GUISES OF POWER

Integration of society and legitimation of power in Sweden and the Southern Low Countries ca 1500-1900

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Spatial Integration at the District Courts in Seventeenth Century Sweden

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During recent years, much research has been focused on the district courts* in the Scandinavian countries. This field of research has precedents dating back to the nineteenth and early twentieth century, but besides this tradition, researchers are often inspired by more recent international fields of research. The history of crime is probably the most important issue, with links to Anglo-Saxon historians such as J. A. Sharpe and Martin Ingram. Another issue is that of political culture. Following in the footsteps of the German historian Peter Blickle, Scandinavian historians have suggested that the district courts could be regarded as institutions of communalism. The two issues are also linked together in investigating the judicial system. Often, this is interpreted as developing from a system based on the functions of communal law, to a system based on the functions of state law, i.e. the interpretation offered by the British historians Bruce Lenman and Geoffrey Parker.

The Swedish judicial system underwent profound changes during the seventeenth century, sometimes (according to Lenman and Parker) described as the judicial revolution. A doctrine coloured by Roman law had had the opportunity to become established, with the help of an educated corps of jurists. The courts were organized in hierarchical fashion, importing the German institutions of Courts of Appeal into Sweden, and giving them the powers to check judgements and impose their will on the district courts. Thus, the district courts were incorporated within a central judicial system, a part of the more general state-building process in seventeenth century Sweden.

There are several important questions associated with this process. First, there is the issue of a shift from community law to state law, and the extent to which the district courts were affected by such a shift. Secondly, there is
the question of the district court's ability to impose its assumed new order on the local community. Third, there is the question of the character of the court. Did it ever function as an institution for the local community, or was it merely an old institution in new guise, changing when the state changes? Here, referring to Peter Blickle's concept of communalism, it is appropriate to describe the territorial and social units in rural Sweden. They differ from conditions in Southern Germany in respects that also affect the preconditions of Blickle's theory. The most important difference is the absence of more extensive villages, also functioning as parishes*. Swedish villages were usually small, often consisting of fewer than 10 homesteads, and in any case a smaller unit than the religious community, the parish. The parishes comprised several villages and covered a quite extensive territory. Even more extensive was the hundred* i.e. the district court's district, comprising several parishes. All these communities, in labour, in religion and in justice, are to be found united in the village in the regions that Peter Blickle used as empirical evidence to formulate his theory of communalism, thus complicating the question of Swedish counterparts to the German communalism. In portraying the district courts as forming a community, or arguing that law enforcement followed the principles of community law, historians also presuppose certain characteristics of the society subject to the court's jurisdiction. It is perceived as a closely knit and, in the context of political culture, also a roughly egalitarian body of peasants in the rural districts (burghers in towns and cities). The close body, though not necessarily an egalitarian one, is also connected with several mechanisms in community law, such as the concept of honour, the function of reintegration and expulsion of criminals from the community, and the objective of community law to restore a balance in social relations lost in ongoing conflicts. All this requires a well integrated and size-limited community, closely bound together and aware of its own identity. The district court should thus be the expression of such a community.

In interpreting the court as a part of the state system, a theatre of power as the Swedish historian Eva Österberg has called it in contrast to the communities "social arena", integration has other aspects. Integration is a matter of control and social discipline of the subjects of state rule. Its importance is connected more with the ability of the court to reach the subjects of its jurisdiction, than with binding the members of the community together. But there is still a matter of integration of an area.

Did the district courts in seventeenth century Sweden have the potential to reach everyone within their jurisdiction? Some research has pointed to a
mass participation in the court sessions, thus indicating that such a potential was a reality. At the same time, it is obvious that some groups were better represented than others. Both men and women participated, but men far more than women. Peasants participated as well as landless people, but there are clear indications that the peasants had the upper hand; the former could use the court to discipline the latter. Nobles did not regard the district courts as their fora, but preferred to settle jurisdictional matters among their peers. Nevertheless they could not neglect those district courts, and there are numerous examples of noblemen settling their differences with peasants at the district court.

Spatially, the picture is less well known. An English study of thirteenth century court rolls by R. M. Smith, shows that the spatial aspect does matter. Those living close to the locality of the court sessions, were better represented than those living at a greater distance. The Danish historian Jens Chr. V. Johansen has shown that distance from the place of the court sessions was paramount for raising disputes before the court. The Swedish geographer Gabriel Bladh devoted much attention to the "institutional landscape" and the district court, in his study of the colonizing Finns in the Province* of Värmland from the seventeenth up to the twentieth century. Bladhs study relates to a growing theoretical interest in spatial perspectives in sociological research. I will not elaborate on this in the present paper, but confess the influence of the British sociologist Anthony Giddens’ concepts in shaping my study. Giddens stresses the importance of geographical perspectives, both as a physio-spatial environment and as a socio-spatial one. In the perspective of integrative matters, the replacement of the cities by the state as the “power-container”, i.e. the place within which the power is concentrated, is an important development in Giddens’ description of the shaping of modern society. This process also includes a development of clear-cut borders between states and within states, thus replacing a centre-periphery model of power, where usually the city is a central place, with gradually diminishing power at the countryside.  

In my study on a district court in Sweden, Torstuna Hundred in the County* of Västerås, the domicile of people recorded in the court rolls has

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1 In this description of the “traditional states”, medieval Europe does not have an eminent position. Rather it is empires as the Chinese and Roman, and city states as the Mesopotamian and Greek, that are regarded as “typical” traditional.
been examined during three periods, 1599–1608, 1644–1653 and 1690–1699. The first results indicated that there was a very uneven spread of people mentioned, but also that agglomerations weakened during time. The measured unit is persons mentioned in the court rolls at one event. They are not necessarily participants, and one individual may have been mentioned several times. Besides this overall spatial diffusion, a shift from a very dominant position of the southern part, to a more even picture was observed. Certainly, the south had the highest density on all occasions, but it is a fact that this area underwent a depletion of its proportion of the total population, from more than 50% 1599–1608, to slightly over 40% 1644–1653 and 1690–1699.

This led to the hypothesis, that the court must have increased its ability to reach the different parts of its jurisdictional area over the period of time. The spread was more even between south and north, and the district court also managed to reach peripheral areas that, literally speaking, were ‘white spots on the map’ in the early seventeenth century. The district court of Torstuna Hundred was part of a successful state-building. It can be interpreted as an increase in the capacity of bureaucratic power over its subjects, or interpreted as the development of community institutions, an important factor in the coming mobilization of the commons into political life, as forecasted by Blickle. The increase in the total numbers of “persons mentioned” in 1690–1699, fits this hypothesis of increasing integration very well.

However, it is important to emphasize that these are preliminary results. The differences in total numbers could be an effect of more elaborate court rolls, and should not be used as more than a supplementary result to be taken into consideration along with the others. The comparison between the spatial dispersion over time was not so vulnerable to this source critical remark. But the empirical weakness is still obvious, as the result takes no account of demographic patterns. Thus, the answers supplied is only temporary.

In a further study, the spatial pattern of “persons mentioned” in the court rolls is compared with the pattern of population density. Areas where the percentage of “persons mentioned” exceeds the percentage of population are regarded as areas over-represented in the court rolls; the converse is the case when the percentage of population exceeds that of the “persons mentioned”. With regard to the population, the picture of a development toward better integration of the Hundred changes perceptibly.

First, the shift from a more dominant south to a less dominant south, is only a case of a shift in the demographic pattern. During the seventeenth
century, the population as a whole increased in Torstuna Hundred, but the northern part underwent a more vigorous growth than the southern part. Demographically, the south was less dominant toward the end of the seventeenth century, and this is also reflected in the intensity of the court rolls “persons mentioned” from the south. But the over-representation is the same for all three occasions.

Second, the more widespread pattern of “persons mentioned” in the court rolls over time, is correlated with a colonization of the peripheral areas. The remote part of the Hundred was not better integrated into the court system at the end of the seventeenth century. Rather, colonization appears to have given rise to new populated areas, less integrated into the court system than were the central parts of the Hundred.

Third, there is one area in the northern part, where better representation over time is evident. The river valley in central Vittinge parish improved its representation, though the improvement was not so radical compared with the demographic development, as it seemed to be when only the numbers of “persons mentioned” in the court rolls are considered. In the early seventeenth century there is a slight under-representation of the area, in the middle and at the end of the century, the area is clearly over-represented. This part of the north was in fact never even weakly integrated. The improvement of its intensity reflects to a great extent its population development.

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The most important result is that matters did not change in any profound way. The seventeenth century has been portrayed as a time of jurisdictional revolution, itself a part of the general state-building process. Without doubt, there were important changes in those areas, a definite break with the old order of things. Those changes, however, had little effect on the spatial distribution of “persons mentioned” in the court rolls. The jurisdictional revolution in the seventeenth century was not followed by a revolution in the district court’s ability to integrate the area under its jurisdiction. At a time when the population pattern was changing, which also suggests probable changes in the economy and social structure, the district court’s spatial integration of the area expressed instead a major continuity over time. When the political changes are connected with everyday life, the changes loses some of its importance.

There were, however, some changes that are too important to neglect. The boundaries of the Hundred had a greater impact on the spatial pattern at the end of the century, thus indicating a more tightly knit local community. How should this be interpreted? Would not the shift from communal
to state law point in another direction, rather dissolving the bonds of the local community? Is the result compatible with a change to further state-building or, as Anthony Giddens formulated it, making the state into the power-container?

The results could be compatible, but this would require us not to regard the relation between the state and the local community as wholly conflicting, or the district court's role as either a cog in the state machinery or an integral part of the local community. Some of the concepts related to community justice, such as the concept of honour, were more important early in the seventeenth century. The spatial pattern also suggests that this 'community' was less regulated by the boundaries of the Hundred. Rather than regarding those communities as territorial units, it could be more informative to see them as overlapping networks of personal relations, with the ability to use the institutional district courts for the settling of disputes. Local communities as territorial units are more a part of the state-building process, where the central authorities also need clear-cut boundaries, both for the purpose of administration and for negotiation. Thus, the development of both state domination and social discipline, as a development of participation and 'communal movement' (Peter Blickle), warrant the division into different territorially bounded local communities.