The Journal of Legal History

ISSN: (Print) (Online) Journal homepage: www.tandfonline.com/journals/flgh20

Law Beyond the Legal Renaissance: Rethinking Jurisdiction in the European central Middle Ages

Danica Summerlin & Alice Taylor

To cite this article: Danica Summerlin & Alice Taylor (2025) Law Beyond the Legal Renaissance: Rethinking Jurisdiction in the European central Middle Ages, The Journal of Legal History, 46:1, 1-19, DOI: 10.1080/01440365.2025.2456287

To link to this article: https://doi.org/10.1080/01440365.2025.2456287

© 2025 The Author(s). Published by Informa UK Limited, trading as Taylor & Francis Group

Published online: 24 Mar 2025.

Submit your article to this journal

View related articles

View Crossmark data

Full Terms & Conditions of access and use can be found at
https://www.tandfonline.com/action/journalInformation?journalCode=flgh20

THE JOURNAL OF LEGAL HISTORY
2025, VOL. 46, NO. 1, 1–19
https://doi.org/10.1080/01440365.2025.2456287

Law Beyond the Legal Renaissance: Rethinking Jurisdiction in the European central Middle Ages

Danica Summerlin[a] and Alice Taylor[b]

[a]School of History, Philosophy and Digital Humanities, University of Sheffield, Sheffield, UK; [b]Department of History, King's College London, London, UK

ABSTRACT

The introduction to this special issue lays out its approach to the phenomenon of jurisdiction during the European central Middle Ages. Rethinking jurisdiction, we argue, is key to understanding the profound change the period underwent in terms of its law and legal culture. We explain, first, why 'legal pluralism' has not offered a meaningful structure to understand the creativity inherent in law-making (in all its senses) in this period. Second, by adopting an 'actor-centric' approach to jurisdiction, we then set out how the essays in this collection address how and why jurisdictional boundaries were created, maintained and subverted not only in legal disputes themselves but in the minds of people who were, in different ways, all involved in the making of law.

KEYWORDS Law; jurisdiction; medieval Europe; legal pluralism; Roman law; canon law; custom; common law

I. Introduction

Over the twelfth and thirteenth centuries, for both secular and spiritual authorities, the rediscovery, study and subsequent influence of the Justinianic corpus of Roman law in Latin Christendom not only accelerated the use of law to buttress and support governing authorities but also professionalised legal norms and practice. This occurred to the extent that most of Latin Christendom (with a notable exception in the English common law) could be characterized as under a *ius commune*, a 'common law', in that its Roman inheritance was 'common'. The period was thus characterized as a 'legal renaissance'. Within this common-ness, however, sharper jurisdictional divides emerged: between royal and noble courts, town and country, custom and law, and canon law and secular law. This collection of essays

CONTACT Alice Taylor alice.taylor@kcl.ac.uk Department of History, King's College London, Strand, London, WC2R 2LS, UK

© 2025 The Author(s). Published by Informa UK Limited, trading as Taylor & Francis Group
This is an Open Access article distributed under the terms of the Creative Commons Attribution-NonCommercial-NoDerivatives License (http://creativecommons.org/licenses/by-nc-nd/4.0/), which permits non-commercial re-use, distribution, and reproduction in any medium, provided the original work is properly cited, and is not altered, transformed, or built upon in any way. The terms on which this article has been published allow the posting of the Accepted Manuscript in a repository by the author(s) or with their consent.

attempts to understand this broad – yet alive and subdividing – legal change over the central Middle Ages from a different perspective. Rather than taking the Justinianic corpus to be the *fons originis* of emerging Western legal systems, we bring the phenomenon of jurisdiction-formation – the process of creating legal boundaries – to the fore, prioritizing the many types of users, creators and interpreters of law who took inspiration from many sources of potential legal authority and who thus created multiple and diverse jurisdictions. In short, in this collection, we aim to put forward a view of the legal renaissance which focuses not only on states, systems and professionals but also the actions of people who actively willed these – and other – worlds into being.

This entails, as this introduction will show, thinking differently about the concept and phenomenon of jurisdiction in this period. Although regularly understood as applying either to territory (as in the jurisdiction of a nascent state) or over certain norms (as in church jurisdiction over marriage), this collection understands jurisdiction literally, that is, as the assertion of the right to declare what is law – and, concurrently, what is just and what is right.[1] We ask how jurisdiction in this performative sense was claimed in, rather than predetermined, the different experiences of law in Europe during the central Middle Ages. As a result, this collection necessarily considers in parallel – and sometimes, even, together – legal traditions which are more regularly studied separately from one another. 'Law beyond the legal renaissance' means thinking about shared knowledge, networks and creativity, as much as considering those developments which are more regularly associated with the phrase, 'legal renaissance', that is, the development of specialist and professional legal practice which served secular and spiritual authorities.

Anyone who has encountered law in this period will know that its sources and authorities are characterized by their sheer diversity and volume which would require lifetimes to master. From English plea rolls to the early manuscripts of Gratian's *Decretum*, from the vernacular thirteenth-century customaries to the riches of Italian city archives, it is beyond the capacity of any one scholar to explain the precise contours and dynamics of this 'legal renaissance' and how it was experienced. It is no surprise, therefore, that this collection developed from an academic network of specialists in different traditions of law, including canon law, the English common law, and customary law. The network, entitled 'Jurisdictions, political discourse, and legal community, 1050–1250', was funded by the British Academy's *Tackling the UK's International Challenges Fund* and ran from 2019 to

[1]As opposed to seeing jurisdiction as a semantic category manifested through abstract discussion around 'politico-juridical language', as was the approach taken in Pietro Costa, *Iurisdictio: semantica del potere politico nella pubblicistica medievale*, Milan, 1969.

2024.[2] With the grant submitted in the UK during Spring 2019, towards the height of the political deliberations around Brexit and a time full of fraught statements about British sovereignty, returning to the period of the 'legal renaissance', when English law was thought to diverge profoundly from the *ius commune*, seemed to us to be particularly important. The network aimed to bring scholarly expertise together to understand more precisely how jurisdictional boundaries were formed during the European central Middle Ages and with what consequence. By taking an actor-centric approach, we aimed to avoid some of the divides inherent in legal history of this period, whether imposed by place or legal tradition. This collection of essays is the product of our final workshop held at King's College London in June 2023. However, prior to this, there were many more online discussions delineating how, precisely, to speak about law beyond the accepted contours of the legal renaissance of the European Middle Ages. The people involved in these discussions include but go beyond the formal contributors to this special issue.[3] This introduction reflects this collaborative effort.

II. Revolution or Renaissance?

The idea that Europe in the long twelfth century experienced a legal revolution or legal renaissance has proven to be an enduring one. The central thesis suggesting a 'renaissance' or 'rebirth' remains that of Francesco Calasso, whose 1954 opus *Medio Evo del Diritto* became well known in the Anglophone world with the publication of Manlio Bellomo's 1988 synthesis, *The Common Legal Past of Europe*, in 1995.[4] In 1954, Calasso divided the 'middle ages' of law into two periods. The first saw the decline of legal science from the fifth century – ushering in the period memorably described by Bellomo as a time of 'law without lawyers'; the second began in the later eleventh century, when the rediscovery and study of the Justinianic compilations and especially the *Digest* combined with canon law to provide the basis of a *ius commune*, understood and developed by jurists.[5] It was this

[2]For the scheme itself, see <https://www.thebritishacademy.ac.uk/programmes/tackling-uk-international-challenges/> (accessed 16 September 2024).

[3]We would like to thank here Jenny Benham, John Hudson, Caroline Humfress and Tom Lambert as well as, particularly, Jason Taliadoros and Helle Vogt, who helped organise the network and were key to the formulation of the workshops.

[4]Francesco Calasso, *Medio Evo del Diritto: Le Fonti*, con una postfazione di Andrew Cecchinato, digital edition, Milan 2021 < https://www.adelphi.it/libro/9788845984846> (last accessed 16 September 2024, first published 1954); Manlio Bellomo, *The Common Legal Past of Europe*, trans. from the second edition by Lydia G. Cochrane, Washington DC, 1995. For a more recent introduction to the scholarship, see Emanuele Conte, *Diritto Comune: Storia e Storiografia di un Sistema Dinamico*, Bologna, 2009.

[5]Emanuele Conte has described the *Corpus Iuris Civilis* as 'il protagonista indiscusso di questa storica' (Conte, *Dirritto Comune*, 43), and for a useful discussion of the debates over renaissance or fulfilment, see ibid., 43–48. His approach is, however, one of many: for a useful summary of the trajectories of

ius commune which unified 'the whole of Europe into one single, massive and coherent system' (apart from the British Isles and Ireland, as well as the Scandinavian polities).[6] Central to that system was the existence of common knowledge and understandings of law, learned in the schools at Bologna and elsewhere, which were shared across different courts away from the schools and universities themselves.[7]

This narrative on the rise and significance of the *ius commune* chimed, if not always overlapped, with others, including the growth of papal law and the emergence of English common law. The survival of the textbook on procedure in royal courts known as *Glanvill* revealed, by the later twelfth century, the presence of a developing practical jurisprudence in England based around litigation and procedure, famously characterized by Lady Stenton as the 'Angevin leap forward'.[8] By contrast, the American legal scholar Harold J. Berman took a different approach when he described the period between 1050–1250 as a legal 'revolution'.[9] For Berman, the revolutionary element was the new claims and ambitions of those compiling canon law, who drew inspiration from the close relationship in Roman law between law and a central authority (the *princeps*) in order to emphasize papal authority. As a result, these compilers established canon law as the first meaningful European-wide legal system and, thus, the papacy as the first centralized 'state' of the post-Roman west.

Berman's account of a legal revolution in the service of papal authority was gratefully but nonetheless critically received, and the criticism demonstrates some of the more structural difficulties in writing a legal history of this important period.[10] Broad-based histories require mastery of many different and complex 'sets' of legal knowledge but, as the criticism of Berman's thesis from historians of canon law shows, generalist or non-specialist historians can easily be accused of not engaging with or understanding fully the intricacies of the complex sources subjected to extremely

Italian medieval legal scholarship, see Emanuele Conte, 'Droit médiéval. Un débat historiographique italien', 57 *Annales. Histoire, Sciences Sociales* (2002), 1593.

[6]Conte, *Diritto comune*, 46: 'unificava l'interna Europa medievale in un unico, immenso e articolato sistema', here describing Calasso's view.

[7]See also John W. Baldwin, *Masters, Princes and Merchants: the Social Views of Peter the Chanter and his Circle*, 2 vols., Princeton, 1970; John W. Baldwin, '*Studium et Regnum*: The Penetration of University Personnel into French and English Administration at the Turn of the Twelfth and Thirteenth Centuries', 44 *Revue d'études islamiques* (1976), 199; James A. Brundage, *The Medieval Origins of the Legal Profession: Canonists, Civilians and Courts*, Chicago, 2008.

[8]Doris M. Stenton, *English Justice between the Norman Conquest and the Great Charter, 1066–1215,* London, 1965, 22–53. See, most recently, John Hudson, *The Oxford History of the Laws of England*, *2 vols,* Oxford, 2012, 871–1216.

[9]Harold J. Berman, *Law and Revolution: Volume 1. The Formation of the Western Legal Tradition*, Cambridge MA, 1985, rev. ed. 1990.

[10]For a particularly powerful rebuke, see Peter Landau, 'Review of Harold J. Berman, *Law and Revolution* (1983)', 51 *University of Chicago Law Review* (1984), 937; for a more recent and nuanced response, see Andreas Thier, 'Harold Berman's »Law and Revolution«: A Necessary Challenge for Legal History Research', 21 *Rechtsgeschichte* (2013), 173.

different and longstanding scholarly interrogations, written in multiple languages.[11] Different difficulties confront the specialist. When a specialist legal scholar produces a general work explaining the major changes in legal culture, their familiarity with a particular tradition can prioritize that legal tradition at the expense of others and an accurate assessment of contemporary legal fluidity and complexity.[12] The clearest example is when scholars of, particularly, Roman law impose later categories such as *ius commune* and *ius proprium* onto the central Middle Ages, despite these not being employed either regularly or in the same way by contemporaries. The creative dynamism of the twelfth-century legal world thus becomes ossified, as scholarly enquiry focuses in consequence on the origins and distinctiveness of individual legal traditions.[13] This can lead to the twelfth century in particular being seen through the eyes of the more codified thirteenth, a period when authoritative legal compilations – such as the *Liber Extra*, the *Siete Partidas* and *Magnus Lagesbøtes landslov* – were produced more widely and associated with recognizable political authorities.[14] This cements – unduly early we would argue – the idea that medieval law, for example, was a separate field from politics and, additionally, that law was predominantly wielded by political entities (often but not always understood only in a modern, secular sense).[15] These varied structural difficulties, and especially the importance of scholars' deep familiarity with an individual tradition, may lead, often accidentally, to the demarcation of clear lines between historiographical traditions which do not necessarily reflect the varieties and values of contemporary practice.

[11]See the review by Peter Landau cited above, note 10.

[12]Projects cutting across traditions are therefore increasingly important: see, for example, the ERC-funded project: *Common Law, Civil Law, Customary Law: Consonance, Divergance and Transformation from the Eleventh to the Thirteenth Century* (Grant agreement number: 740611 CLCLCL; <https://clicme.wp.st-andrews.ac.uk/>); further, the work in Thomas J. McSweeney, *Priests of the Law: Roman Law and the Making of the Common Law's First Professionals*, Oxford, 2019.

[13]Discussion over the relationship between ecclesiastical regulations on *ius patronatus* and the English assize of darrein presentment, and which developed first, are one example of this: for Raoul van Caenegem, the 1179 Lateran Council brought in regulations adopted in England, while for Peter Landau the reverse was true, while Joshua Tate initially suggested that the council used an earlier custom rather than darrein presentment itself: see the overview in Danica Summerlin, *The Canons of the Third Lateran Council of 1179: their origins and reception*, Cambridge, 2019, 63. Tate's most recent contribution suggests a more flexible approach in the late twelfth century where the varied time limits before a benefice could be filled reflected different *fora* and purposes (Joshua Tate, *Power and Justice in Medieval England: the Law of Patronage and the Royal Courts*, New Haven, 2022), especially 111–18.

[14]Codification is a difficult term that can be read in a variety of ways: for current purposes, we understand the concept of codification as non-normative. For short discussions of 'codification' in legal history and the nineteenth-century inheritance, see Bellomo, *Common Legal Past*, 6–12; Conte, *Diritto Comune*, 16–24.

[15]Given the importance of law in political thought, there are oddly few pieces that consider how law and politics structurally work together in the period 1000–1300. For an exception, see M.W. McHaffie, 'Law and Violence in Eleventh-Century France', 238 *Past & Present* (2018), 3.

More importantly, just as the twelfth century can be distorted if seen through the eyes of the more formalized thirteenth, so too can thirteenth-century law and legal culture, particularly if viewed as directly dependent on the 'legal revolution of the twelfth century'. After all, the idea of a broad-based legal revolution of the twelfth century is applicable mainly to historians of canon and Roman law, as well as, in a different way, to historians of the English common law. For other areas of Europe, the narrative of substantial legal change during the twelfth century makes little immediate sense, and obscures the significance of later changes. For medieval (northern) France, the development of compilations of customary law in the thirteenth century and the development of the *Parlement* as a law court take centre stage.[16] For the so-called 'peripheral' areas of Europe, such as Scotland and Scandinavia, the thirteenth century is often presented as the period of profound legal change, albeit through a lens of Europeanisation or 'acculturation'.[17] The nature of the surviving source material also produces different narratives of legal change: in Norway and León-Castile, for example, the royally-sponsored legislative compilations take centre stage: Magnus VI of Norway's Code of the Realm (1274) and the town law (1276) or the *Siete Partidas* of Alfonso X (1250s – 1260s).[18] Yet this can paradoxically reinforce the position that the twelfth-century legal revolution in the learned laws was the primary driver of later developments elsewhere.[19] As a result, the complexity of the thirteenth-century legal world – its *informality* as well as its formality – is often underplayed. Acknowledging the profound complexity of legal culture in the thirteenth century forces, at the very least, a critique of any underlying assumption that twelfth-century law moved in a single direction.

Thus, rather than focussing on questions of continuity and change, influence and reception, this volume wants to place plurality and

[16]For a new assessment, see Ada Maria Kuskowski, *Vernacular Law: Writing and the Reinvention of Customary Law in Medieval France*, Cambridge, 2022; for *Les olims*, see Jean Hilaire, *La construction de l'état de droit dans les archives de la cour de France au XIIIe siècle*, Paris, 2011.

[17]See, using the concept of 'legal transplant', Hector L. MacQueen, *Common Law and Feudal Society*, Edinburgh, 1993; cf. Alice Taylor, *The Shape of the State in Medieval Scotland*, Oxford, 2016, 446–449; Sverre Bagge, *From Viking Stronghold to Christian Kingdom: State Formation in Norway, c.900–1350*, Copenhagen, 2010, 179–227; Kjell Å. Modéer and Helle Vogt, eds., *Law and the Christian Tradition in Scandinavia: The Writings of the Great Nordic Jurists*, Abingdon, 2020, part 1.

[18]For the Norwegian code of the realm, see Jørn Øyrehagen Sunde, 'Law and Administrative Change in Norway, Twelfth-Fourteenth Centuries', in Andrew Simpson and Jørn Øyrehagen Sunde, eds., *Comparative Perspectives in Scottish and Norwegian Legal History, Trade and Seafaring, 1200–1800*, Edinburgh, 2023, 95, at 103–107; it is currently the subject of a new project led by Jørn Øyrehagen Sunde: <https://www.uib.no/en/jur/102408/norwegian-code-realm-1274-project-2014-2024>. For the *Siete Partidas*, see Mechthild Albert, Ulrike Becker and Elmar Schimdt, eds., *Alfonso el Sabio y la conceptualizacíon juridica de la monarquia en las 'Siete Partidas'*, Göttingen, 2021.

[19]Understanding social and cultural change using a core-periphery model has been common since the publication of Robert Bartlett's, *The Making of Europe: Conquest, Colonization and Cultural Change, 950–1350*, London, 1994; for an appreciation of the book's impact (many using the concept of 'Europeanization'), see John Hudson and Sally Crumplin, eds., *"The Making of Europe": Essays in Honour of Robert Bartlett*, Leiden, 2016.

multivocality – of laws, systems, and actors – centre stage for the twelfth century and beyond. This might not seem a particularly novel approach, particularly for this time and place. The existence of multiple legal traditions within Latin Christendom is widely acknowledged. For Calasso, it was, paradoxically, through justification *from* the *ius commune* that local legal systems could be both autonomous and sovereign and yet part of a greater whole.[20] More recently, Manlio Bellomo summarized Calasso's argument as: 'plurality was thus part of the "system" and the system itself was inconceivable and would never have existed without the innumerable *iura propria* linked to the unity of the *ius commune*'.[21] Yet both Calasso and Bellomo understood 'plurality' as being the interaction between separate and separable systems of *ius*, which possessed varying levels of authority. They thus created a hierarchy of norms within normative sources of law, and assumed that they were working with traditions or systems of law which were already separate by the late twelfth century, rather than exploring whether they were actually so. Indeed, plurality as a phenomenon of legal culture during the central Middle Ages remains surprisingly underexplored and under theorized.

III. Plurality Without a History

Oddly, and despite the long recognition of legal plurality in medieval Latin Christendom, no fully plural history of twelfth-century law has been written. In addition to the challenges of 'mastering' the complex scholarship on different legal traditions, which will be elucidated below, the very acknowledgement of plurality presents an immediate challenge to the link, established in the nineteenth century, between the state and law, and especially to the position that the state is the sole bearer of law. As Caroline Humfress recently commented, legal history has long centred 'the idea that law and governance should be understood primarily in the context of *imperium*: the power to command'.[22] The dominant state form in Europe when early legal histories were being written over the nineteenth century was the nation-state: the political drive was thus to codify, identify or delineate a national law that represented the spirit of its people. Accordingly, legal history was presented as national tradition, and thus the domain of the nation-state.[23] Historians sought to understand the origins and development

[20]Calasso, *Medio Evo del Diritto*, part 2, 486–7.

[21]Bellomo, *Common Legal Past of Europe*, xiii.

[22]Caroline Humfress, 'Entangled Legalities beyond the (Byzantine) State: Towards a User Theory of Jurisidiction', in Nico Krisch, ed., *Entangled Legalities beyond the State*, Cambridge, 2022, 353; this was also the underlying assumption behind Alan Harding's *Medieval Law and the Foundations of the State* (Oxford, 2001), which also focuses primarily on the laws of France and England and the growth of their (more) centralised legal systems.

[23]Yan Thomas, *Mommsen et l'"Isolierung" du droit. Rome, l'Allemagne et l'État*, Paris, 1984; Yan Thomas, 'La romanistique allemande et l'État depuis les Pandectistes', in H. Bruhens, J.-M. David and W. Nippel, eds., *La fin de la République romaine. Un débat franco-allemand de l'histoire et d'historiographie,*

of a particular legal tradition, even when – as result of European empire-building – many traditions had spread to other countries and continents. This was particularly the case for English law, in which an entire legal tradition (the common law) was at stake in the creation of a national legal history.[24] Only when there was no easily identifiable – even if contested – connection between the central medieval past and the nineteenth-century nation-state was some version of the 'legal revolution' of the long twelfth century overlooked.[25] Although the link between law and the state is now much more regularly criticized, it can remain the overarching structure for a great deal of scholarly enquiry. One of the most vociferous critics of legal centralism in the central Middle Ages, Susan Reynolds, nonetheless organized her seminal *Fiefs and Vassals* according to the modern nations of England, France, Germany and Italy.[26]

The pairing of law with the modern state also affected historical narratives about jurisdiction. The key question the central Middle Ages was supposed to have answered was *how* jurisdiction came to be understood as *applied* over territory, the given area of the state. If the state, in Anthony Giddens' terms, is understood as a 'bordered power container', then the laws of that state apply within a similarly bordered territory.[27] How this came about is thought to have been twofold. For Stuart Elden, in his 2013 book *The Birth of Territory*, one key contribution made during the Middle Ages was the establishment of a distinction between spiritual power and secular power, with distinct implications for 'the understanding of space in relation to politics'. He argued that the fundamental distinction between secular and spiritual made in the later Middle Ages was:

Rome, 1998, 113; Bellomo, *Common Legal Past*, 6–21. When Roman law could be understood within national terms – as in Germany and Italy – it became part of a nation's legal heritage even if taught separately; see, for a useful summary, Conte, *Diritto Comune*, 16–25.

[24]See, as a particularly clear example, Sir Frederick Pollock and F.W. Maitland, *The History of English Law before the Time of Edward I*, 2 vols., 2nd ed., Cambridge, 1923. This, however, was a common practice across European nation-states, realised in many different forms of varying intensity and consequence. The link between law, the state, and its political programmes was most obviously seen in the foundation of the Akademie für Deutsches Recht in Munich in 1933–4 to ensure the realisation of the National Socialist programme in the law of the nation-state.

[25]For the problems surrounding the medieval 'past' of Scots law, see: Hector L. MacQueen, 'Legal nationalism: Lord Cooper, legal history and comparative law', 9 *Edinburgh Law Review* (2004), 395.

[26]Susan Reynolds, *Fiefs and Vassals: The Medieval Evidence Reinterpreted*, Oxford, 1994, with her explanation of choice at 15–16 (albeit not acknowledging the modern dimension). For a major methodological critique of centralism, see Chris Wickham, *Courts and Conflict in Twelfth-Century Tuscany*, Oxford, 2004; for Reynolds's critique, see her, 'The Emergence of Professional Law in the Long Twelfth Century', 21 *Law and History Review* (2003), 347. Scholars who downplay the role of a 'legal revolution' often explicitly eschew a state-centric position, casting the entire medieval millennium as a period of 'law without the state'; see, for example, Paolo Grossi, *L'ordine giuridico medioevo,* Rome, 1996, 31.

[27]Anthony Giddens, *The Nation-State and Violence*, Berkeley, 1985, 120; for a critique, which argues for a turn to the social, see Marjo Koivisto, *Normative State Power in International Relations*, Oxford, 2022, 53–54.

> Spiritual power, as the power of the church and the pope, becomes understood as power that knows no earthly limits, whereas temporal power, by its nature plural, is divided, limited, and spatially constrained. That latter form of power will come to be understood as exercised over and limited by territory, and eventually as the idea of territorial sovereignty.[28]

According to this narrative, the separation between spiritual and secular thus set in motion the territoriality of secular power. By the late thirteenth century, the idea was developing, in Elden's words, that 'land belonging to an entity, [w]as the thing to which jurisdiction applies' and, from this, the maxim that 'jurisdiction sticks to territory' (*iurisdictio coheret territorio*) developed.[29] According to the historian of political thought, Annabel Brett, the crucial marker of late medieval temporal jurisdiction was long held to be its formal territoriality; the signifier of rule is whether it is over bounded space. This, for her, differed from:

> The new understanding of sovereignty [in the modern state]—the metaphysics of the state as the bearer of sovereign, legislative power over subjects—precisely displaced the old medieval concept of jurisdiction and with it the stability of the inherited notion of territory to which jurisdiction, on the medieval understanding, coheres. The new space of the political did not coincide with the old space of jurisdiction; territory had to be re-conceptualised in relation to sovereignty.[30]

From jurisdiction over groups of people, to jurisdiction over land, to sovereignty over territory: this is one chronological narrative of change which was substantially criticized by Susan Reynolds in her *Fiefs and Vassals* but has never been completely replaced.[31] It is also a chronology which fundamentally underpins the narrative of state formation put forward in the 1960s by Joseph Strayer in his *On the Medieval Origins of the Modern State*, drawing on the idea of *la monarchie féodale*, developed by the French historian, Charles Petit-Dutaillis.[32] Here, the idea of the *fief de réprise* – the fief created through the surrender of autonomous jurisdictional power over land to the king which is then granted back to be held *of* or *from* him – underpins the development of the ruler's supreme jurisdiction over his *regnum*. Even if jurisdiction is being exercised by others (normally, in this imaginary, lay nobles), the king retains the authority (in theory) to confiscate

[28]Stuart Elden, *The Birth of Territory*, Chicago, 2013, 17–20. See further Costa, *Iurisdictio*, 129–131, 344–364. For a critique of 'territory' (and towards territories), see Luca Zenobi, 'Beyond the state: Community and territory-making in late medieval Italy', in Mario Damen and Kim Overlaet, eds., *Constructing and Representing Territory in Late Medieval and Early Modern Europe*, Amsterdam, 2021, 53.

[29]Elden, *Birth of Territory*, 213–229.

[30]Annabel Brett, *Changes of State: Nature and the Limits of the City in Early Modern Natural Law*, Cambridge, 2011, 170–171, at 170).

[31]Reynolds, *Fiefs and Vassals*, 3–14, 475–482.

[32]Joseph R. Strayer, *On the Medieval Origins of the Modern State*, with a foreword by Charles Tilly and William Chester Jordan, Princeton, 2005; Charles Petit-Dutaillis, *La monarchie féodale en France et en Angleterre*, *X*^e^*–XIII*^e^ *siècle*, Paris, 1933.

it and bestow it upon another. In Strayer's view, state formation occurred in the central Middle Ages by the extension of central institutions which simultaneously took power away from jurisdiction-holders and confirmed in more detailed, replicable language the extent of the jurisdiction they exercised on the king's behalf. In this way, the focus on territoriality – the 'object' nature – of jurisdiction stems from historical narratives which assume that late medieval polities and authorities in Western Europe will develop into the modern sovereign nation-state. A less teleological approach to central medieval jurisdiction is thus required.

The main institutional challenger to these national and state-centric perceptions, in the nineteenth century as in the central Middle Ages, was the papacy and 'canon law'. These present a peculiar set of problems, particularly around conceptualizing jurisdiction, which have also, we suggest, prevented a broader adoption of a plural approach to law in the central Middle Ages. The medieval papacy arguably produced the most obvious and ambitious example of legal centralization through the production of the *Liber Extra* yet, famously, the papacy did not develop, as a whole, into the form of a modern state: the modern papal state ('the Vatican') differs significantly from the extent of papal authority (over the Catholic *ecclesia*). The dogmatic basis of papal authority also significantly differed from that of modern states, regularly based on their abstract status as representations of a nation, land, or people. Yet even here, it was too easy, as Berman did, to characterize the relationship of the papacy to canon law as akin to the relationship between a state and its law. This is, in part, because the study of canon law itself has been inflected by the trajectory of the nation-state. While printed editions of canonical collections appeared from the mid-sixteenth century on, the most recent critical editions of key collections were the product of the nineteenth century, and thus shaped by contemporary confessional disputes and the dissonant political claims of both the papacy and new secular states such as Italy and Germany.[33]

Scholars of canon law and papal authority have indeed understood and challenged the state-centric approach to the papacy and papal law. Yet, despite these challenges, the major historical narrative told by historians of both the papacy and of canon law remains the growth of papal decision-making and legislation over the course of the twelfth century, especially as reflected in (authorized) canonical compilations and, when they exist, the papal registers of letters and bulls. In this way, 'the state' still casts a

[33]The political and confessional leanings of individual nineteenth-century editors have yet to be investigated, but the main edition of the *Corpus Iuris Canonici* remains that of Friedberg: *Corpus Iuris Canonici* 2 vols, Leipzig, 1879-81. The limitations of Friedberg's work are well-known but rarely explicitly explored beyond subject specialists: for an overview on the publication history of the *Decretum*, see Peter Landau, 'Gratian and the *Decretum Gratiani*', in Wilfried Hartmann and Kenneth Pennington, eds., *History of Medieval Canon Law in the Classical Period, 1140–1234: From Gratian to the Decretals of Pope Gregory IX*, Washington DC, 2008, 22, at 49-52.

shadow over our understanding of canon law and papal authority. This has resulted in two positions being asserted: first, that of an idealized ecclesiastical hierarchy with the pope at its summit; second, the automatic association of canon law in the period with papal law, without due awareness of the processes by which both were transmitted and mediated away from the papal curia. More recent work has unpicked these ideas, emphasizing that twelfth-century canonical compilations did not often, let alone always, rely on curial intervention.[34] Although central medieval popes made strident rhetorical claims to legal supremacy, popes and their advisors still relied on local enforcement and acceptance of papal authority for that supremacy to function and, as such, their claims – although often powerful, often believed – were never unchallenged.[35]

Moreover, and in contrast to secular powers, papal claims to spiritual jurisdiction rarely faced clear territorial limitations when exercised within Latin Christendom. For most of Christendom, for most of the twelfth century, papal jurisdiction was spiritual and distinct from ideas of territory, and can be (not entirely accurately) conceptualized as over particular 'norms'. Papal claims to secular authority, especially but not exclusively in Italy, did exist; further afield, in Sicily, Portugal, and England, time-contingent political choices influenced the adoption and assertion of such claims.[36] More widely, though, the example of the papacy challenges the idea that jurisdiction must be connected to territory *or* people, so much that the extent of papal claims to territory provide a critical facet of the idea of 'papal monarchy' with the implication that any claim to such a title or jurisdiction must be framed in a secular context.

If the idea of the modern state has thus continued to influence the legal history of this period, then one further obstacle to developing a fully plural legal history of Europe's 'legal revolution' remains the fragmentation of scholarship, much of which changes quickly and requires very specialist knowledge. One useful example is the scholarship on decretals: papal letters giving a legal decision, which were written in response to an issue or query. They offer a particularly rich example of the challenges that the specialized scholarly landscape poses to any more general approach. Previously taken to be forms of papal legislation, decretals as originally issued are now understood as form of document which could transmit very

[34]The best example remains the *Decretum* of Gratian: see Anders Winroth, *The Making of Gratian's Decretum*, Cambridge, 2000, and now John Burden, 'Mixed Recensions in the Early Manuscripts of Gratian's *Decretum*', 76 *Deutsches Archiv für Erforschung des Mittelalters* (2020), 533; Charles Duggan, *Twelfth-Century Decretal Collections and their Importance in English History*, London, 1963, 6, on the private character of the 'decretal collections' prior to 1209.

[35]For recent analyses, see Thomas W. Smith, ed., *Authority and Power in Medieval Church, 1000–1500*, Turnhout, 2020, and the implications of Felicity Hill's *Excommunication in Thirteenth-Century England*, Oxford, 2022.

[36]Benedict Wiedemann, *Papal Overlordship and European Princes, 1000–1270*, Cambridge, 2022.

different forms of law: from universal proclamations enforced throughout Christendom to individual judgements which were, originally, responses to local issues.[37] As most decretals survive not as original letters but in compilations, scholars must comb through the methods and aims of individual collections in order to show how the legal form of the decretal may have been transformed through its new role and significance in such a collection.[38] Indeed, it should be recognized that decretals as originally issued may have contained a different form of law (such as a judgement) but their inclusion in a canonical compilation may present them differently (as a legal rule, or procedure, or even universal legislation). These differences reveal an extremely dynamic and creative world where the systemic quality of law and regulation was not set. Yet to establish this takes a depth of subject knowledge which is equally necessary when dealing with, for example, twelfth-century collections of Anglo-Saxon and Anglo-Norman law, or the late twelfth – and thirteenth-century collections of the collections of Welsh law known as the *Cyfraith Hywel*.[39] Writing *across* these specialized areas is necessary to a plural legal history. Yet despite welcome scholarly advances, much of this work takes place within separate historiographical fields, still making it difficult for a plural approach to law to emerge.

IV. From Legal Pluralism to Entangled Legalities and Beyond

These practical problems were one reason why we formed the British Academy-funded network on medieval jurisdictions: how to speak within and across disciplines and specialisms to evoke a sense of the experience of the multiple legalities of medieval Christendom?[40] Our first approach was to draw on broader conceptual paradigms from legal studies and the history of law to help us anticipate how a multi-legal approach to central jurisdiction might work in practice. The most celebrated and obvious was legal pluralism, a concept which developed in the 1970s and is now so well-regard

[37]See the foundational work of Mary Cheney, for example, her *Roger, Bishop of Worcester 1164–1179*, Oxford, 1980; a recent summary can be found in Anne J. Duggan, 'Making Law or Not? The Function of Papal Decretals in the Twelfth Century', in Péter Erdö and Anzelm Szabolcs Szuromi, ed., *Proceedings of the Thirteenth International Congress of Medieval Canon Law: Esztergom, 3–8 August*, Monumenta Iuris Canonici, C 14, Vatican City, 2010, 41.

[38]See, particularly, Danica Summerlin's contribution to this collection. The most recent overview of decretals' roles is Gisela Drossbach, 'Decretals and Lawmaking', in John C. Wei and Anders Winroth, eds., *The Cambridge History of Medieval Canon Law*, Cambridge, 2022, 208; an invaluable overview of the trends in decretalist studies. Its place in a Cambridge History nevertheless leads it to tell a story of the re-emergence of decretals as a law-making tool rather than examining what decretals specifically did at the time.

[39]For the rewriting and translating of the Old English body of law, see Bruce R. O'Brien, *Reversing Babel: Translation among the English during an Age of Conquest, c.800–1200*, Plymouth, 2011. For the *Cyfraith Hywel*, and the complexities (but possibilities) of a manuscript-based approach, see most recently, Sara Elin Roberts, *The Growth of Law in Medieval Wales, c.1100-c.1500*, Woodbridge, 2022.

[40]Grant Reference IC4/100216; see also <https://medievaljurisdictions.sites.sheffield.ac.uk/home> (last accessed 1 September 2024).

that a journal is dedicated to its study. When it emerged, the then-dominant 'monistic' or 'centralist' view of law was that which associated law, and the ability to make it, with the state, either as a direct consequence of its sovereign command or in its capacity to formalize and legitimise existing norms within its bounds which, again, flowed from its sovereignty.[41] By contrast, in legal pluralism, as Brian Z. Tamanaha put it: 'a core proposition … is that state law is not the only form of law'.[42] A legal pluralist approach thus takes in norms (such as reputation, an alternative moral order, the appeal to custom) which are not formalized or recognized by the state nor, necessarily, self-described as law. One of the problems a legal pluralist must confront is, therefore, how to distinguish law from non-law: what distinguishes law, more broadly, from other forms of social life?[43] Can law only be identified through the context of its assertion and, if so, does it reduce legal history in particular to a series of isolated case studies?[44] Despite these difficulties, non-subject-specialists such as Tamanaha have identified the central Middle Ages as a rich historical example of legal pluralism.[45] His legal plurality was nevertheless produced by the existence of plural *authorities* (kings, princes, popes, bishops, towns, lords, etc), thus unwittingly confirming a regular criticism of scholarship on legal pluralism: it still associates law primarily with recognized and recognizable authoritative bodies, that is, with the idea of the state.

Indeed, as study of Tamanaha's work exemplifies, there are reasons why legal pluralism as a theoretical framework is trickier to adopt for the central Middle Ages than might first be thought.[46] In particular, legal pluralism as a concept was developed in a post-colonial context in part to

[41]Legal pluralism directly targeted this: the foundational statement remains John Griffiths, 'What is Legal Pluralism?', 24 *Journal of Legal Pluralism and Unofficial Law* (1986), 1. For the possibilities of its practical application, see Geoffrey Swenson, 'Legal Pluralism in Theory and Practice', 20 *International Studies Review*, (2018), 438.

[42]Brian Z. Tamanaha, *Legal Pluralism Explained: History, Theory, Consequences*, Oxford, 2021, 3. However, what Tamanaha classifies as 'abstract legal pluralism' often shares a concentration on 'a multiplicity of a single form of law theoretically defined, not a multiplicity of different kinds of law' (11). Our collection starts with the latter position. See further, Andrew Halpin and Nicole Roughan, eds., *In Pursuit of Pluralist Jurisprudence*, Cambridge, 2017.

[43]Sally Engle Merry, 'Legal Pluralism', 22 *Law and Society Review* (1988), 869, at 877–878. Merry's famous question: 'Where do we stop speaking of law and find ourselves simply describing social life?' was prefaced by another, less cited one: 'why is it so difficult to find a word for non-state law?', to which the answer could reasonably be: 'it is only difficult if the basic assumption is still to associate law with the state'.

[44]Emmanuel Melissaris and Mariano Croce, 'A Pluralism of Legal Pluralisms', *Oxford Handbook Topics in Law*, https://doi.org/10.1093/oxfordhb/9780199935352.013.22 (accessed 15 September 2022). Tamanaha, *Legal Pluralism*, 12–18 identifies instead law by its social source and defines it in three ways: (1) community law; (2) regime law; (3) cross-polity law.

[45]Tamanaha, *Legal Pluralism*, 8, 24–32.

[46]For late antiquity, see Caroline Humfress, 'Thinking through Legal Pluralism: "Forum Shopping" in the Later Roman Empire', in Jeroen Duindam, Jill Harries, Caroline Humfress and Nimrod Hurvitz, eds., *Law and Empire: Ideas, Practices, Actors*, Leiden, 2013, 225; for the early Middle Ages (although interestingly not engaging with the broader scholarship on legal pluralism), see, most recently, Stefan Esders and Helmut Reimitz, 'Diversity and Convergence: The Accommodation of Ethnic and Legal Pluralism in the

legitimise the norms presented by legal orders beyond the imperial state.[47] By contrast, the pluralism long-acknowledged in medieval law is based in a very different historical context, as Tamar Herzog has recently argued. For Herzog, central medieval Europe had a law which was 'profoundly cacophonic', with sources including 'customs, court decisions, jurisprudence, norms of corporations and communities, royal decrees, as well as a wide array of debates that were grouped together during the late middle ages and the early modern period under the umbrella(s) of Roman, feudal, canon, and natural law, as well as the law of nations'.[48] Herzog argued that these two distinct versions of plurality are not the same, describing law before modernity as so structurally different that its legal 'complexity had very little to do with legal pluralism the way it is characterized today'.[49] What constitutes legal pluralism, for Herzog, is its formal recognition: while there might have been plurality in *practice* in pre-modernity, this complexity, or 'cacophony' in Herzog's terms, did not represent 'a plurality of legal systems'. Even if the means were plural, as they regularly were, the explicitly invoked end – justice – was singular. Yet these diachronic comparisons, although rich and thought-provoking, belie the complexity of and evidence from the central medieval past itself, in which systemic legal thought was indeed plural, and may be reinforced more by the traditional rhetorical use of the Middle Ages as modernity's 'other', rather than describing the way in which 'users' may have consciously grasped the plurality inherent in their interactions with law.[50]

This criticism aside, there are still difficulties in applying the concept of legal pluralism to the central Middle Ages, difficulties which also partly explain why the concept is falling out of the favour of historians of other periods who were early adopters of it. Some of these difficulties are rather prosaic: the wide variety of practices which could be included under the banner of legal pluralism result in the concept losing its value as a historical heuristic tool.[51] A recent study on legal pluralism within the Roman Empire by Kim Czajkowski, for example, suggested that it is helpful to distinguish in

Carolingian Empire', in Rutger Kramer and Walter Pohl, eds., *Empires and Communities in the Post-Roman and Islamic Worlds, c.400–1000CE*, Oxford, 2021, 227.

[47]See in particular the work of Lauren Benton: *Law and Colonial Cultures: Legal Regimes in World History, 1400–1900*, Cambridge, 2002, and, more recently, Lauren Benton and Richard J. Ross, eds., *Legal Pluralism and Empires, 1500–1850*, New York, 2013.

[48]Tamar Herzog, 'The Uses and Abuses of Legal Pluralism: A View from the Sidelines', 42 *Law and History Review* (2024), 211, at 215. In this article, she draws on the work of Paolo Grossi for her depictions of medieval law. We are extremely grateful to Professor Herzog for providing us with a pre-print copy of this article.

[49]Herzog, 'Uses and Abuses', 216.

[50]Humfress argues that the concept of legal pluralism only makes sense in the shadow of the monist state; Caroline Humfress, 'Legal Pluralism's Other: Mythologizing Modern law', 42 *Law and History Review* (2024), 155.

[51]Swenson, 'Legal Pluralism in Theory and Practice', 440, identifies 'the need for new legal pluralism archetypes' and 'commonly used strategies' (both at 440), in the face of such diversity of approach.

the literature between scholars who understood the most significant pluralism to be a pluralism of norms and those who emphasized instead a pluralism of jurisdictions. Yet even these approaches, she noted, did not include what can broadly be called 'alternative dispute resolution', settlements, agreements and outcomes that took place outside of or in the shadow of sanctioned court fora, which is odd given their importance in modern accounts of legal pluralism.[52] The stability of legal pluralism as a descriptive *concept* is thus regularly at odds with the relative fragility of its conceptual coherence as a historical phenomenon; in this, Herzog's criticisms of those who assume a pre-modern 'legal pluralism' are important and profound. Certainly, the *descriptive* limitations of legal pluralism have been frequently discussed: it has been difficult to move beyond describing the *fact* of pluralism to understanding its meaning and significance for the historical society under consideration. As the anthropologist Fernanda Pirie has argued, while pluralism can usefully expand the concept of law to other normative systems, it does not do much to aid our understanding of 'what law is and does' nor the 'quality of legalism' which motivates and structures actions and past experiences.[53]

Most recently, legal scholars have begun to take issue with the idea of a legal 'system' in itself, as something self-contained and internally consistent, with its 'aspirations of hierarchy, order and coherence'.[54] 'Entanglement' has been introduced as a concept underpinning 'a common state of affairs in law'. Norms from different sources and origin are 'entangled' in a legal order rather than differentiated or 'integrated'. More recently, studies have shown how, in the post-national age (that is, when the dominant politico-legal entity is no longer or no longer only the nation-state), legal norms 'operat[e] side-by-side without the presumptive authority of one over the other'.[55] This resonates, we think, for the central Middle Ages, a period in which *gentes* and *nationes* were regarded as having their own laws which were realized regularly through politics and through practical interaction far more regularly than through reference to understood, clear-cut and differentiated legal norms.[56] As Chris Wickham put it in his study of

[52]See Kimberly Czajkowski, 'The Limits of Legal Pluralism in the Roman Empire', 40 *The Journal of Legal History* (2019), 110; cf. Tamanaha, *Legal Pluralism*, 3.

[53]Fernanda Pirie, 'Beyond Pluralism: a descriptive approach to non-state law', 14 *Jurisprudence: An international journal of legal and political thought* (2023), 2, at 7–10. For legalism, see the four volumes: Hannah Skoda and Paul Dresch, eds., *Legalism: Anthropology and History*, Oxford, 2012; Fernanda Pirie and Judith Scheele, eds., *Legalism: Community and Justice*, Oxford, 2014; Paul Dresch and Judith Scheele, eds., *Legalism: Rules and Categories*, Oxford, 2015; Georgy Kantor, Tom Lambert and Hannah Skoda, eds., *Legalism: Property and Ownership*, Oxford, 2017; see further, Fernanda Pirie, *The Anthropology of Law*, Oxford, 2013.

[54]Nico Krisch, 'Framing Entangled Legalities beyond the State', in Krisch, ed., *Entangled Legalities*, 1.

[55]C. Mac Amlaigh, 'Pluralising Constitutional Pluralism', in Roughan and Halpin, eds., *In Pursuit of Pluralist Jurisprudence*, 68, cited in Humfress, 'Entangled legalities', 355.

[56]Tom Johnson, *Law in Common: Legal Cultures in Late Medieval England*, Oxford, 2019, 7–9.

disputing in twelfth-century Tuscany: 'the rules that any given society did employ were rarely coherent in practice'.[57] Post-national and pre-national are not the same, but the position that legal creativity and innovation – and thus plurality – is the current product of a more integrated, informal yet technologically-changing world does resonate with – and thus provides surprising opportunities for thinking with – a past in which text in manuscript culture is more flexible than print and legal norms could more easily be flexed in the absence of monopolistic accountable bureaucracies.[58] The 'entanglement' of norms suggests creativity, innovation and possibility, as well as complexity, dead-ends, and the emergence of formality. All are features of law in the European central Middle Ages.

V. A New Approach to Jurisdiction?

As a result, we contend that thinking about legal plurality in the European central Middle Ages necessitates a different way of thinking about jurisdiction, one which foregrounds actors and performances as the means by which jurisdictions were asserted, defined and formalized – or, to put it another way, as the means by which jurisdiction came into being.[59]

As Tom Johnson has recently put it: 'jurisdiction was an interpretive, even imaginative act'.[60] This, for us, posed the question of *how* jurisdictional boundaries were interpreted and imagined. How did contemporaries lay down and maintain jurisdictional boundaries, particularly in cases where there were clearly different and potentially competing legal claims, and about which contemporaries may well have had imperfect knowledge? This is a particularly pressing question for medievalists given that, if the knowledge of our legal actors was imperfect, ours is even more so. Faced with a similar (but by no means identical scenario) in late antiquity, Caroline Humfress has suggested thinking with the concept of a 'legal innovator': someone who, because of the sheer number of different legal norms available, has the capacity to create norms – to invent 'legal technologies' –

[57]Wickham, *Courts and Conflict*, 4.

[58]Despite the growth in accountable ways of thinking and acting from the later twelfth century onwards; John Sabapathy, *Officers and Accountability in Medieval England, 1170–1300*, Oxford, 2014.

[59]There is comparatively little literature which thinks through the phenomenon of jurisdiction beyond stating a definition of it as the 'power of legal administration'; Tom Lambert, 'Jurisdiction as Property in England, 900–1100', in Kantor, Lambert and Skoda, eds., *Legalism: Property and Ownership*, 115, identifies the period as one where jurisdiction emerged as a form of 'property', and thus speaks about the emergence of 'jurisdictional rights', but does not consider jurisdiction as emerging from dialogue about different sources of law and norms. Lambert's remains, however, one of the few accounts in English to consider how jurisdictional language develops.

[60]Tom Johnson, 'The Tree and the Rod: Jurisdiction in Late Medieval England', 237 *Past & Present* (2017), 13, at 25; see also the critique of an essentialist view of politics in Anastasia Piliavsky and Judith Scheele, 'Towards a critical ethnography of political concepts', 12 *HAU: Journal of Ethnographic Theory* (2022), 686.

themselves.[61] Although we do not adopt her concept of 'legal innovator' here, Humfress's broader approach offers a way into understanding jurisdiction not as a pre-existing boundary between different legal systems or sources of law but, instead, as a form of performance, as action as opposed to description, as something that is repeatedly created, claimed, asserted and supported through people, networks and institutions.[62] The structural consequence of legal plurality is, we contend, not only that jurisdictional questions emerge but also that the answers to such questions are not set; the impact of their judgement can be flexible and changeable. The collection approaches this actor-centred perspective on jurisdiction in three ways.

First, we take a capacious approach to norms. The collection views all forms of norms – legal, religious, moral, vernacular – as sources which could potentially contribute to legal decision-making. We understood the norms identifiable in our material as conceptual things with which people actively worked. Thus, on occasion, what looks like the application of sharp and pre-existing jurisdictional boundaries were the consequences of multiple – sometimes contradictory, sometimes complementary – norms being practically worked out (see, particularly, the contributions of McSweeney and Larson; Zanetti). This also meant that our legal 'cases' could be something more than formal litigation (see Summerlin's contribution), including how and on what normative bases statute was produced (see, for example, the contribution of Tviet and Vogt). Litigation was one way in which law could be deployed, invoked or created to settle disputes and secure justice (for example, the contributions by Duggan and Fossier), but it was not the only means, nor were courts the only fora where such outcomes could be secured or discussed (as shown by Taylor's analysis of the Vézelay chronicle). The case studies presented in his collection include not only formal litigation, but also particular sources, moments, or practices, where legal actors were able to determine – in different ways – the normative context of jurisdictional boundaries.

Second, by focusing on legal actors, we turned our analytical frame upside down, moving away from baggy words which are hard to analyse in our case material, such as 'state', 'polity', or 'unit', in part because they did not dominate contemporary lexicons. Instead, we turned our gaze to things we did know to have existed in our period, that is, people, and their actions. This allowed us to ask more fundamental questions: who or what could be categorized as a 'legal actor' and why? As our cases where law and legal actors are to be found are not only ones which give primacy to court fora and legal professionals (see, respectively, the contributions of Fossier; McSweeney and Larson), we understand the concept of a legal actor in an equally capacious

[61]Humfress, 'Legal Pluralism's Other', 9, 14.
[62]For the focus on legal actors, see Humfress, 'Entangled Legalities', 360–361, drawing on the work of Ulrike Babusiaux.

sense, as someone who was involved, in whatever way, in the field of making and defining law, right and justice. Our legal actors thus include not only litigants, accusers, defendants, advocates and judges, accusers, witnesses and inquisitors, but also scribes, chroniclers, compilers, notaries and bailiffs, who were often equally involved in the making, sustaining and changing of jurisdictional claims as the legal professionals themselves (see, particularly, García-Velasco's contribution). By widening the application of the concept of 'legal actor', the collection demonstrates that the processes by which legislation was made were not confirmed to the 'centre' but involved other legal actors, often local, whose choices about, for example, what letter to include in a canon law compilation and how to present it, would have long lasting effects on what constituted law (see, particularly, Summerlin; Vogt and Tveit).

Third, and finally, we aim to 'deneutralise' our legal concepts, critiquing the separation of fields – the legal from the political, cultural, social, and economic – that the traditional historiography of the legal renaissance often assumes. For some contributors, this means collapsing fruitfully the separation of political from legal aims that our formal separation of law from politics encourages (see, particularly, García-Velasco, Kuskowski and Taylor). In the final section of this collection, 'jurisdictional imaginaries', the contributions explore in different ways how law functioned as a political field (Taylor) or as a political aesthetic (Kuskowski). Both contributions in this section develop a sense of the 'legal' through means traditionally assigned to the political: that is, its function as a means of world-creation, as the means by which contemporaries could think about how the world should be and be governed which could, accordingly, *affect* what that world became. We therefore take seriously the potential for claims of jurisdiction to be meaningfully political, to be a means by which authority could be negotiated, and, thus, politically transformative, rather than practically descriptive of pre-existing legal boundaries.

The collection is thus divided into three sections which roughly map on to these three approaches. The first, entitled 'experiencing jurisdiction across normative frameworks', explores what it meant for legal actors to work across and within different sorts of normative legal boundaries (McSweeney and Larson; Duggan; Tveit and Vogt; Fossier). The second, entitled 'creating new normative frameworks', explores the creativity of legal actors in developing new legal worlds through jurisdictional experiments (García-Velasco, Summerlin, Zanetti). The final section, 'jurisdictional imaginaries', leans in further to the idea of the creativity which legal actors themselves brought: how were jurisdiction and law invoked to create new world orders of different scales (Taylor, Kuskowski)? How do we understand, in Kuskowski's terms, law's 'political aesthetic', and, in Taylor's terms, its 'political function'? Across all the contributions, we have asked the same underlying questions:

what is identified as a source of law, and with what consequences? Who could be described as a legal actor, and how do they identify, use, create and/or interpret law? What was the relationship between jurisdiction and norms identifiable in the particular case under discussion? Taken as a whole, these essays show that the legal renaissance of the twelfth century was not confined to proto-states, schools and legal professionals but involved many more groups and types of people, all of whom were, successfully or not, actively engaged in the matter of jurisdiction: the capacity to declare what was right and just in the world.

Acknowledgements

We are extremely grateful to all the participants of the British Academy-funded network: 'Jurisdiction, legal community and political discourse in Europe, 1050–1350', for their comments and help with this introduction, and particularly to Caroline Humfress for her contributions to its framing. We would also like to thank our friend and collaborator Matthew McHaffie whose idea it was to bring a group of historians together to discuss medieval jurisdictions and whose work helped to inspire much of its original framing, as well as Ian Williams, who has expertly shepherded this special issue through the peer review process, which has substantially improved it. This special issue is an outcome of a 2019 grant from the British Academy's 'Tackling the UK's International Challenges' Scheme.

Disclosure Statement

No potential conflict of interest was reported by the author(s).

Funding

This work was supported by British Academy [grant number IC4/100216].

Notes on contributors

Danica Summerlin is Senior Lecturer in Medieval History in the School of History, Philosophy and Digital Humanities at the University of Sheffield.

Alice Taylor is Professor of Medieval History in the Department of History at King's College London.