

## [0923] Cloth as Currency: Clothing and the Naked in Old Frisian Law

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### 1. Introduction

Poverty and nakedness have been equated throughout the Middle Ages. In Matthew 25, eternal life (in heaven) is granted to those who feed the hungry, give drink to the thirsty, take strangers into their home, and clothe those who are naked.<sup>1</sup> This theme recurs in various saints' lives, most famously in that of Saint Martin of Tours. Saint Martin encountered a naked poor man (*pauperem nudum*) and split his own cloak in two with his sword to give half of it to the naked man.<sup>2</sup>

According to surveys of many cultures, the truly natural state of human beings is dressed,<sup>3</sup> and the association of nakedness and poverty might reflect the assumption that such an unnatural state as nakedness is only assumed reluctantly, by those who truly cannot afford clothes. Clothing, on the other hand, is often associated with wealth, as is shown by Margaret Rose Jaster, who treats the late-medieval and early-modern conviction that extravagant attire drained the realm of its wealth, thereby impoverishing the population.<sup>4</sup>

The economic connotations of clothing and nakedness were widespread during the Middle Ages, but the context of their symbolism differs widely – from the context of Christian charity in Saint Martin's case, to the justification for apparel legislation treated by Jaster. The present article will discuss an economic meaning given to clothing and nakedness that similarly relates clothing to economic means and nakedness to poverty, but is

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1. Matthew 25:31-46 (Argyle (1963) 192).
  2. Philine Helas, 'The Clothing of Poverty and Sanctity in Legends, and their Representations in Trecento and Quattrocento in Italy', in: Kathryn M. Rudy and Barbara Baert eds., *Weaving, Veiling, and Dressing: Textiles and their Metaphors in the Late Middle Ages*, vol. 12 (Turnhout 2007), 247-8.
  3. Anne Hollander, *Seeing through Clothes* (New York 1978), 84.
  4. Margaret Rose Jaster, "'Clothing Themselves in Acres": Apparel and Impoverishment in Medieval and Early Modern England', in: Robin Netherton and Gale R. Owen-Crocker eds., *Medieval Clothing and Textiles*, vol. 2 (Woodbridge 2006), 91-95.

informed differently still. In some medieval societies, cloth was used as a form of currency, especially within the legal system.<sup>5</sup> It is this economic significance of cloth that informs a broader symbolism of clothing in Old Frisian law, and illustrates the inconvenience of impecuniousness and its legal implications.

I will therefore explore the symbolism of clothing that relates clothes to economic means and nakedness to poverty, and look at the legal use of this symbolism. The medieval Frisian law codes contain an intricate economic symbolism of clothing, that is tied to the protection provided by clothes and the role of cloth as a means of payment within the legal system. Further ties between clothing, property, and financial means inform the figure of the *blata*, literally ‘naked one’ (NOM sg. and pl. *blata*). He is said to be naked, because he lacks the financial means and property clothes represent, which has serious legal implications. The economic symbolism of clothing and nakedness will be treated in detail, followed by a discussion of the *blata* and the legal significance of the symbolism surrounding him.

## 2. *Protective Function*

As clothing protects against the elements, the cold, and other detrimental forces from the outside, it is likened to the protection provided by a house through various analogies. This was not only because of their shared protective qualities, but also because they were both seen as essential forms of property, which is a first indication for the economic connotation of clothing.

The function of clothing to protect against the elements and the cold, in particular, is most eloquently described in the third exception to the second Landlaw in the Fivelgo Manuscript.<sup>6</sup> The second Landlaw forbids the sale of the property of an underage child by his widowed mother. If she decided to sell his property nonetheless, the child, once no longer a minor, could rightfully demand back his possessions. Nevertheless, there are some exceptional circumstances under which a guardian was allowed to sell these possessions, the third of which concerns the present investigation:

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5. See Michèle Hayeur Smith, ‘Weaving Wealth: Cloth and Trade in Viking Age and Medieval Iceland’, in: Angela Ling Huang and Carsten Jahnke eds., *Textiles and the Medieval Economy: Production, Trade, and the Consumption of Textiles, 8th–16th Centuries* (Oxford/Philadelphia 2015), 23–40.

6. Other redactions of this regulation can be found in manuscripts E1, H, J, U, and D.

*Thio thredde ned is: Sa thet kind is stocnakend jeftha huslas and thenna ti thiuster niwel- and nedcalda winter and thio longe thiustre nacht on tha tunan hliet, sa faret allera monna hwelic on sin hof an on sin hus an on sin warme winclen and thet wilde diar secht thera birga hli and then hola bam, alther hit sin lif one bihalde. Sa waynat an skriet thet vnierich kind and wepet thenne sine nakene lithe and sin huslase an sinne /feder, ther him reda scholde with then hunger and then niwelkalda winter, thet hi sa diape <and> alsa dimme mith fior neilum is vnder eke and vnder ther molda bisleten and bithacht. Sa mot thio moder hire kindis erue setta and sella, thervmbe thet hiu ach ple and plicht, alsa longe sa hit vngerich is, thet hit noder frost ne hunger ne in fangenschip vrfare.<sup>7</sup>*

The third necessity is: when the child is stark naked or homeless, and when the dark, misty, and ice-cold winter, and the long dark night spread over the fences, then each man heads to his yard and his house and his warm room; and the wild animal seeks the shelter of the mountain and the hollow tree, in which it can save its body. Then, the underage child cries and moans and beweeps his naked body, his homelessness, and his father, who would save him from hunger, and the cold, misty winter; and that his father is so deep and so dark, by four nails, covered under oak and under earth. Then his mother is allowed to pawn and sell the child's inheritance, because she has the care and duty to make sure that it does not die from hunger or cold as long as it is a minor.

The child's naked body is threatened by the 'dark, misty, and ice-cold winter', as well as the 'long dark night'. The circumstances bring about a need for proper clothing that is dire enough to allow an exception to the second Landlaw. The child's mother even has the 'care and duty' to sell part of the inheritance, which was strictly forbidden for her to sell otherwise, in order to ensure that her child would not die from hunger or cold. The sale of the inheritance is necessary, because the cause of the nakedness and homelessness is poverty in the first place.

A garment would quickly solve the most prominent problem of the child being naked. The passage makes a telling comparison to this effect, that underlines the idea that clothing is meant to protect against outside threats: the safety, comfort, and warmth provided by clothing are compared to those of a house. In the passage above, the child is explicitly said to be in danger because of its nakedness and homelessness. Cover and safety is sought and

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7. L<sup>24</sup>, F IV no. 2 (Buma, Ebel (1972) 42).

found in one's own yard, house, and warm room; the homeless mother is obliged to provide her child with the same protection through clothing. Han Nijdam has pointed out that clothing was likened to a house elsewhere in the laws as well. A burglar needed to break through three doors in order to penetrate into the heart of a house; likewise, three pieces of clothing were to be cut through before a woman's skin showed.<sup>8</sup> Furthermore, the tariff lists and other legal texts show the inclination to treat offenses pertaining to clothing, for instance theft of garments, alongside offenses concerning the house, such as trespass and burglary.<sup>9</sup>

The symbolism is clear: clothing and housing protect the body from the cold and the elements. But there is another symbolic message in this passage, one that is of great interest to the remainder of the present investigation. Whereas the mentioned yard, house, and warm room signify realty, as do the other mentions of house and home discussed above, clothing, a moveable good *par excellence*, signifies personalty. As will be further elaborated upon, the protective house and clothing symbolize property. Like the pitiful child in the passage above, one who is without home and clothing is without any property at all.

The protective function of clothing encompassed more than just protection against the elements and the cold. The following passage from the Statutes of Magnus shows that clothing provided protection against violence as well. The mentioned Frisians are naked, which stresses their vulnerability when faced with the Roman enemy. That they have to fight 'with their hands' shows that their nakedness indicates an unarmed state. A close reading of the passage also reveals a connection between being naked and being without wealth.

*Tha thet strid vphewen warth twisc Romera heran and thene kening Kerl, tha brochtma tha nakene Fresan alles afara, hu se erst alle forslain worde. Tha nethtend tha Fresan mitha liwe and efter bifuchten hiat mithta hondum, thet se Rome wonnen an thredda tyd thes deys, tha Romera heran ouer hiara mose weren. Tha brochte Magnus, ther Fresana foner was, sinne fona vppa thene allerhagesta turn, ther binna Rome was. A, hu leith thet kening Kerl was, er weren se alle nakend Fresan heten, tha het se thi kening <alle heran> and bad ma tha herum*

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8. Han Nijdam, *Lichaam, eer en recht in middeleeuws Friesland: Een studie naar de Oudfriese boeteregisters* (Hilversum 2008), 250.

9. BHu<sup>b</sup>, H2 IX no. 65-67 (Buma, Ebel (1969) 84); B2, §37, 64 (Buma, Ebel (1965) 40, 54).

*gold and gode wed; tha bad ma allerekum sinne breda schild mitha rada golde to bislain; tha bad ma tha herum allerekum to settane in ene sunderga rike and mam therof thianede, alsa ma ena weldlicha kening scholde. Alle tha iefta, ther thi kening bad, tha withsprec Magnus an kas en alle betera. An kas thet, thet alle Fresan were freiheran, thi berna and thi vneberna, alsa longe sa thi wind fonta himele weide and thio wralde stode, and wellat wesa mith kere thes keninges herenatan.*<sup>10</sup>

When the battle between the lords of the Romans and Charlemagne commenced, the naked Frisians were led to the very front, so that they would all be defeated first. Then, the Frisians risked their lives, and thereafter they fought with their hands, so that they won Rome on the third time of day, while the Roman lords were dining. Then Magnus, who was the Frisians' flag-bearer, brought his flag to the very highest tower there was in Rome. Ah, how uncomfortable this was for Charlemagne; before, they were all called 'naked Frisians', now the King called them all lords, and people offered the lords gold and fine garments; then people offered one of them to plate his broad shield with red gold; then people offered every one of the lords to place them in a special realm, from which they would serve him [Charlemagne] as befits a mighty king. All the gifts the King offered, Magnus rejected, and he chose a better gift altogether. He chose that [gift], that all Frisians would be free lords, the born one's as well as the unborn, for as long as the wind blows from the sky and the world exists, and that they wanted to be the King's comrades in arms out of free will.

Nakedness indicates a subordinate status, as the passage consciously contrasts being naked to being a lord. At first, the naked Frisians received a front-row placing as a cheap vanguard against the Roman enemy. When they won Charlemagne the battle, and took Rome for him, they became lords, and were offered the gold and garments they – poor, naked men – lacked. Gold and fine garments are fitting for lords, and so are gold-plated shields and a realm to rule. Magnus, however, understood that these paraphernalia of wealth and power, albeit the symbols of property the Frisians so obviously lacked, were mere paraphernalia nonetheless. He rejected the gifts offered to the Frisians, and instead chose for freedom for them and their descendants – without an overlord, and ruled by the emperor directly, but only so by choice.

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10. Mgn, F V no. 1 (Buma, Ebel (1972) 54).

Whatever Magnus' choice, the passage stresses the connection between being naked and being vulnerable, lowly and unfree, on the one hand, and wearing clothing, sporting golden artifacts, and being in power, on the other. In doing so, the story combines the lack of means and a consequently low status that are so characteristic of nakedness elsewhere in the laws. In order to better understand the connection between nakedness and clothing, on the one hand, and possession of means and property, on the other, the following paragraphs will dive into the economic aspects of cloth and clothing.

### 3. *Cloth as Currency, Clothing as Property*

Clothing as a symbol for property and financial means is widespread among the Old Frisian laws. Before dealing with the implications of the symbolism of clothing as property, it is important to understand its context and origins. Therefore the various connotations of cloth that make it into a form of currency, and the relation of cloth to clothing will be treated in the paragraphs that follow. Cloth was a means of payment, as is shown by the following enumeration, that is part of a formal proposal for reconciliation after a homicide. Homicide can be compensated 'with red gold, with white silver, with green lands, and with unprocessed cloth; with red gold as the scale weighs it, with white silver as it is common in the [mint's] smithy, with the green lands as the King's witnesses appoint it with their oaths [...], with the unprocessed cloth if it is justly measured on the tax-subjected market, if the lawful tax has been paid for this market.'<sup>11</sup>

The regulation specifies that the offense can be compensated with four kinds of money, one of which is cloth. Unprocessed cloth is mentioned as one of four currencies that legally qualify to compensate for a homicide. The text goes on to clarify that the value of these currencies is well regulated: gold is weighed on scales, silver is minted according to the smithy's standards, landed property and its ownership are ratified by witnesses, and cloth is measured and valued justly at the market. Because of the standardized value of cloth, it was used as a form of money of account as well, at least from the thirteenth century onwards. A *weda* ('cloth', i.e. woven fabric) was worth 12 pennies, a *lekin* ('cloth') was worth two *wedum*, a *hreilmerk* ('woolmark') was worth 4 *wedum*, and a *wedmerk* was worth 14 *wedum*.<sup>12</sup> This position of cloth in a legal context, mentioned

11. J XX no. 9 (Buma, Ebel (1977b) 398, 400).

12. D.J. Henstra, *The Evolution of the Money Standard in Medieval Frisia* (Groningen 1999), 99-100.

along with gold, silver, and land – all of stable, often regulated value –, is reminiscent of the medieval Icelandic *vaðmál*. The *vaðmál* was a standardized unit of valuation in cloth, that was used for all legal transactions.<sup>13</sup> Not only was cloth a standardized currency in Icelandic law, it was also a means of payment in saga-age Icelandic,<sup>14</sup> and Viking-age Scandinavian trade.<sup>15</sup> Cloth was a currency and a form of money of account – a more widespread phenomenon, not particular to Frisia.

While cloth was one of four legal forms of currency, clothing was a form of property. The Old Frisian laws make clear that clothing is one of the most basic, and most essential forms of property. Stipulations regarding the transference of property specifically include clothing. A priest, for instance, may give eight marks, and the clothing that he had himself made, to his servants and their sisters' children.<sup>16</sup> When a woman retrieves her goods from community property, it is stipulated that she will receive exactly the goods and value that she brought into the arrangement. The goods are specified as: 'shiny gold, four-legged cattle, and the clothing she wears.'<sup>17</sup> Perhaps unsurprisingly, practical sources such as accounts and wills are one of the main sources of information on clothing during this period,<sup>18</sup> wills especially for Frisia.<sup>19</sup>

The regulation on a woman's property lists three goods of which it is absolutely necessary that she receives her due share. That clothing is among these goods indicates that possession of clothing is deemed important. In combination with the regulation of the naked half orphan at the start of this article, it seems that possession of clothing was seen as a necessity of

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13. Michèle Hayeur Smith, 'Thorir's bargain: Gender, *Vaðmál*, and the Law', *World Archaeology* 45:5 (2013), 731-2.

14. Else Ebel, 'Kaufman und Handel auf Island zur Sagazeit', *Hansische Geschichtsblätter* 95 (1977), 6.

15. Ingrid Gustin, 'Means of Payment and the Use of Coins in the Viking-Age Settlement of Birka in Sweden. Preliminary Results', in: Guy De Boe and Frans Verhaeghe eds., *Exchange and Trade in Medieval Europe: Papers of the 'Medieval Europe Brugge 1997' Conference 3* (Zellik 1997), 147.

16. B2 §167 ( Buma, Ebel (1965) 98).

17. R2 V no. 5 (Buma, Ebel (1963) 140).

18. Nadège Gauffre-Fayolle, 'Une définition du sous-vêtement médiéval à partir de la comptabilité de la cour de Savoie', in: Jean Wirth ed., *Le corps et sa parure; The Body and its Adornment*. Micrologus: Natura, Scienze e Società Medievali XV (Florence 2007), 310, 324.

19. Gisela Hofmann, 'Herstellung und Gebrauch von Kleidung und anderen Textilien im alten Friesland', *Us Wurk: Tydskrift foar Frisistyk* 62 (2013), 84.

society, as was owning a house, means of existence, such as land and cattle, and some money or gold.

It is important to ensure the integrity of such vital property. By far most regulations on clothing concern offenses that damage someone's attire. Most of the regulations state a compensation for the offense of damaging clothing, and leave it at that. Some, however, establish a compensation for the damage itself, not so much for the offense. In two tariff lists from west of the river Lauwers, to damage a man's clothes is to be compensated with six English pennies minus a Louvain penny, unless the deed was to the victim's 'damage nor disgrace', then mending his clothes with needle and thread sufficed.<sup>20</sup> The regional tariff list in the Third Emsingo Manuscript has the perpetrator pay four pennies each for three tears, and charges him with repairing the garment 'according to the tailor's word', on top of the compensation.<sup>21</sup> Apparently, compensation for the offense is one thing, compensation for the damage to someone's attire another. The money is to compensate for the offense, not for the damage done. Damage has to be mended. If we look at these regulations in the light of the quality of clothing as a basic form of property, it is interesting to see that once the offense has been settled, or found to be of little consequence to the victim's physique and status, mending his damaged garments is still essential. This is quite understandable, as damage defeats many of the purposes of clothing – for instance, the concealing and protective functions it performs.

The fact that the integrity of clothing was valued so much is of importance here. One could say that disintegrated clothes are no longer clothing. Essentially, once clothing is without stitching, merely cloth remains. This is further underlined when it is taken into consideration that the Old Frisian *wede* means both 'cloth', as a form of currency, and 'garment',<sup>22</sup> and that *clath* means 'woolen cloth' in the singular, but is used to refer to 'clothes' in the plural.<sup>23</sup> In principle, the transition from unprocessed fabric to clothing shifts the meaning of cloth from currency to property. Whereas plain cloth is dynamically exchanged and sold, clothing is statically kept for wear. As the

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20. BWb, J XXI no. 98 (Buma, Ebel (1977b) 420); BHm, J XXV no. 87 (Buma, Ebel (1977b) 476).

21. BEm, E3 I no. 223 (Buma, Ebel (1967) 190).

22. D. Hofmann and A.T. Popkema, *Altfriesisches Handwörterbuch* (Heidelberg 2008), 570. See also *gewede*, p. 180; F. Holthausen and D. Hofmann, *Altfriesisches Wörterbuch* (Heidelberg 1985), 125.

23. For instance: DAT pl. *binna/buta clathum*, see BAg, E1 VI no. 13-17 (Buma, Ebel (1967) 52); and ACC pl. *dregande clathera*, see R2 V no. 5 (Buma, Ebel (1963) 140).

binding factor to the integrity of clothing, and therefore a key element to the mentioned transition, needle and thread are indispensable.

The following paragraphs will discuss this notion of a transition between cloth and clothing, and its implications, in more detail. Part of this discussion can be seen as a thought experiment, that links the connotation of fabric as a form of currency, and of means, to the concept of clothing as a pivotal form of movables. The previously treated regulations have the damaged garment restored so it remains to fulfill the role of clothing. The greater difficulties regarding replacement of clothes become apparent when clothing is lost:

*Hvasa wrluist in ener kase gold ieftha scepene clather, sa ielde me gold mith golde and seluer mith seluer anda tha clather mith ielde anda thet to winnen mith sin ethe.*<sup>24</sup>

If anyone loses gold or fashioned clothes in a fight, one pays for gold with gold, and silver with silver, and clothes with money, and he can claim this with his oath.

A similar regulation in the Second Brokmer Manuscript, requires lost gold to be compensated with gold or land, and dyed clothes are compensated for in money.<sup>25</sup> Whereas the previous regulations insist on compensating the offense and mending the garment, the offense is irrelevant in this regulation. That is to say: the offense, if there is any, is not compensated – it is the clothing that matters here. Lost clothing is lost: both when impossible to be found, or damaged beyond any repair – i.e. in either sense of the word –, it cannot be mended with needle and thread. As like must be paid for with like in this regulation in order to settle in a fair manner, a problem arises with the compensation of clothing. As we have seen, gold can be weighed on a scale, and silver is minted according to exact standards; but the value of clothing is more difficult to establish. One cannot repay someone's garment with a garment of one's own: the size may differ, the quality of the fabric, and the color (dyed clothing was expensive, and some colors more than others). Furthermore, the fact that a piece of clothing has been worn by someone else just makes it unlike one's own. In order to settle justly, the amount of money corresponding to the value of the used cloth must be given. The money may then be exchanged for the precise value and right

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24. PnB, E3 V no. 71 (Buma, Ebel (1967) 226).

25. B2 §38 (Buma, Ebel (1965) 42).

kind of cloth at the market, and the acquired cloth can be sewn together to result in a garment that adequately replaces the lost one.

Although cloth and clothing pertain to different realms (i.e. currency and property), there seems to be a grey area in between. Clothing, consisting of multiple cloths, is a potential form of currency. Hypothetically, removing the stitching at the seams would leave exchangeable cloth instead of what was shortly before a garment meant for wear. This is especially interesting when we consider that the *blata*, who is the culmination of this investigation, and is said to be naked in order to indicate that he has no possessions whatsoever. His symbolic nakedness indicates that he is without clothing, and consequently, if the need arises for him to pay for anything, he cannot even unstitch his mantle, in order to settle using the cloth.

#### 4. The *Blata*

The *blata* seems to be a product of this symbolical logic. The lack of clothes of the ‘naked one’ symbolizes his lack of financial means and property. The legislative interest he generates is easily explained: the Frisian legal process centered around property and money for compensation, surety, and security; hence the *blata* was unable to conform to it. The following paragraphs are dedicated to the legislation regarding the *blata*, and will provide an explanation of his legal position.

Most regulations on the figure of the *blata* stress his uneasy fit in the judicial process. The judicial assembly, called the *thing*, gathered three times annually, with incidental extra assemblies. Every free man had an obligation to participate.<sup>26</sup> This legal system accounted without difficulty for free wealthy people, who might and could participate; as well as unfree poor people, who might not and could not participate. More problematic was the category of free poor people, such as the *blata*.<sup>27</sup> They were entitled to participate in legal matters, but did not have the financial means to back up their entitlement. There are two ways in which the *blata* posed rather a problem to this legal system. Firstly, without property to back up his claims, he could not be trusted to be a guarantor. Secondly, without the currencies required for compensation, the *blata* could not recompense his offenses in accordance with the procedure stipulated by law.

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26. Nijdam, *Lichaam, eer en recht*, 150.

27. One can also imagine a category of unfree wealthy people, who had the financial means to participate, but had to marry a free person in order to produce free offspring before their wealth could be put to use in legal matters. Such a category is not accounted for in the legal material, however.

Because it was believed that the *blata* was not to be trusted as a guarantor, he was excluded from fulfilling the role: *Thi blata mey nan warand ne wesa iefta dwa, hi ne muget alle fella.*<sup>28</sup> (The *blata* may not be a guarantor, nor give a surety, [since] he cannot pay it all.) This guarantor, the *werand*, had the right, for instance, to vouch for the rightful owner when goods were disputed, or confirm a new owner's rightful claim to lands previously held by the guarantor himself.<sup>29</sup> For fear that the position of guarantor be abused to the effect of him acquiring property for himself, those without property were prohibited to fulfill the role. A Brokmer regulation specifying individuals who could not be a guarantor (here: *tiuch*) states that no man can be a guarantor if he does not own land.<sup>30</sup> A stipulation in the Emsingo Book of Debt of the Second Emsingo Manuscript prescribes that every guarantor needs to own property (real and movable) that at least equals in worth the property he would testify for, after all debts have been subtracted from the total value of his possessions.<sup>31</sup> That the *blata* was completely forbidden to act as a guarantor points out that he was believed to be without any property at all.

The more pressing problem was the *blata*'s inability to compensate his offenses, which duely complicated the process of dispute settlement. In order to try and prevent such difficulties, there is a regulation that warns against a *blata* who wants to start a feud:

*Thet is ac frisesk riucht : Sa hwersa thi blata enne hod stekth and sprekh: 'ethelinga, folgiath mi, nebbe ic allera rikera frionda enoch?', alle tha, ther him folgiath and fiuchtiath, thet stont opa hiara eina haua, thruch thet thi blata thi is lethast alra nata, hi mi allera sinera frinda god ourfiuchta, hi ne mi hit thach to nenere ofledene skiata.*<sup>32</sup>

This is Frisian law: Whenever the *blata* puts on a feuding hat, and says: *Ethelinga*, follow me! Don't I have enough wealthy kindred?' All who follow him and fight do so on their own costs, because the *blata* is the most abominable relative: he may fight [and compensate with] all his kindred's goods, although he cannot contribute to [the compensatory expenses of] leading a feuding band.

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28. F XVI no. 18 (Buma, Ebel (1972) 160).

29. N.E. Algra, *Oudfries recht 800-1256* (Leeuwarden 2000), 269, 358-59.

30. B2 §142 (Buma, Ebel (1965) 86).

31. PnB, E2 IX no. 30 (Buma, Ebel (1967) 158).

32. R1 X no. 6 (Buma, Ebel (1963) 88).

The *blata* obviously cannot lead a feuding band, as he would be accountable financially for the committed offenses of the entire band. This article in the First Rüstringen Manuscript warns people not to follow a *blata* into a feud, as they would end up paying compensations on his behalf.

The laws try to keep *blata* far from the legal process, firstly by stripping them of the right to act as a guarantor, and secondly by warning others not to help a *blata* into a position that leaves him accountable for offenses. The latter is the greatest concern of the laws, that chiefly focus on dispute settlement. Whereas the above regulation is an attempt to prevent him from feuding, by far most regulations on the *blata* concern the *fait accompli* of an impecunious man having killed a man. The difficulties in settling the dispute are overcome by having the *blata* settle with what he does have: his life. Still, some difficulties remain. A lack of property indicated low status, something that can be seen both in regulations concerning the *blata* and the nakedness of the Frisians who fought for Charlemagne. Consequently, when the *blata* has to compensate the man he killed with his own life, his life is not of the same worth as the life of a regular freeborn man, which leaves part of the debt unsettled.<sup>33</sup>

The connection between nakedness and being of low status is one that touches upon the very core of the Frisian legal tradition. Money is central to the compensatory legal system, and one who is without money at all fits in uncomfortably. The way the custom of monetary compensation is embedded in the Frisian Freedom Ideology as a privilege demonstrates its importance to the Frisians. Namely, the first of the Seventeen Statutes in the First Emsingo Manuscript states that the Frisians received the right to compensate their offenses with money from Charlemagne directly.<sup>34</sup> This monetary compensation was a prerogative of free Frisians only. Compensation with money was hence not only tradition, but also a form of identity, as it demonstrated one's status as free Frisian. As monetary compensation takes up the vast majority of ways to settle offenses and disputes in the Old Frisian laws, it is easy to see that the *blata* (who is without coins, gold, property, or cloth to settle with) was incompatible with the legal system.

The significance of these themes is that they show the *blata* to have a lesser status than his freeborn state accounts for. The eleventh of the Hunsingo Statutes of 1252 indicates that anyone who cannot pay with money has to pay with his life. Because of his lack of property, the *blata* has

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33. See KHu, H2 XIX no. 11 (Buma, Ebel (1969) 120).

34. K<sup>17</sup>, E1 III no. 1 (Buma, Ebel (1967) 18).

lost his right to the privilege received from Charlemagne, that no Frisian has to pay for his offenses with anything else than money. As a result, the *blata* compensates the life he took with his own life, much the same as an eye for an eye. The life of the *blata*, however, is not worth the same as the life of a regular free man.

Normally, a life's value is established in one's wergeld. The valuation depends on the status of the person in question. In the Anglo-Saxon laws, there were three prices for a life: 200 shillings, 600 shillings, and 1200 shillings. The lowest of these was for a churl, a commoner, the highest for a thegn, a nobleman. The criterion for these statuses was a certain amount of property.<sup>35</sup> The Old Frisian laws also had differing prices for various statuses in short lists specifying the height of wergelds: the wergeld for a free man was 100 shillings, 200 shillings for a clergyman who had received the first four consecrations, 300 for a subdeacon, 400 for a deacon, and 600 for a priest.<sup>36</sup> In Old Frisian and Anglo-Saxon law, the higher one's status is, the higher the wergeld.

Clergymen were generally valued higher than laymen in Frisia, and this indicates that some other criterion was used to establish the wergelds than the Anglo-Saxon laws maintained. In the same vein as the Anglo-Saxon wergelds, however, the criterion of property is invoked when the *blata* is concerned. He is never worth a full wergeld. In the Hunsingo Statutes of 1252, when a *blata* kills a man, he compensates only a third of the wergeld with his life.<sup>37</sup> Similarly, the tenth of the new Rüsting Statutes states that when three or four poor men kill a man, and cannot pay the compensation, they all have to pay with their lives in compensation of the single life they took.<sup>38</sup> In these instances, the life of a poor man is only worth a third, or even a fourth, of the life of a regular freeborn man.

By way of stressing the point, the last regulation works out perfectly: three or four *blata* equal one man; most other regulations have the *blata* come up short – unless there are several *blata* to recompense for the killed freeborn man, there will always be a remainder. The eleventh of the Old Rüsting Statutes immediately states that when a *blata* kills a man, his kin have to pay a wergeld of twenty marks, while the *blata* himself pays with his life for the peace money and overwergeld.<sup>39</sup> The Hunsingo example

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35. William Ian Miller, *Eye for an Eye* (Cambridge 2006), 104, 105.

36. BHuc, H2 XII no. 1 (Buma, Ebel (1969) 74).

37. KHu, H2 XIX No. 11 (Buma, Ebel (1969) 120).

38. KRub, R1 IX no. 10 (Buma, Ebel (1963) 86).

39. KRua, R1 VIII no. 12 (Buma, Ebel (1963) 80).

mentioned has his kin pay the remaining two thirds of the compensation, while the *blata*'s life compensated for one third.<sup>40</sup> As pointed out above: 'All who follow him and fight do so on their own costs, because the *blata* is the most abominable relative: he may fight [and compensate with] all his kindred's goods, although he cannot contribute to [the compensatory expenses of] leading a feuding band.'<sup>41</sup>

It may be noted here that the regulations concerning the *blata* are, in all likelihood, inspired by a secular elite and its ideology – an elite of free Frisians that did have financial means and property, and was eager to maintain their favorable position. This elite was certainly secular, because the church and canon law viewed poor people as *miserabiles personae*: in need of legal assistance and protection.<sup>42</sup> No such sentiments can be found in regulations concerning the *blata*. To the contrary, whereas canon law stated that '[p]overty is not a kind of crime',<sup>43</sup> these regulations indicate precisely that it was. It seems that there were two views on poverty among the Old Frisian laws: one denoted by the adjective *erm/arm*, meaning 'poor' or 'miserable', and associated with the poor relief of canon law, the other by *blat*, closer in meaning to 'impecunious', with a connotation profoundly grounded in the law of the talion. According to Gerbenzon, canon law exerted a feeble influence on Frisian law in the thirteenth century, whereas from the late fourteenth and fifteenth century onwards, this influence grew significantly in strength.<sup>44</sup> Poor relief became more central in the law codes as a consequence, but it did nothing to alleviate the impecuniousness of the *blata*. Rather, the distribution of regulations concerning the impecunious man shows that there remained a zealous focus on containing the consequences of the *blata*'s actions even into the sixteenth century,<sup>45</sup> but only so in the eastern, economically less prosperous regions.<sup>46</sup>

These regulations show that those who drafted the laws had the intention

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40. KHu, H2 XIX no. 11 (Buma, Ebel (1969) 120).

41. R1 X no. 6 (Buma, Ebel (1963) 88).

42. Brian Tierney, *Medieval Poor Law: A Sketch of Canonical Theory and its Application in England* (Berkeley 1959), 12-5.

43. Tierney, *Medieval Poor Law*, 12.

44. P. Gerbenzon, *Friese rechtstaal en vreemd recht* (Groningen 1958), 6.

45. In the Middle Low German texts of Ostfriesland, e.g. the younger tariff lists of Wursten §23, in Conrad Borchling, *Die niederdeutschen Rechtsquellen Ostfrieslands* (Aurich 1908), 207.

46. More than half of the regulations on the *blata* in Old Frisian texts are from the easternmost shire of Rüstringen alone, while a large manuscript from west of the river Lauwers such as Jus Municipale Frisonum contains no mention of the *blata* at all.

of preventing homicide by those without any means of compensation. If a *blata* did proceed to kill or wound someone, he was as good as outlawed. A regulation to this effect is extant among a number of mixed articles in the Second Rüsting Manuscript: When an impecunious man kills or wounds anyone, people are free to hold and bind him. If the victim dies from his injuries, the killer's head will be cut off; if the victim stays alive, a judge will determine the due compensation for his wounds. When it turns out that the *blata* cannot pay the said amount of compensation and the peace money, the same wounds will be inflicted on him.<sup>47</sup> This paraphrased regulation gives an indication of what a *blata* will have to face after having committed an offense. One can imagine that no poor man – certain that his pouch is too empty to compensate – looked forward to this course of justice. The fate that awaits him is one he would most preferably run from, not in the least because of the shameful nature of the sentence, that should befall no free Frisian in the first place. Here we return to the matter discussed at the beginning of this article. In search of safety, 'everyone heads to his yard and his home and his warm room'. The *blata*'s prohibition to act as a guarantor and the analogy between clothing and the house imply that he is without either, just like the naked and homeless child. As expected, he will nevertheless head to a house for protection. In order to prevent that the poor man escapes from his judgement, the eleventh of the Hunsingo Statutes of 1252 stipulates that no one is to lodge or house the poor man, lest he pays the amount the *blata* would have paid with his life.<sup>48</sup> The eleventh of the Old Rüsting Statutes states that when a *blata* kills a man, anyone 'who lodges or houses him afterwards, or defends him against any men, [pays] a hundred marks peace money to the people, and the overwergeld to the kin of the [slain] man.'<sup>49</sup> The regulation cited below emphasizes that no wealthy man is to take in the *blata*. Small wonder, if one considers the *stinzen* (fortified stone houses) so frequently mentioned in the extant accounts of feuds in medieval Frisia.<sup>50</sup>

*Thet isti tredda dom: hwersa en blat mon in Amsgena rediewa thinge anne mon dath slaijt and hi fliucht in enes rikes monnes hus, sa moten thes thata erwa therinna seza mitha foghetum and mith triuwa burem. Hwasa him thes warnt and him tha dura in agen slaijt, sa skel hi fora*

47. R2 VII no. 3a (Buma, Ebel (1963) 148).

48. KHu, H2 XIX no. 11 (Buma, Ebel (1969) 120).

49. KRua, R1 VIII no. 12 (Buma, Ebel (1963) 80).

50. Paul Noomen, *De stinzen in middeleeuws Friesland en hun bewoners* (Hilversum 2009), 177-81.

*thin blate mon ielda. Js thet ma him tha dura agenepernie and hia tha huswerdrar ferra sekie and spreket, thet thi bona therinna bihut and behleth se, sa agen hia se to besekeriane mit tuelef ethum.*<sup>51</sup>

This is the third doom: when an impecunious man kills a man in the legal assembly of the Emsingo judge and flees into a rich man's house, then the heirs of the deceased may fight in there along with guardians (i.e. higher-up clergymen) and with loyal neighbors. Whoever refuses this to him [an heir of the deceased] and closes the door in his face will then have to pay for the impecunious man. When the door is opened for him and he accuses the occupants and says that the murderer is protected and hidden there, then they have to exonerate with twelve oaths.

Just like the fact that anyone can hold and bind a guilty poor man, anyone is allowed to fight his way into the house he seeks refuge in. Another such regulation states that when a *blata* flees into a house, he may be 'broken and burned out of there'. The home owner is regularly compensated for the damage to his house, but does not receive any peace money.<sup>52</sup>

### 5. Conclusion

Clothing fulfilled a protective function, protecting against the elements and the cold, as well as against violence – much like a house did. As such, clothes are introduced as a form of property, and as having economic significance. Cloth was a widespread medium of exchange, and was one of the currencies that could be used to compensate a homicide. Its economic functions in law and trade informed the meaning of clothing, which mostly consisted of the same fabric. Nakedness came to signify a lack of economic means, which elicited different responses depending on the circumstances. The poor relief as seen in the story of Saint Martin can also be seen among the Old Frisian laws, as an exception is made to make sure that the naked half orphan is clothed and fed by his mother. The *blata* is informed by a completely different ideology, however, despite the same equation of clothing to financial means and nakedness to a lack thereof. His impecuniousness does not elicit support or relief, but rather the opposite. He is stripped of his rights to legal participation, and may be hunted down after having committed an offense, losing his basic rights as a free Frisian in

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51. Dem, E2 VI no. 3 (Buma, Ebel (1967) 138).

52. 2 VII no 3b (Buma, Ebel (1963) 148, 150).

order to settle his debts. The impecuniousness of the *blata* meant a serious reduction of his freeborn status, that was reflected in his wergeld. There is a clear difference between the two attitudes towards those said to be unclothed, one informed by charity and canon law ideology, the other by the expectations of talion law. The economic connotations of clothing, however, are a constant.

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