (*och haffuer aff ålder waret den sedwane*) that those who wanted to sell and those who wanted to buy property in Norrmalm or in Södermalm made an agreement in the presence of witnesses. When they had shaken hands, the sum in question had been paid and an official transaction document had been written in the presence of the officials of the suburb, the transaction was regarded as valid. Apparently, the semirural character of these suburbs explains why such a tradition had developed. However, one of the men involved in the dispute did not approve of the Town Council’s solution. Instead, he made a petition to the Privy Council.⁸⁷

Indeed, it was already stated in the very first privileges for Stockholm, issued in 1436, that the Town Court had the right to fill all potential gaps in the written law according to their judgement and conscience.⁸⁸ However, the significance of unwritten traditions was diminishing in early modern Sweden: written law had

⁸⁶ *Stockholms stads tänkeböcker 1568–1575*, p. 626.

⁸⁷ *Stockholms stads tänkeböcker 1592–1595*, p. 211–23. The custom described by the Town Court was probably a free adaptation of the paragraphs in the Town Law dealing with real estate transactions in the town and in the countryside: *Magnus Erikssons stadslag*, pp. 73, 75 (Jordabalken, paragraphs VI, XI). See also *Magnus Erikssons landslag*, pp. 75, 78 (Jordabalken, paragraphs XII, XXIII–XXIV). Regarding local customs and traditions within jurisdiction, see Trolle Önnersfors, *Justitia et Prudentia*, pp. 65, 86–7.

⁸⁸ *Stockholms stads privilegiebref*, p. 6.

already become the main source of justice by the early seventeenth century.⁸⁹ Regarding local traditions and interregional commerce, it is noteworthy that an important principle, that a case should be tried and examined where it had occurred and fines should be paid where the involved party lived, is missing from several versions of the Town Law. Thus it is obvious that it was not included in the original fourteenth-century version. But by the fifteenth century at the latest it had been borrowed from the Law of the Realm (*Landslagen*), which was applied in the countryside. This seems to have occurred for the first time in Stockholm because the paragraph in question is mentioned in law books that were based off the law book of Stockholm. Since the privileges issued for Stockholm in 1436 seem to refer to this principle, it is possible that the paragraph was added then or somewhat later.⁹⁰

It is significant that it apparently was via Stockholm that the above-mentioned principle was imported into the urban legal tradition. Most likely the Town Court of Stockholm was seeking ways to diminish the number of the cases it had to deal with. Disputes between foreign merchants and people coming from other towns could be very difficult because they often stemmed from events that had taken place outside the town and sometimes also outside the realm entirely.

Occasionally, the Town Court did deal with cases that actually had taken place outside Stockholm. This is explained by the fact that the Town Court of Stockholm acted as a regional superior court before the foundation of the Svea Court of Appeal, which took place in 1614.⁹¹ But since most burgomasters and councillors continued to receive their incomes from their trades, they were not eager to widen their clientele in judicial matters nor were they anxious to expand their own workload in the Town Hall.⁹² This view is evident in the late 1610s and 1620s, after the Svea Court of Appeal had been founded: in spite of certain tensions and

⁸⁹ Heikki Pihlajamäki, "Legalism before the Legality Principle? Royal Statutes and Early Modern Swedish Criminal Law," in *From the Judge's Arbitrium to the Legality Principle. Legislation as a Source of Law in Criminal Trials*, eds. Georges Martyn, Anthony Musson and Heikki Pihlajamäki (Berlin, 2013), pp. 168–88.

⁹⁰ *Magnus Erikssons stadslog*, p. 175 (Rådstugubalken, paragraph XII), p. 198 note 85; *Stockholms stads privilegiebref*, p. 6; *Magnus Erikssons landslag*, p. 165 (Rättegångsbalken, paragraph XVIII).

⁹¹ For example, *Stockholms stads tänkeböcker 1474–1483*, pp. 17–9, 28; *Stockholms stads tänkeböcker 1589–1591*, eds. Johan Axel Almqvist and Hans Hildebrand, *Stockholms stadsböcker från äldre tid*, ser. 2, N.F., vol. 8 (Stockholm, 1948), p. 31. Likewise, the consistory consisting of the local priesthood in Stockholm and founded most likely in the 1570s, examined cases that had taken place in the countryside; see Murray, *Stockholms kyrkostyrelse*, pp. 126–30.

⁹² Lamberg, *Dannemännen*, pp. 206–11.

differing views on certain cases between the two courts, the Town Court usually happily submitted difficult cases to superior judges.⁹³

Occasionally, the Town Court of Stockholm justified its sentences by reference to the Law of the Realm, as was the case in 1635 when it condemned a young maidservant to death because she had stolen an ox – the sentence was justified by both the Town Law and the Law of the Realm.⁹⁴ Most likely, the stolen ox had been taken to the countryside and that is why the court felt that a reference to the Law of the Realm was also needed. The Law of the Realm was applied as a subsidiary law in other Swedish towns as well.⁹⁵

In 1617, in dealing with another theft case, the Town Court applied the Law of the Realm (originally from the middle of the fourteenth century, renewed in 1442) and the Law of the Province of Östergötland. The accused party in the case was a Dutch shipper who had been imprisoned but then released, thanks to a burgher who had guaranteed that he would appear at the hearing. However, the man had fled. His wife, called ‘the Dutchwoman’ (*hollenderskan, Hållenskan*), wanted to have a favourable sentence regarding her role in the case. According to the law paragraphs in question, she should have sworn a purifying oath with twelve men, because she was ‘unknown and a stranger’ (*okendh och fremmende*); the court accepted that it was enough that she only swore the required oath, without anyone else confirming it.⁹⁶ In other words, the court took into consideration the fact that a person from another place did not necessarily have many contacts within the local community. Perhaps it also wanted to show some leniency towards the abandoned wife, who seems to have been stranded in Stockholm at least for a while. The curious fact that the Law of the Realm as well as the even older Law of the Province of Östergötland was applied in this case does not necessarily imply that the theft had taken place somewhere in that province and in the countryside. A more plausible explanation is the fact that both these laws contained more detailed norms than the Town Law regarding cases in which the wife had

⁹³ Marko Lamberg, “The Tale of Two Courts in One Town. The Relationship between the Stockholm Town Court and the Svea Court of Appeal 1614–1624,” in *The Svea Court of Appeal in the Early Modern Period. Historical Reinterpretations and New Perspectives*, ed. Mia Korpiola, Rättshistoriska studier, vol. 26 (Stockholm, 2014), pp. 109–30, here pp. 126–7.

⁹⁴ *Stockholms stads tänkeböcker 1635*, ed. Bo Elthammar, Stockholms tänkeböcker från år 1592, vol. 23 (Stockholm, 2009) p. 61.

⁹⁵ Carl Olov Sommar, “Till Kristoffers landslags 500-årsjubileum,” *Svensk Juristtidning* 27 (1942), pp. 417–25, here p. 421.

⁹⁶ *Stockholms stads tänkeböcker 1616–1617*, p. 323 (see also *Stockholms stads tänkeböcker 1616–1617*, p. 314; *Stockholms stads tänkeböcker 1618*, ed. Lars Wikström, Stockholms tänkeböcker från år 1592, vol. 10 (Stockholm, 1973) pp. 272, 277); *Magnus Erikssons stadslag*, p. 280 (Tjuvabalken, paragraph X).

been unaware of the theft committed by her husband.⁹⁷ Such a procedure reflects the idea of a holistic national legislation, although it still took more than a century before Sweden received its first general law to be applied in towns and in the countryside alike. Provincial laws were still valid in principle, at least as supplements to the Town Law and the Law of the Realm.⁹⁸ However, it was very rare that the Town Court justified its sentences by means of reference to the Law of the Realm and it was even rarer that it looked in provincial laws for guidance. Most likely it did not even have copies of all provincial law books available. Perhaps some councillor had migrated from Östergötland and possessed a copy of the law of that province and that is how the Town Court was able to use it as a base for its sentence.

In another case, the Town Court felt that the contents of the Town Law were not enough to deal with the relationship between a husband and a wife. Adultery cases and marital problems had traditionally belonged to the jurisdiction of the Church as well, but once the Town Court had to discuss the role of ‘natural law’, a concept that is otherwise missing from the court records. In that case a husband was accused of adultery and his wife wanted to swear him free. Finally, the court decided that the wife should be allowed to defend her husband.⁹⁹

Thus, there existed a considerable amount of jurisdictional variation even within domestic judicial legislation and its adaptations. This variation and the fact that virtually all Stockholmers were immigrants or at least descendants of immigrants from other places and countries may have made the city tolerant to influences coming abroad as well, at least to a certain degree. Problems arose only when individuals felt that their interests and lawful rights had been violated or when the Town Court felt that the Swedish Law (meaning the whole complex of legal texts and practices applied in Stockholm) was violated.

6. Foreign Aspirations

⁹⁷ *Magnus Erikssons stadslag*, pp. 278, 280 (Tjuvabalken, paragraphs I–II, X); *Codex iuris Ostrogotici. Östgöta-lagen*, eds. Hans Samuel Collin and Carl Johan Schlyter, *Corpus iuris sueo-gotorum antiqui. Samling af Sweriges gamla lagar*, vol. 2 (Stockholm, 1830), pp. 89–90 (Vådamålsbalken, paragraph XXXIII); *Codex iuris communis Sueciae Christophorianus. Konung Christoffers landslag*, eds. Hans Samuel Collin and Carl Johan Schlyter, *Corpus iuris sueo-gotorum antiqui. Samling af Sweriges gamla lagar*, vol. 12, (Lund, 1865), pp. 372–3 (Tjuvabalen, paragraph IV).

⁹⁸ Trolle Önnerfors, *Justitia et Prudentia*, pp. 64–5.

⁹⁹ *Stockholms stads tänkeböcker 1596*, 70. The Natural Law was mentioned more often by the Court of Appeal, but its contents were vaguely defined if at all: the concept had already existed in medieval legal and philosophical thinking and it was utilised as a reference to a human core essence that was even more important and significant than the laws created by humans; see Trolle Önnerfors, *Justitia et Prudentia*, pp. 72–5.

One sentence, issued in 1601, reveals that the Town Court regarded it normal that the price that a merchant had to pay or that he had to sell his goods for in another town varied and was sometimes higher and sometimes lower than had been expected. If a shipper had promised his associates a higher price, they had to accept that their goods were sold at lower prices. Market prices outside one's own local community were apparently and unsurprisingly acknowledged as something that remained outside the control of local authorities and courts.¹⁰⁰ However, the Town Court of Stockholm became involved in a case, in which some brimstone (sulphur) had been sold in Danzig by the pounds that were used in Sweden, although the merchants in Danzig should have been bound to that pound that was used in Cologne and which was approximately 50 grams heavier. The buyer had met the wife of the seller in Stockholm and raised a case before the Town Court, which examined the case and allowed the buyer to receive the money that the wife of the seller had deposited in the court.¹⁰¹

Actually, in only one case did the Town Court of Stockholm approve of foreign legal customs being applied directly in Stockholm. In 1592, the Town Court had to examine a contract that had been made between a burgher and his father-in-law. The agreement was found to be contradictory to the Swedish legislation on the widow's and her children's rights to inheritance. The burgher in question, a Wolter Laurentz, had been married at least once before he entered his second marriage. He had children from his first marriage and apparently he had believed that he would not have any during his second marriage because he had made a deal with the father of his fiancée, Adam Distelerer. According to that pact, his second wife would inherit only her clothes, her best bed, her wedding ring and presents given by godparents to her potential children. Because the couple had five children in all, his widow sought to annul the contract. The other party most likely held a copy of the agreement. According to the Swedish Town Law, if a widow had had children with her deceased husband, she had no right to any dowry. Instead, she had the right to the best bed (although it is debatable how many beds there in fact were in medieval households), her best church clothes, albeit without any smith work, and half of the estate; the rest would go to the children of the couple. The Town Court regarded the contract as contradictory to Swedish legislation, but it was held to be valid because her father had approved it and because

¹⁰⁰ *Stockholms stads tänkeböcker 1601–1602*, pp. 120–4.

¹⁰¹ *Stockholms stads tänkeböcker 1549–1551*, eds. Johan Axel Almqvist and Hans Hildebrand, *Stockholms stadsböcker från äldre tid*, ser. 2, N.F., vol. 2 (Stockholm, 1937), p. 150. Cf. Sam Owen Jansson, "Skålpund," in *Kulturhistoriskt Lexikon för nordisk medeltid* 16 (Malmö, 171), cc. 64–5.

he had been her rightful guardian at the time of its making. Moreover, the late husband had not altered the contract before his death. The Town Court also decided ‘that hereafter such unlawful contracts and foreign subtlety are not to be approved, but it [= each division of inheritance] shall go according to the Swedish Town Law’.¹⁰² So the Town Court gave its reluctant acceptance, but it is unclear why it did not annul the contract – it would have been completely possible to do so and actually the court should have followed traditional Swedish norms in this case. Apparently, the Town Court valued the patriarchal societal order more than the legislation. In another case, dealt with in 1615, the Town Court forced a German-speaking family to follow the Swedish norms when it divided its inheritance, but in that case it was protecting the interests of the male heir.¹⁰³ Most likely, there were several immigrant families that followed the norms of their original home places, but the Town Court of Stockholm did not become involved in most such cases. Attempts to deviate from the law can also be traced among some Finnish immigrants when they made decisions regarding the inheritance they were about to leave, but such solutions or attempts can be explained by the great geographic distance between the immigrant living in Stockholm and the main part of his living relatives, dwelling far away in Finland – it was understandable that an elderly immigrant would wish to favour relatives who were nearby and who had helped him.¹⁰⁴

In the 1630s, when Sweden was fighting ardently against Catholicism, divisions of inheritances became problematic if one or more of the heirs were Catholic or lived in Catholic parts of Europe. The judgements issued by the Town Court of Stockholm show that individuals who served the enemies of the kingdom or who were Jesuits had no right to inherit anything from Sweden. But if a person merely lived in a Catholic area, he had a right to his share.¹⁰⁵

The court records from Stockholm mention recurring disputes and problems that arose when several foreigners tried to break the norms of the local community, not only regarding how inheritance should be divided. Most often, such offenses were connected to commercial interests. Several foreign merchants wanted

¹⁰² *Stockholms stads tänkeböcker 1592–1595*, pp. 34, 36–8 (‘...at her effter skole sådana olaglige contracter och främmande spitzfundigheet icke gilles, vthann thet skal ghå effter Suerigis stadzlagh’). Cf. *Magnus Erikssons stadslag*, pp. 42–3 (Giftermålsbalken, paragraph IX).

¹⁰³ *Stockholms stads tänkeböcker 1614–1615*, p. 122.

¹⁰⁴ *Stockholms stads tänkeböcker 1596–1599*, p. 14.

¹⁰⁵ *Stockholms stads tänkeböcker 1634*, ed. Bo Elthammar, *Stockholms tänkeböcker från år 1592*, vol. 22 (Stockholm, 2008) p. 18; *Stockholms stads tänkeböcker 1635*, p. 19.

to have greater freedom in their trade than allowed them by their roles as guests. Consequently, individual foreigners were repeatedly fined for such offences. Such cases could create tensions among burghers: in 1635, a local merchant of German origin turned in a young merchant's aide (*köpsven*), on the basis of his name most likely a German too, because the aide had gone against the 'privileges of the town' (actually against the Town Law as well as the royal ordinances regarding merchant's trade) by travelling to the villages in the Swedish copper mine areas as well as to several inland towns and conducting commercial activities during his voyage. Such illicit business trips were in fact quite common and a constant source of minor conflicts between the burghers and the guests. In this case, another burgher, also with a German name, was summoned to witness against the aide, but he was unwilling to do so until he was reminded that his burgher oath obliged him to do so: that is, he was supposed to prioritise the interests of his fellow burghers and not those of his countrymen.¹⁰⁶

But what apparently was the most difficult thing for many guests staying over the winter to accept was the responsibility of paying taxes to the local community, as the Town Law prescribed. In late May 1551, all the German merchant's aides were called to the Town House of Stockholm. They were accused of not having paid their taxes although they had spent the whole winter in the town. But the aides explained that they had been exempted from the taxes earlier and asked to keep those 'liberties which they had had a long time' (*frijheter, som the en tiid lång haft haffue*). The town council replied that they should have thanked the king for that liberty but they had neglected to do so – even when he had visited the town. That is why the council declared that they were each obliged to pay a fine of 40 marks according to the Swedish Law and besides that pay their taxes as the law prescribed.¹⁰⁷

On the basis of the aides' answer, it is possible that the winter stayers had been exempted from local taxes at some stage but this burden was re-introduced later, apparently under the reign of King Gustav. The obligation to pay tax after a stay of more than six weeks is mentioned in the ordinances given by King Gustav, but not earlier than six years after the above-mentioned case, that is in 1557. The ordinances make it known that foreign merchants and their aides had always paid tax to the town earlier, but such a formulation may merely have been a propagandistic attempt to hide the dissonance that had arisen.¹⁰⁸ It may indeed have been

¹⁰⁶ *Stockholms stads tänkeböcker 1635*, pp. 28–30.

¹⁰⁷ *Stockholms stads tänkeböcker 1549–1551*, p. 127.

¹⁰⁸ *Stockholms stads privilegiebref*, p. 51.

King Gustav who in the 1550s wanted to exploit more fully the economic potential of the German merchants and their aides.

The exemptions of winter stayers from taxes must have been focused merely on foreigners – it must be remembered that there were also domestic merchants or their aides among the guests and winter stayers. In April 1546, that is five years before the case regarding the obligations of the German guests, a dissatisfied merchant's aide claimed, apparently in an outraged state, that he would not pay any taxes to Stockholm thereafter. Instead, he announced that he would pay his taxes to Lübeck because there was, at least according to him, an annual maximum limit of 24 *penningar*, which he felt was more reasonable. Moreover, he stated that he would become a German aide and act in Stockholm like any other German visitor, so that he would not be obliged to serve the kingdom of Sweden anymore. The outraged aide had a Scandinavian name, Oluf Larsson, so he was most likely a Swede, although a Finnish origin cannot be excluded. The same holds true for the burgher supervising the taxation, Erik Svensson. He reprimanded Oluf by pointing out that 'You owe more to Sweden, where you have been born, than to Lübeck.' The quarrel soon escalated into a violent battle, but luckily, no one lost his or her life because of it.¹⁰⁹

The case shows no doubt how two contradicting ideas clashed: the modern idea of becoming a 'tax refugee' and the patriotic idea of one's native country as something one owed responsibilities in spite of how onerous they might be. But if Oluf Larsson's (alleged) strategy appears modern in our eyes, neither was Erik Svensson's standpoint outdated in the 1540s. On the contrary, his point of view can be regarded as a positive reception of the leading elites' patriotic propaganda, which had been disseminated in different ways into lesser layers of Swedish society, firstly during the last decades of the fifteenth century when Swedish regents had combated Danish kings, and even more intensively during the reign of King Gustav Vasa (1523–1560). That propaganda aimed to make the subjects of the Swedish Crown aware that they were first and foremost Swedes, both as loyal subjects and taxpayers and as a nation.¹¹⁰

¹⁰⁹ *Stockholms stads tänkeböcker 1544–1548*, eds. Johan Axel Almqvist and Hans Hildebrand, *Stockholms stadsböcker från äldre tid.*, ser. 2, N.F., vol. 1 (Stockholm, 1935), p. 177 ('*Dhu wore mere plictug Sverige, ther thu jnfödder är, än Lubke.*').

¹¹⁰ Margaretha Nordquist, *A Struggle for the Realm. Late-Medieval Swedish Rhyme Chronicles as Ideological Expressions* (Stockholm, 2015), pp. 126–7.

The obligations of longer-staying guests were delineated in later ordinances.¹¹¹ The town council reminded guests of their obligations: in 1576, it was stated that all ‘strangers’ who stayed in the town more than six weeks would be obliged to pay taxes to the town and subordinate other responsibilities towards the town as well. This was repeated in 1577. Then it was decided that visiting merchants would be allowed to stay seven weeks at most.¹¹²

It had happened in several Danish towns that Hanseatic merchants had been unwilling to subordinate themselves to local legislation and regulations. Conflicts arose when Germans occasionally refused to pay for the right to stay in the town during the winter. Paradoxically, the Danish practices had been modelled after German examples, but as guests abroad themselves, Germans were seeking wider rights.¹¹³ At least occasionally, guests were able to bypass the tax-paying obligations because they either did not report their presence or their hosts and business partners did not do so. This is why it was possible, like in May 1601, that the council became aware that, in all, eighteen foreign merchants from different countries had stayed in Stockholm longer than was allowed in the law.¹¹⁴

In spite of all regulations regarding guests’ rights and obligations, at least one local burgher, Hans Fougitt, who on the basis of his name was of foreign origin, felt that the foreigners had greater rights in Stockholm than the domestic persons. His viewpoint was written down in the protocols of the Town Court in 1599.¹¹⁵ It is revealing how an individual of non-Nordic origin apparently felt no solidarity with merchants from areas where he had his genealogical roots; instead he regarded himself as a part of the local community or perhaps foremost a member of the local burgher community. Therefore, he felt that the rights of the locals should have been defended better than was the case.

In some cases, the Town Court acted harshly towards foreigners. In 1601, the Town Court decided to treat Elias Bylow, a burgher from Lübeck, with hard hands because he had not handed over to the court a certain sum of money (73 dalers), contrary to the decision of the court. Elias Bylow was willing to pay the

¹¹¹ *Stockholms stads privilegiebref*, pp. 57, 67.

¹¹² *Stockholms stads tänkeböcker 1576–1578*, eds. Johan Axel Almqvist and Hans Hildebrand, *Stockholms stadsböcker från äldre tid*, ser. 2, N.F., vol. 5 (Stockholm, 1943), pp. 32, 252, 281–2, 302.

¹¹³ Poul Enemark, “Gæster,” in *Kulturhistoriskt lexikon för nordisk medeltid V* (Malmö, 1960), cc. 698–93, here cc. 689, 691.

¹¹⁴ *Stockholms stads tänkeböcker 1601–1602*, p. 33–5.

¹¹⁵ *Stockholms stads tänkeböcker 1596–1599*, p. 372.

required sum of money so that the court would read the actual law paragraphs aloud for him in return. The court kept the money but did not allow him to enjoy the Swedish law. It did not help that Elias Bylow and the burgher who was lodging him offered to gather eight guarantors for him. Elias was put in prison and he was not even allowed to visit the church on the following morning. He was told that he would be imprisoned as long as he did not follow the sentence issued by the court. Three days later Elias Bylow appeared before the court. He now asked for his sentence to be read to him and this happened after he had paid 5 öre more. Regarding the 73 dalers he should submit to the court, he asked if he could present a guarantee for them. But his counterpart referred to a case in the court of Norrköping where he had been obliged to pay immediately, so he asked that the same would be applied this time, too. Finally, in spring 1604, Elias Bylow was obliged to leave Stockholm together with his family within two weeks after Easter or when the sea was free from ice.¹¹⁶

In 1593, an Italian called Nicolaus Stangnirole, dwelling in Norrmalm, accused six young men of being thieves and asked that they be imprisoned. He asked also for the men to be tortured so that they would confess, but the court did not approve it because the Swedish law did not allow for such practices. Apparently, Stangnirole was used to more drastic judicial practices. When Stangnirole found the real thief himself, the man was hanged as Swedish law stipulated, but the six wrongly imprisoned young men demanded compensation. The court read aloud a 'harsh text' (*enn hård täxt*) from the law book for 'the Italian' (*italianen*) – the formulation reveals that his ethnic background was regarded as an alienating and aggravating factor in this context. Thus Stangnirole became informed on the penalty for ungrounded accusations and actions, but the court was apparently not willing to punish him – instead, it recommended that he should reconcile with the young men in question, which seems also to have happened although not all the details have been written down.¹¹⁷

In 1593, when the chamois leather tanners' (*sämskmakare*) guild asked the council for a confirmation letter for a certain Hans Andress who had served his year as an apprentice and wanted to be his own master in another Swedish town, the council denied the petition. Instead, the tanners were reminded of the fact that they should train as many Swedish apprentices as German apprentices – apparently, Hans Andress was regarded as a foreigner. The same seems to have held true for the tanner masters as well, because they claimed that they

¹¹⁶ *Stockholms stads tänkeböcker 1601–1602*, p. 130; *Stockholms stads tänkeböcker 1603–1604*, p. 182.

¹¹⁷ *Stockholms stads tänkeböcker 1592–1595*, p. 117.

had sworn abroad that they would not have Swedes or any other ‘nations’ (*ingen svensk eller annan nation*) as their apprentices but only their compatriots, Schlesians. ‘With that they were turned away without any confirmation letter’ (*der medh blefue the affwijste, vthan laere breff*).¹¹⁸ Apparently, the Town Court of Stockholm disapproved of such patriotic and anti-Swedish sentiments.

7. Courts in Co-operation

By the middle of the sixteenth century, the range of the Stockholmer merchants’ activities had reached the Iberian Peninsula. A burgher called Brynolf Skräddare (‘Tailor’) was imprisoned while visiting Lisbon, accused of having had intercourse with a young Jewess. At last, he was freed because local honourable wives examined the young woman and concluded that nothing had happened. However, during his imprisonment Brynolf had been obliged to borrow money from another merchant, called Lyder Timme, apparently in order to buy himself food and other necessities. On the basis of his name he was most likely of German origin, whereas Brynolf was probably of Scandinavian origin. Far from the Baltic area, these two men had somehow come into contact with each other, or perhaps they already had known each other. In a notice from 1556, Lyder Timme has the epithet ‘from [actually to] Lisbon’ (*Lyder Tymme tiill Lijsbonn*) which signifies that he dwelled there more or less permanently.¹¹⁹

Soon there arose a dispute between these two men, because they had differing opinions regarding how much Brynolf had borrowed and who actually was in debt to whom and by how much. In 1555, Lyder brought a case against Brynolf before the Town Court of Stockholm. The court decided to handle the case but in return Lyder was obliged to accept that the matter was to be solved in Sweden and especially in Stockholm and not elsewhere. He had to present a local burgher, namely Antonius Hagenow – another German on the basis of his name – as a guarantor of that commitment. The necessity of having a guarantor in a case like this shows that the council was not able to trust that its verdict would be shared by other judicial courts in other places.

In the following year, the dispute between Brynolf and Lyder was heard twice at the Town Court of Stockholm. Lyder had acquired written statements from Germany – apparently from one or more German town

¹¹⁸ *Stockholms stads tänkeböcker 1592–1595*, p. 133.

¹¹⁹ *Stockholms stads tänkeböcker 1549–1553*, pp. 242–3; *Stockholms stads tänkeböcker 1553–1567*, pp. 112–5, 157–8.

courts – as well as from Lisbon. The Town Court of Stockholm examined the statement written by the public notary in Lisbon and concluded that it must be regarded as reliable.

Brynolf's case was in many respects unique, but even every-day business transactions and deals often involved merchants and other parties in several towns and other places. Moreover, a ship used for commercial trips was sometimes owned by several burghers living in different towns and countries. Besides these patterns, genealogical bonds often connected individuals living even far away from each other.

Thus, the capital and resources utilised within commerce often had a transnational character. Consequently, interregional and even international interaction was traditionally a part of virtually all town courts' activities. Usually, that interaction was based on written communication, but the contacts between different courts could be direct, meaning that the courts corresponded directly with each other, or indirect, meaning that the courts issued certificates and confirmation letters that were transmitted to other courts and authorities via the individuals who had received them.¹²⁰ Regarding problems with international commerce, the communication between the Town Court of Stockholm and its peers took almost entirely indirectly, via burghers or guests who brought written statements from other courts or who were obliged to acquire such documents. Likewise, the Town Court occasionally produced confirmation letters and other documents for burghers and guests who were contacting authorities and courts in other places.¹²¹

It was in fact quite usual for the Town Court to require justice seekers to acquire some kind of written evidence from other courts in foreign cities in order to be able to hear the case. In the 1620s and the 1630s, the Town Court sometimes appears stricter than the Court of Appeal in its policy of requiring written confirmed documents as evidence. In 1621, when hearing a dispute between a German guest from Copenhagen and a burgher living in Stockholm, the Town Court wanted to see the original agreement or at least an attested copy of it. But when the claimant raised his case in the Court of Appeal, it regarded the evidence as entirely sufficient and returned the case back to the Town Court. However, the Town Court still insisted on more evidence from the claimant. This gave the claimant reason to express his astonishment regarding the Swedish judicial system: he said that he was unable to understand what proof could be presented against a debt agreement and he claimed

¹²⁰ Mika Kallioinen, "Inter-Communal Institutions in Medieval Trade," *The Economic History Review* 70 (2017), pp. 1–22.

¹²¹ *Stockholms stads tänkeböcker 1578–1583*, pp. 113–4.

that in Denmark the debt would have been collected even on the basis of the '*Gastrecht*'. But the accused party was able to free himself from the claims through the help of two men who testified that he had already paid the debt. The claimant's aide did not appear in the court any more – apparently because he understood that the case had been lost.¹²²

Sometimes the Town Court received contradictory evidence from different courts and then it applied Swedish criteria for the written statements in order to conclude which confirmation should be regarded as the most reliable. Thus, even written statements from other courts were occasionally denied judicial cogency in Stockholm if they were not oath-sworn or if they were not regarded as detailed enough. The evaluation was done by comparing the documents to the Swedish laws.¹²³ The Town Court was also able to make modifications to statements presented to it. For example, when a German burgher was appointed by the council of Lübeck to collect debts in Sweden on behalf of a deceased merchant's widow, the Town Court of Stockholm confirmed his warrant but required that everything the deceased one owed to others in the kingdom of Sweden should be paid off first.¹²⁴

Because the Town Court still consisted mostly of merchants at the beginning of the seventeenth century, it showed understanding for their affairs, for example in the case of a German merchant who had not been able to fulfil his promise and appear before the court since he had been involved in Regent Charles's actions and travels. Because the case involved the most prominent person in the whole realm, at least indirectly, the court gave the defendant more time to order evidence from Danzig and Rostock.¹²⁵ In several cases, however, the Town Court of Stockholm did not actually seek to resolve the case; instead it obliged one or both parties to appear in court at some other place, for example in Lübeck or in Riga or in Kopparberget, that is the copper mine district in Sweden. Usually, the Town Court then also set a time limit for the involved parties.¹²⁶

If a case had already been raised or tried in another court in some other place, in Sweden or abroad, the Town Court of Stockholm seems to have been happy merely to refer the quarrelling parties to it. This happened

¹²² *Stockholms stads tänkeböcker 1620–1621*, eds. Sven Olsson and Naemi Särnqvist, *Stockholms tänkeböcker från år 1592*, vol. 12 (Stockholm, 1976), p. 174; *Stockholms stads tänkeböcker 1622–1623*, eds. Sven Olsson and Naemi Särnqvist, *Stockholms tänkeböcker från år 1592*, vol. 13 (Stockholm, 1978), pp. 24–5, 38.

¹²³ For example, *Stockholms stads tänkeböcker 1584–1588*, pp. 267–70, 332–3.

¹²⁴ *Stockholms stads tänkeböcker 1596–1599*, p. 42.

¹²⁵ *Stockholms stads tänkeböcker 1601–1602*, pp. 84–5.

¹²⁶ For example, *Stockholms stads tänkeböcker 1592–1595*, p. 249; *Stockholms stads tänkeböcker 1596–1599*, pp. 302–3.

especially in cases in which both parties were non-Stockholmers.¹²⁷ In one case, noted in 1604, one might suspect that the town councillors were not willing to get involved in a case that concerned one of their peers in another Swedish town: when the Town Court was informed that Jöns Staffensson, who was burgomaster in Bogesund in the province of Västergötland, had insulted the royal coinage and called it mischievous money (*skälmskt mynt*), the councillors washed their hands of it by referring the case to ‘down there’ (*dit neder*), that is to Bogesund, because the alleged blasphemy had happened there and all the witnesses lived there.¹²⁸

But on several occasions, the Town Court did deal with a case that was already being heard or had been heard in another town in Sweden or abroad. For example, in one case, heard in 1619, the disputed goods had been seized in Lübeck, but the Town Court of Stockholm heard the case and applied Swedish Town Law. The Town Court justified its actions by referring to the following facts: the debt in question had been made in Sweden, both parties traded in Stockholm, and the claimant had promised to pay the debt in Stockholm.¹²⁹ In another case, also heard in 1619, one party did not live in Stockholm but instead elsewhere in Sweden, in the duchy belonging to the younger son of late King Charles IX, but because the house under dispute was situated in Stockholm, the Town Court accepted the suit, which was quite understandable.¹³⁰

However, on several occasions the Town Court of Stockholm refused to hear further such cases and justified this by referring to the verdicts or ongoing processes in other places. In 1619, one case was referred to England, without précising to which actual court, although it appears that the property in question was situated in London. The justification was that the guardians were living in England, the account books were there, both the family and the house were in London and all parties involved were subjects of the king of England.¹³¹

Nevertheless, there were numerous cases that the Town Court accepted in spite of the fact that the case had already been tried elsewhere. This held true, among other things, for a dispute regarding a certain debt in 1624: the case had already been heard in Holland but the Town Court of Stockholm was willing to accept it

¹²⁷ For example, *Stockholms stads tänkeböcker 1576–1578*, pp. 120–1, 296–7; *Stockholms stads tänkeböcker 1592–1595*, p. 132.

¹²⁸ *Stockholms stads tänkeböcker 1603–1604*, pp. 285–8.

¹²⁹ *Stockholms stads tänkeböcker 1619*, eds. Sven Olsson and Naemi Särnqvist, *Stockholms tänkeböcker från år 1592*, vol. 11 (Stockholm, 1974), pp. 28–9.

¹³⁰ *Stockholms stads tänkeböcker 1619*, p. 29.

¹³¹ *Stockholms stads tänkeböcker 1619*, p. 38.

when a merchant, apparently of Dutch origin, contacted it. However, the Town Court wanted to know how the Dutch court had resolved the case.¹³²

In the very same year, the Town Court of Stockholm dealt with a debt dispute between two Germans living in Copenhagen and Söderköping and concluded, on the basis of the written documents, that the debt had to be paid – although the transaction had taken place in Copenhagen.¹³³ This and similar cases were actually contradictory to the traditional policy of the Town Court and its legal basis, the Town Law, which claimed that a case had to be tried where it had originated. A year later the Town Court dealt with a calamity that had happened abroad and that had been caused by stormy weather condition. The Town Court confirmed the verdict of the court in Rostock where the disaster had occurred.¹³⁴ By dealing with cases that actually belonged elsewhere, the Town Court of Stockholm occasionally gave itself a status as a kind of a higher court or a court with a higher authority – a court that had the power to confirm or not to confirm sentences issued by other, even foreign courts.

These exceptions from the main policy sometimes also dealt with criminal affairs. For example, in 1612, the mother of a student killed in Uppsala, the Swedish university town, raised the case against the manslayer, a Frenchman, although the last mentioned was not present and even though the Town Court of Uppsala had already heard the case. But the Town Court of Stockholm examined the case and heard a Frenchman who was a companion of the alleged killer. He stated that he had already given a statement at the Town Hall of Uppsala and was not able to add anything more. There is no indication that the Town Court of Stockholm consulted their peers in Uppsala. Nevertheless, the Town Court of Stockholm concluded that the alleged killer should be condemned to death.¹³⁵

In certain cases the Town Court of Stockholm let the foreign court resolve the case, but because it, too, had been contacted, it decided that the disputed sum of money should be kept at the Town Hall in Stockholm until the process had come into an end. The idea was, of course, that the winning party should get the money.¹³⁶ But in at least one case, the Town Court did not follow the sentence given by a foreign court: in a dispute

¹³² *Stockholms stads tänkeböcker 1624–1625*, eds. Sven Olsson and Naemi Särnqvist, *Stockholms tänkeböcker från år 1592*, vol. 14 (Stockholm, 1979), pp. 169, 192.

¹³³ *Stockholms stads tänkeböcker 1624–1625*, p. 143.

¹³⁴ *Stockholms stads tänkeböcker 1624–1625*, p. 337.

¹³⁵ *Stockholms stads tänkeböcker 1608–1612*, p. 185.

¹³⁶ For example, *Stockholms stads tänkeböcker 1584–1588*, p. 5.

regarding an unpaid debt between a German from Hamburg and another who had moved to Stockholm in 1620, the Town Court decided that it was unable to deal with the case because it already had been resolved by the council of Stralsund as well as by the Court of Appeal of Wolgast.¹³⁷ It is unclear, though, why the Town Court did not require the merchant who had moved to Stockholm to pay the debt, according to the sentence given in Stralsund, although in several other cases it acknowledged the validity of verdicts issued abroad. Most likely, the Town Court was for some reason protecting a member of the local burgher community, although he was of foreign origin.

There were also cases that were brought before the Town Court by non-residents merely because one or both of the disputing parties happened to be in Stockholm, as happened, among other things, in the above-mentioned case dealing with brimstone trade that had taken place in Danzig. Similar patterns can be found in several other cases as well. For example, in 1620, regarding a dispute between a merchant's widow from another Swedish town and a Scottish merchant's aide, both visiting Stockholm at the time, the Town Court obliged the male party to appear before any court or send a representative if the case should be continued in another place.¹³⁸ In a case examined in 1594, the disputing parties originated from the town of Turku (Åbo in Swedish) and the village of Åketorp in the province of Västergötland: a farmer from the last-mentioned village was allowed to present his evidence before the Town Court of Stockholm with the justification that the parties involved lived so far away from each other.¹³⁹

Sometimes it is difficult to understand why certain information dealing with foreign merchants was written down in court records. For example, in 1586, a merchant called Dirik Bökman had a total of five letters from the council of the town of Kolding written down in the record book. The letters had been written between 1579 and 1584 and they dealt with the exemption of Kolding from certain internal Danish tariffs, its medieval privileges and Dirik Bökman's intention to quit his position as a burgher and move to some other place. In particular, the last mentioned letter functioned simultaneously as testimony to Dirik's societal reputation, but it is difficult to understand why the Town Court of Stockholm should have been interested in details regarding internal Danish regulations.¹⁴⁰

¹³⁷ *Stockholms stads tänkeböcker 1620–1621*, p. 84.

¹³⁸ *Stockholms stads tänkeböcker 1620–1621*, pp. 52–3.

¹³⁹ *Stockholms stads tänkeböcker 1592–1595*, pp. 239–40.

¹⁴⁰ *Stockholms stads tänkeböcker 1584–1588*, pp. 183–6.

Of course, foreign and even domestic merchants could escape the verdict and judicial processes. They could simply disappear or not return even though the process was incomplete. This was in fact easier in the sixteenth century than during earlier times, as the increasing role of written documents and judicial representatives made it unnecessary for both claimants and defendants to appear personally before the courts.

The Town Court was able to require certain measures from such individuals, but if they stayed away, no one was able to require them to follow the decisions. A foreign defendant could also refuse to answer to the claims in Sweden if they wanted to do so in some other country, by claiming that the dispute was already undergoing judicial treatment there. Naturally, the Town Court of Stockholm was not bound to any defendant's wishes, but in one such case the court consulted noble authorities before making any decision.¹⁴¹ In certain cases, when a condemned party had fled a verdict given by a court abroad, the Town Court of Stockholm was able to assist the other court by allowing the case to be re-opened or continued in Stockholm – of course, provided that the party who had fled had come to Stockholm.¹⁴²

8. Conclusions

This article has proved that Swedish legislation was continuously prioritised and even emphasised in the jurisdictional activities of the Town Court of Stockholm. The Swedish legislation was regarded as the sole base for all sentences and decisions, but since in practice it consisted of numerous judicial texts and not solely one law book containing the Swedish Town Law, that foundation made it possible for the judges to select and apply different norms and rules. Together with the fact that most town dwellers, even the domestic ones, had some kind of immigrant background, this must have made mentalities open to negotiation and external influence. Thus, the early modern roots of the commercial law in Sweden did not grow in an entirely domestic ground. However, the Town Court was apparently neither willing nor able to let people staying or dwelling on Swedish soil to follow foreign legal practices exclusively. The official goal seems to have been that all were subject to Swedish legislation, regardless ethnic or cultural background. This was also the policy of the ruling

¹⁴¹ *Stockholms stads tänkeböcker 1616–1617*, pp. 89–90.

¹⁴² *Stockholms stads tänkeböcker 1627*, ed. Jan Gejrot, *Stockholms tänkeböcker från år 1592*, vol. 16 (Stockholm, 1994), p. 86.

domestic dynasty, which sought to control happenings and circumstances in local communities more intensively than its predecessors had been able to do. The central power gave courts less and less freedom in their actions. However, at least on the idealistic level, the Town Court of Stockholm sought to make even the foreigners accept the verdicts and not just subordinate themselves to them. With certain exceptions, the Town Court sought to appear impartial in front of foreigners as well. This policy also coincided with the aspirations of the kings and regents, and it had already been expressed in the medieval Town Law.

Interregional and international commerce in particular launched cases in which the Town Court of Stockholm had to interact with other courts in other places and even outside the realm. Communication with other courts – either directly in the form of correspondence or indirectly via individuals seeking justice and asking for confirmation letters or other documents – forms the channel that constantly maintained external influences within the judiciary system in Stockholm. In several cases, the Town Court willingly let other, even foreign, courts resolve cases that individuals tried to bring before it. Many cases required cooperation between at least two different courts before they could be resolved. But especially in this area the Town Court was not quite consistent and sometimes it did hear cases that had undergone a judiciary process in some other place or that were currently undergoing such a process.

The notices in the court records changed greatly over the course of time, so it is difficult to make comparisons between different eras and detect what might have changed. The overall image emphasises continuities, which is a plausible interpretation because the central power had more and more tools to ensure that the ideas and norms expressed in laws and ordinances actually became lived practices. However, as several examples presented above have proved, the Town Court of Stockholm nevertheless also possessed a certain freedom of choice that in some occasions resulted in solutions that actually contradicted the written law.