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Between Conflict and Cooperation: Compromise in the Late Medieval Feud

Feuds were an established element in the conflicts of the Late Middle Ages. Usually, they were a result of various competitions to extend regional rule, and they were a typical feature in all regions of the Holy Roman Empire.[1] In most cases, conflicts were waged over territory, property, claims to rule, and rights, but insults to the honor of individuals or families could also cause strife. The feud was a means to restore wounded honor, for example, by way of humiliating submission (Schreiner and Schwerhoff 1996; Althoff 1996: 63–76; 1997: 99–125; Klein 2019; Althoff 2020: 42–60). No concrete cause was required to start a feud. Those who did so claimed in principle to have suffered some injustice, which might have pertained to material damage, such as attacks on goods or chattels. Another frequent claim was the curtailment of sovereign rights, such as jurisdiction, or the imposition of allegedly illegal dues and taxes. Other reasons cited for feuds were accusations that opponents had failed to uphold their obligations or promises, such as when previously agreed truces were broken. It was also possible to interfere in a feud in support of an ally or relatives (*pro amico*), meaning that third parties who had not originally been involved were also brought in (Fehn-Clauss 1999: 93–138).

From the twelfth century onward, a complex set of rules evolved over time that established norms for feuding, yet by the end of the fifteenth century, feuds had never been banned. Thus, throughout the Late Middle Ages, armed self-help in the form of feuding was considered an appropriate means to support and defend one's claims. It was only the *Ewiger Landfrieden* [Perpetual Public Peace] of 1495 that put an end to the right to feud (Fischer 2007). Although from a normative point of view only the nobility was entitled to feud, in reality, cities also engaged in feuding. Over the course of the Middle Ages, municipalities had not only developed into trade and craft hubs but were increasingly capable of wielding political power. Cities were feuding each other much more often; however, they also regularly fell victim to attacks by the nobility. The municipalities often fought their city lords fiercely for independence

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1 On feuds in medieval Europe, see Kaminsky 2002: 55–83; Büchert Netterstrøm and Poulsen 2007; Tuten and Billado 2010; Prange 2014; Firnhaber-Baker 2020: 248–266. On the Late Middle Ages in Germany, see Algazi 1996; Zmora 1997, 2011; Reinle 2003, 2007; Eulenstein et al. 2013; Dirks 2015; Reinle 2021.

and autonomy. Thus, for late medieval cities, the feud was an omnipresent – one might almost say, everyday – state of affairs.[2]

Feuds were seldom intended to physically destroy the opponent. As a consequence, they were never or at least very rarely decided in open battle. The objective was to weaken the adversary to such a degree that they would be forced to give in and surrender. Attacks were thus generally mounted against the foe's resources and means of subsistence – most of all villages and manors. Crops were destroyed and cattle driven away, household goods were looted, and fruit trees and vines were felled and uprooted. Sometimes fields, single farms, or entire villages were set on fire. It was therefore frequently the peasants – the ones who were not actually involved – who were most affected by feuding. This kind of violence was referred to as *Schadentrachten* [attempting to damage].[3] Another tactic was to besiege castles and cities. In doing so, the attackers would cut the beleaguered inhabitants off from their supply of food and other goods until they were so demoralized that they would give in and accept negotiations. If cities were involved in a feud, they could be pressured into submission by ambushing their traveling merchants or looting their trade goods. A similar goal was served by taking enemies prisoner and keeping them in prison until they were ready to make political or material concessions (Kintzinger 1955: 41–59; Meier 2022: 35–66; 122–146).

Hence, warring factions did not fight to the last drop of blood, but feuds were waged until it became possible to negotiate the modalities of a peace. Thus, engagements were often accompanied by parallel attempts to find solutions by way of talks and moderation. Engagements were usually interrupted for certain periods of time and then started up again when talks failed. In most cases, open confrontation came to an end when both sides believed that they had considerable room to negotiate. Thus, such controversies frequently came to an end not with clear victory or defeat for either side, but through compromise. In order to find a compromise, both sides had to take a step away from their original demands, though they did not have to completely give up on their positions. From this per-

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2 There are numerous studies on German cities and the roles they played in late medieval feuds. See Orth 1973; Neitzert 1992; Terharn 1994; Vogel 1998; Heimann 2003.

3 The term *Schadentrachten* was coined by Otto Brunner (1965: 77–90), who saw the feud as an accepted means of rule in the Late Middle Ages. Gadi Algazi, on the other hand, sees feuding as an instrument used by the nobility to compel the peasants under their rule. He notes that all warring factions turned against the peasants in order to keep them permanently subjugated. See Algazi 1993: 253–274; 1997. Christine Reinle (2003, 2007) emphasizes that peasants were not only the victims of feuds but also launched feuds themselves. She has analyzed feuds in the fourteenth and fifteenth centuries, especially in Bavaria.

spective, feuds in the Late Middle Ages are particularly suitable for discussing the types and functions of compromise between the poles of confrontation and cooperation. For economic reasons, the considerations here will be limited to the Northwest region of the Holy Roman Empire (the Rhineland and Westphalia), where the availability of sources is particularly good. In this context, I must point out a semantic particularity that will also shape the structure of this contribution: In today's language, the term *compromise* denotes the result of making mutual accommodations. Martin Benjamin, for whom compromise in the narrower sense presupposes mutual renunciation, argues in this sense of "splitting the difference." It builds a bridge between conflicting opinions, neutralizes disagreements, and reduces diverging interests to a common denominator (Benjamin 1990). In this sense, compromise appears as the product of a sometimes lengthy process of moving toward each other (Golding 1979: 3–25; Margalit 2009; Koutnatzis 2010; Zanetti 2022: 20–22; 2023: 367–371).[4] Unlike the modern term, the Medieval Latin term *compromissum* did not refer to the result of negotiations but in fact to the readiness to take such a path. *Compromissum* meant the conflicting parties agreeing to delegate their conflict to arbitrators, who were supposed to bring about a decision. Semantically, the term *com-promissum* expresses this very aptly: it is a joint promise (*promissio*) that makes it possible to reconcile contested points of view (Bayerische Akademie der Wissenschaften 1999: 1119–1120). Thus, methodologically, the following considerations will approach the phenomenon from two angles: on the one hand, the emphasis will be on the procedural aspect, in the sense of the Medieval Latin *compromissum*: my considerations on actors (section 1) are indebted to this approach. On the other hand, I suggest viewing compromise as the result of this process and its substance, and I will discuss the associated methods of presenting compromises to the public in sections 2 and 3.

1 The Actors of Compromise

The Medieval Latin term *compromissum* was reserved for a process of arbitration that, since the twelfth century, had been developed by reaching back to ancient Roman law in Italy (Baumbach and Garnier 2019: 235–249). From there, it spread throughout Europe and became a frequently used means of settling conflicts and making peace (Dirks 2021: 175–181). One explanation for its attractiveness is that it was the conflicting parties themselves who initiated and coordinated the proceedings. It was based on voluntariness and not on decrees from authorities or

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4 A recent overview is given in de Boer and Westphal 2023: 141–172.

even coercion. In this context, *compromissum* referred to both parties agreeing to assign their dispute to arbiters. Those people were called *arbiter, arbitrator, amicabilis compositor*, or, in vernacular German texts, *Sühnemann* or *Schiedsmann* (Ziegler 1967: 376–381; Bader 1984: 252–289; Martone 1984; Garnier 2023: 233–260). Such agreements were generally fixed in a document (document of compromise). The declared intention to delegate the dispute to a mediating body required the parties to refrain from open violence. It was thus anything but just another turn of phrase when the documents of compromise stated that peace and unity (*pax et concordia*) were the goal of the negotiations (Janssen 1971: 81).[5]

By accepting arbitration, the parties lost their control over the decision-making process. However, by selecting their own arbiters, they were able to maintain considerable influence. In most cases, the arbiters were the minions of a ruler or, if clergymen or cities were party to the conflict, members of those respective institutions. The arbiters decided either unanimously or according to the majority principle. If they were not able to come to an agreement, a third arbiter was called in. This task was usually assumed by people who had connections to both parties to the conflict and were therefore trusted by both sides to come to a just conclusion. Often, relatives or allies of both factions were appointed as third arbiters (Garnier 2000: 278–289). The idea of the unbiased and neutral arbiter was an ideal type, but did not correspond to the reality of medieval practices of conflict. It was not about dealing with the case without bias, which was impossible given the backgrounds of the arbiters; rather, the process was intended to lay foundations that would be as equal as possible.

Aside from the arbitration system, there were other means of making peace. In most cases, these involved negotiators or mediators who, however, were not entitled to make decisions autonomously. They sounded out the possibilities of reaching an agreement and were thereby able to achieve settlements. During their talks with the other side, they were bound by instructions and had to consult with their clients when necessary (Kamp 2001, 2023: 205–232; Althoff 2011; Lück 2012: 85–101; Cordes 2015). Unlike arbiters, who in most cases came from the families or institutional environments of the feuding parties, meditators were paid for their services. Contracts for financial payment were generally concluded, meaning that the necessary staff were always on hand for the task (Orth 1973: 15–18).

One crucial advantage of the processes described above was that they could be carried out at any stage of a feud: before the engagement, to prevent the out-

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5 "Umbe de besten wille ind gemeyne oerber ind vriede des lantz [. . .]" (Lacomblet 1853: 122); "[. . .] pro bono pacis [. . .]" (Ennen/Eckertz 1863: 430).

break of military violence, or while it was taking place, in order to put an end to it. During a feud, a wide range of arbitration methods would usually overlap: before or during a feud, negotiators would sound out the possibilities for mutual accommodations. Their talks could result in a settlement or in a decision to refer the negotiation to a body of arbiters, who would then be responsible for making a final decision. If all attempts failed, there was usually the threat of renewing hostilities. The negotiations always required the parties to stay away from physical violence. In the context of a truce, all feud-related actions had to be suspended (Terharn 1994: 89–95; Dirks 2015: 227–228). From around the thirteenth century onward, the arbitration system an integral part of alliances and land peace agreements between the spiritual and secular sovereigns and cities in a given region (*pax terrae, Landfrieden*).[6] These alliances united the participants militarily against existing or potential rivals. Internally, they protected the peace of the partners by institutionalizing arbitration committees for future domestic conflicts. Arbitrators were to be used, as an agreement from 1322 very aptly puts it, "to prevent wars and, once they have broken out, to settle them" (Krumholtz 1913: 585).[7] Often, the desire for mutual accommodations was already reflected in the choice of the location where the mediators or arbiters were to meet. The meeting point would give both spatial and metaphorical expression to the partners' readiness for rapprochement. In an ideal scenario, it would be located somewhere along a convenient water or land traffic route and would be easily accessible for all those involved. Such places were frequently located at a precise midpoint between the territories of the respective factions, so that each of them had the same distance to traverse (Dirks 2015: 229–232). The parties were each entitled to make several suggestions for a meeting place, from which the opponent could choose (Orth 1973: 15). Also of crucial significance was the infrastructure of the meeting place, which had to offer an appropriate level of comfort, particularly when it came to high-ranking arbiters. On rivers, islands proved to be preferred meeting points. To maintain proportional representation, arbiters sometimes had to meet on a weekly basis at locations within the respective territories of the parties to the conflict. For example, one arbitration committee consisting of four people was initially supposed to discuss disputed matters between the Archbishop of Cologne, Heinrich II of Virneburg, and Count Gerhard VII of Jülich at Lechenich (in the Electorate of Cologne) for eight days, before meeting at Zülich in Jülich territory for another eight days. If no agreement could be reached, the arbiters were

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6 On the Holy Roman Empire, see Buschmann and Wadle 2002; Baumbach and Carl 2018. On the Rhineland, see Rotthoff-Kraus 1990; Stercken 1989. On Westphalia, see Pfeiffer 1955: 79–140; Tewes 1985: 169–177; 1986: 9–17; Berns 1991; Henn 1995: 9–28; Janssen 1995: 29–40.

7 "Ut autem guerrarum suscitatione caveatur, et, si suscitate fuerint, componantur [. . .]."

to commute between those two places every eight days until a decision was made.[8] This change of places was unlikely to facilitate swift decision-making; this example therefore vividly documents that the choice of location for negotiations was not just a pragmatic consideration. The hope for mutual accommodations on the disputed issue was evident in the choice of meeting places. Nobody was allowed to insist on their own factual or geographic position; everybody had to be prepared to move toward the other – both substantively and spatially.

2 The Substance of Compromise

If we shift our focus from the procedural aspect of the Medieval Latin *compromissum* to understand compromise, in its current meaning, as the result of such a process, we must first direct our attention at the conditions that were negotiated to put an end to the feud. When a feud was to be settled with the help of mediators or arbiters, those involved hoped that a kind of intermediate zone between the originally contested positions would be established. Essentially, the intention was to find a substantive solution and thus to put an end to the conflict. Arbitration resulted either in a settlement brought about by mediators or in a verdict from the arbiters, which was called *compositio*, atonement, *Rachtung*, or *Schied*, and fixed in a document (Crößmann 1964; Janssen 1971).

Essentially, those involved hoped that contradicting positions could be transformed into a shared position. The following will present the possibilities of shaping such intermediate zones by looking at the example of a feud that would gain nationwide significance: the *Dortmunder Fehde* (Dortmund Feud) of 1388/1389, which involved the rich commercial metropolis of Dortmund having to defend itself against neighboring territorial lords (Mette 1886: 1–296; Kirchhoff 1910: 1–68; 1982: 107–128; Garnier 2001/2002: 23–46). On the one hand, this feud was captured by city historiographically in a lasting, albeit biased way: for example, in the chronicle of the Dominican Johannes Nederhoff – written around 1440/1450 – and in the chronicle of Dietrich Westhoff, written a century later.[9] On the other hand,

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8 "[. . .] die viere solen ze Lechenich an dem neisten dage sente Martins [. . .] invaren unde da innen bliven echte dage [. . .]; enkunnen si des rechtes binnen den echte dagen niet eyndrechtich werden, so solen sie [. . .] van Lechenich ze Zulpeke varen unde samen ouch echte dagen bliven; enkunnen si ouch binnen den echte dagen niet eyndrechtich werden, so solen ever wieder ze Lechenich invaren, unde nach echte dagen wieder ze Zulpeke varen, unde wieder unde vort also lange varen unde biluen, bis si eyndrechtich werden [. . .]" (Lacomblet 1853: 158).

9 On Johannes Nederhoff, see Roese 1880; Classen 2010. On Dietrich Westhoff, see Hansen 1887; Reininghaus 2023.

there is also a detailed city feud book, which comprehensively documents the conflict and the expenses it incurred (Mette 1886: 66–124; Schilp 2018: 169–200).

Both the cause and course of the feud were typical in many ways: at the heart of the dispute there was a development, comparable manifestations of which can be observed in all regions of the Empire in the Late Middle Ages. Within the consolidating territories of the territorial lords, the imperial cities formed islands of municipal autonomy that had to be eliminated in the interest of consolidating unified territories. The goal of every territorial lord was to subjugate the imperial cities on his territory. The case discussed here involved a series of disputes over municipal autonomy between the Imperial City of Dortmund and the neighboring territorial lords: Count Engelbert III of the Mark and the Archbishop of Cologne, Friedrich of Saarwerden (Jütte 1981: 171–203; Schilp 1994: 69–211; 2012: 57–94).[10]

In late February 1388, the two territorial lords declared a feud against the city (Andernach 1983: no. 1591; Roese 1880: 66–67).[11] Such formal and, in most cases, written declarations were part of the conventional rules of medieval feuding, for the potential opponent had to be officially informed that he was to expect violent action in the near future. The methods used to fight the Dortmund Feud were no different to any other conflict of this kind (Bolte 2021: 81–106). The Archbishop of Cologne and the Count of the Mark sent troops to Dortmund, which at first began a siege of the city. Thus, the first phase of the feud was intended to stake the lords' respective claims. The threatening gestures were meant not as a means of taking the city by force but primarily as a way to compel the citizens' readiness to negotiate. And indeed, four months after the start of the siege, in June 1388, some initial, though unsuccessful, peace negotiations took place. This attempt was followed by further efforts, which were called off again and again because the positions of the conflicting parties could not be reconciled. It was above all a conflict over huge sums of money that the territorial lords were demanding from the city. The Archbishop of Cologne alone was insisting on 12,000 silver marks for the following reasons: Dortmund was an imperial city that was ruled by the King or Emperor. Frequently, however, the rulers pledged their rights to third parties, either due to chronic money shortages or because they needed their support. In the case of Dortmund, Emperor Charles IV and his son, King Louis Wenceslaus, had pledged their rights to the city to the Archbishops of

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10 On Friedrich von Saarwerden, see Picot 1977; Engel 2013: 33–65.

11 "Engelbertus comes de Marka oblitus pristine confederacionis facte cum Tremoniensibus et de qua litera erat confecta et parcium sigillis roborata, nunc missa diffidenciali litera Tremoniensium fit hostis in vigilia Petri ad cathedram [. . .]. Fredericus episcopus de Salwerde missis literis diffidencie fit Tremoniensium hostis dominica Reminiscere." Hansen 1887: 251–252.

Cologne. However, after the citizens of Dortmund denied the Archbishop any access to the city, he demanded the previously mentioned payment as compensation (Andernach 1983: no. 1621; Roese 1880: 78–79).[12]

After the negotiations were called off, the city was bombarded again and again. Dortmund likewise made efforts to harm the besiegers. The losses this caused were not all too dramatic. After being bombarded for about two weeks, the citizens of Dortmund took stock: the city had been hit by a total of 283 stone balls. However, this at first glance heavy barrage had caused only minor damage to the city. Two town houses and the Franciscan monastery had been destroyed. Furthermore, one cow and two pigs had lost their lives. No humans had been injured or killed.[13] The siege was accompanied by minor skirmishes, in the course of which the warring factions seized cattle and horses, looted the city's surroundings lands, and took prisoners. On the whole, these actions lasted until the beginning of winter. From then on, there was a general truce until the spring of 1389, when the territorial lords renewed their siege, which lasted until the autumn of 1389. It finally came to an end at the beginning of November, with negotiations and, finally, peace (November 20) (Garnier 2001/2002: 33–39).

Over nearly two years of conflict, the feuding parties made a total of eight futile attempts to settle the dispute amicably and without violence. It was only during the ninth round of negotiations, which started on November 5, 1389, that the negotiators managed to make a final breakthrough.[14] Even the choice of meeting place gave expression to the negotiators' hopes for accommodations, both substantively and spatially: Aldinghofen on the Emscher river was located in the border region between the county of Mark and Dortmund, on the road leading to

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12 "Anno Domini 1388. in die nativitatis sancti Johannis Baptiste prima dies placiti habita est ante portam orientalem, ubi qui a domino Coloniensi missi fuerant impeticionem fecerunt contra Tremonienses asserentes civitatem Tremoniensem domino Coloniensi et suis predecessoribus ab imperatore Romanorum quondam esse impignoratam pro centum milibus et duodecim milibus librarum puri argenti. De violenta ergo et iniusta detencione sibi impignorate civitatis peciit iusticie complementum." (Hansen 1887: 278–279).

13 "In festo apostolorum Petri et Pauli eiusdem anni reversi sunt principes cum magno exercitu. [. . .] Numerus autem lapidum in hac expedicione intromissorum est 283, quorum quidam in pondere 50 talenta habuerunt. In hanc lapidum multitudine nec homo nec bestia fuit interfecta (mirabile dictu) Deo suos protegente vacca aumtaxat et duobus porcis exceptis" (Roese 1880: 69–70); "Wiewol nu vil mit groter unkosten in de stat geschotten worden, als mit namen im tal 238 bussen klote, ist dannoch van den allen nicht ein mensche durch gots versehunge geschotten worden, dan eine koe und 2 swine [. . .]" (Hansen 1887: 259).

14 "Adveniente itaque hac nova dieta de consensu parcium translata est in Oldinchoven ad feriam sextam post festum omnium sanctorum, ubi post longum tractatum gwerra composita est [. . .]" (Roese 1880: 80).

the imperial city. This meeting point was evidently characterized both by the fact that it was easily accessible and by its geographic location between the rivals (Meinighaus 1907: 63–64).

The negotiators (*soynelude* and *dehedincges lude*) deployed had no decision-making competence at all but were supposed to work towards accommodating both parties. The makeup of this circle of people can be precisely reconstructed from the settlement document that was issued later, on November 20, 1389 (Lacomblet 1853: 829–830). There was a total of fifteen negotiators: six sent from the city of Dortmund, six from the opposing territorial lords, and three from the council of the city of Soest. The latter had been entrusted with the task because, in 1387, they had formed an alliance with Dortmund, as well as other cities in Westphalia and clergymen – the Archbishop of Cologne among them – to establish a general peace (Tewes 1986: 9–17). Those from Soest had the function of mediating between the conflicting parties; they were supposed to ensure that there was communication as well as mutual accommodations.

The territorial lords gave up all their claims to rule over the imperial city. However, they insisted on monetary compensation amounting to almost 80,000 gold guilders (Roese 1880: 80).[15] This compensation covered the original monetary claims as well as compensation for material damage resulting from the feud. Because those from Dortmund considered such an amount to be inordinately high, the negotiations at Aldinghofen lasted almost three weeks. Neither documentary nor historiographic sources provide any detailed information about the talks. Only one hint from the chronicle penned by Dortmund Dominican Johannes Nederhoff allows for some at least partial conclusions. According to him, the mediators from Soest reminded the representatives of Dortmund that no agreement would be possible without financial concessions, ultimately convincing them to pay a total sum of 14,000 gold guilders.[16] As the original demands from the Counts of the Mark and the Archbishop of Cologne had been many times higher, we could infer that the Soest negotiators made similarly successful efforts to persuade the territorial lords.

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15 "Et est sciendum, quod usque ad hanc dietam principes semper postulabant gravia puncta contra Tremoniensium libertates." (Hansen 1887: 281–282).

16 "Tandem videntibus Sozaciensibus, quod sine donacione pecuniarum negocium non poterat componi aut terminari et quod Tremonienses in id non poterant flecti, persuaserunt Tremoniensibus, ut utrisque dominis 14 milia florenorum Sozaciensium darent tali pacto, ut eis mediantihus inter dominum Coloniensem et Tremonienses confederacio practicaretur, quam et ipsi inire vellent, et intuitu huius confederacionis dominus Coloniensis septem milia florenorum Tremoniensibus integraliter remittere deberet. Hac promissione Tremonienses a Sozaciensibus persuasi consensum prebuerunt" (Roese 1880: 81).

The compromise thus reached not only covered the amount of money the parties agreed on. The payment was to be designated a "voluntary present" (*vrij geschenke*) from Dortmund to the territorial lords (Hansen 1887: 283).[17] This solution clearly demonstrates that it was not just material property and sovereign rights that could become the subject of a compromise but also immaterial and symbolic perceptions and interpretations. This is because a gift looked less like a payment obligation and more like a voluntary offering. Here, the attempt to avoid making any impressions of victory or defeat becomes more than obvious, as the settlement the two parties reached allowed them to keep face after the conflict. The Archbishop and the Count received financial compensation of 7,000 gold guilders each and were able to portray this as compensation for their claims. The imperial city had to make a financial concession, but declaring it a gift ensured that it looked less like a levy that had been wrought from Dortmund in the course of a tough bargaining process and more like a supposedly voluntary donation.

Furthermore, in both premodern and modern societies, gifts had a crucial social function, which we can assume was also important for the compromise discussed here. Those who accept a gift are obligated to reciprocate, either by way of a material gift in kind or by way of an immaterial gesture such as a favor, mercy, benevolence, or generally peaceful behavior (Algazi et al. 2003; Grünbart 2011; Sahm 2014: 267–278). Accepting the "gift" from Dortmund obligated the territorial lords to make a gift in return, which might have been the promise of peace. Thus, the claim to reciprocity associated with making and accepting a gift clearly reflects the features of a compromise: for the compromise is connected to the expectation that, in an ideal case, it will create a reciprocal relationship between those involved, which is characterized by their mutual readiness to give up their own claims and accommodate the other side. It is not intended to outsmart either side, but does require them to mutually abandon extreme positions, in the sense of "splitting the difference" (Benjamin 1990: 7; 35).

The fact that the citizens of Dortmund, with their experience of long-distance trade, were skilled when it came to financial matters is demonstrated in another detail, namely, the special agreement they made with the Archbishop of Cologne. After peace had been established, they were to form an alliance (*confoederatio*) with the Archbishop, which was to be negotiated by the negotiators from Soest, the city of Soest being another partner in this alliance (Andernach 1983: no. 1847). After the alliance had been formed, the Archbishop would give the 7,000 guilders

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17 "Dominica igitur proxima ante festum Cecilie virginis composicio fuit pronunciata, ut Tremonienses omnibus suis libertatibus salvis et illesis permanentibus domino Coloniensi et comiti Markensi pro amicabili composicione in statutis terminis deberent quatuordecim milia florenorum liberaliter propinare" (Roese 1880: 81).

back to Dortmund. However, this did not work out in Dortmund's favor: they made the agreed payment to the Archbishop, for which they had, incidentally, taken out a loan from the Jews of Cologne. The negotiations over the envisaged alliance that then followed, however, did not produce any results, most probably because the Archbishop of Cologne delayed the completion of the contract. Ultimately, the citizens of Dortmund gave up – their money was gone (Andernach 1983: no. 1848).

The peace between Dortmund and the territorial lords is remarkable for another reason as well: the feud had started with the Archbishop's rights to the imperial city, which, by his own statements, he had been granted by Emperor Charles IV and King Wenceslaus. Those claims – as was stated in the peace accord of November 20, 1389 – were explicitly absent in the agreement (Andernach 1983: no. 1845; Lacomblet 1853: 830). Thus, the original reason for the feud was excluded from the negotiations, likely due to concerns that it might cause the negotiations to fail. Thus, by the end of the dispute, neither the legal claims nor the claims to sovereignty that had instigated the conflict were the subject of negotiations or any complete material compensation; rather, a compromise was reached that allowed both sides to save face in the interest of peace. However, this finding is not limited to the case discussed here but is considered a typical feature of most peace treaties that were used to end feuds. As Klaus Crößmann states in the context of the city of Frankfurt's late medieval feuds, they were intended less as a means to reach a substantive conclusion to a controversy than as a way to put "an end to the hostilities as a whole" and to "creat[e] a state of lasting understanding" (Crößmann 1964: 58). Thus, quite a considerable number of feuds were characterized by the fact that they did not bring about any decision; instead – and on the contrary – they actually seem to have actually avoided reaching any such decisions. When certain positions proved to be too complex or impossible to solve, they were often excluded from the negotiations and were referred to one or several special bodies for later negotiations. At first glance, this looks like failure; however, upon closer inspection, it proves to have been a definitively pragmatic idea. The outsourcing of certain issues created a basic understanding and made sure that those involved remained capable of taking action. Seen in this light, even an agreement stating that there was no agreement, or just a partial one, could prove to be very productive (Garnier 2023: 253–257).

3 The Public Framing of Compromise

Mutual accommodations in the sense of compromise could take place in different ways – but also in the context of presenting the substantive agreement to the public. In some cases, the actors made use of both levels of compromise. In the following, this will be illustrated by examining a long-standing conflict that was characterized by repeated periods of settlement and accommodation, namely the struggles between the Archbishops of Cologne and their municipality, which lasted throughout the Middle Ages. As in most episcopal cities of the Holy Roman Empire, the thirteenth century in this Rhinish trading metropolis was marked by struggles over the municipality's autonomy on the one hand and the claims to sovereignty being made by the Archbishop as the lord of the city on the other. This issue often caused fierce, sometimes armed, clashes between the citizens and their city lord (Stehkämper 1995: 53–82; 2004a: 643–691; Stehkämper and Dietmar 2016: 98–385; Herborn and Dietmar 2019: 44–175).

In 1257 Archbishop Konrad of Hochstaden[18] took advantage of an citizens' attack on his relative, Canon Heinrich of Nürburg, to crackdown on the city. The Archbishop, who perceived the attack as a personal insult, angrily retreated to Bonn and launched a feud against the citizens (Knipping 1909–1913, no. 1977–1980). The fighting did not produce any notable results, and, ultimately, in March 1258, both sides agreed to peace talks. They negotiated substantive issues concerning the Archbishop's rights as the lord of the city and the citizens' public submission to him, the conditions of which were fixed in detail in a document (Knipping 1909–1913: no. 1992; Lacomblet 1846: 235–236). The citizens who had laid their hands on Canon Heinrich of Nürburg were to walk, barefoot and clothed in penitential garb, from Severinstor, one of Cologne's city gates, to the so-called Judenbüchel, "Jew's Hill," where they would beg the Archbishop for mercy. The Judenbüchel outside the city walls served not only as a cemetery for Cologne's Jews but also, from the twelfth century onward, as the city's execution site, meaning that the choice of place sent a clear signal (Kliemann and Potthoff 2019: 231–246). Both parties then promised they would be satisfied without making any claims to compensation. Afterward, the citizens would have to swear an oath of allegiance to the lord of the city, while the latter would promise to be a gracious ruler in the future.[19]

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18 On Konrad von Hochstaden, see Stehkämper 2004b: 949–978.

19 "Die bezzerunge van der stait is aldus. Die gůde lude van der stait die sůlen gaen van sente Seuerins porzen biz an den jůdenbuchil, inde sulen da des erchebischoues gnaide sůchen; inde da miede sal ieme der bischof lazin genůgen [. . .]" (Lacomblet 1846: 236).

A document dating to that same day issued by both sides appointed five arbiters to negotiate the issues of sovereignty under dispute (Ennen and Eckertz 1863: 376–378; Lacomblet 1846: 236–237). The arbitrators were jointly appointed, named, and given precise instructions on the modalities and deadlines for the negotiations. Both parties swore in the document that they would accept the decision. In Albertus Magnus, the commission found an expert who was well regarded in both the academic and practical law of his time (Groten 2011; Stehkämper 2004c: 1033–1122). It is therefore hardly surprising that he was often called upon to arbitrate – a total of nineteen arbitration proceedings in which he was involved are documented. Due to his experience and reputation, he undoubtedly played a special role in the commission. The arbitrators had an enormous workload to cope with during the three or so months of negotiations: the two parties had tasked them with clarifying more than seventy detailed issues. Despite this considerable amount of work, the arbitrators finally came to a decision. In June 1258, they announced it, and it was read out at the Archbishop's palace.

The compromise, the documented in the city's history under the name of the *Großer Schied* (Grand Arbitration), is remarkable: its constitutional provisions favored the citizens of Cologne and are considered an important step toward Cologne's independence (Knipping 1909–1913: no. 2003; Ennen and Eckertz 1863: 380–400; Groten 1998: 186–193; Strauch 2008, 2013: 97–147). Substantively, the city had emerged victorious. This finding may come as a surprise given that the citizens had previously publicly humiliated themselves in order to restore their city lord's violated honor and authority. Thus, the public framing of the agreement presents a picture that initially seems clear: the citizens as the guilty party were making amends to the lord of the city as the harmed party. But after this first stage of public presentation, the second step pertaining to the substantive decision reversed the parties' roles. On the substantive issues, the citizens seem to have claimed victory by crucially enhancing their position on constitutional issues.

The struggles between the citizens of Cologne and Konrad's successor, Engelbert of Valkenburg, produced similar results.[20] In November 1263, some citizens took the Archbishop prisoner for almost three weeks (Knipping 1909–1913: no. 2275). After several neighboring bishops and noblemen interfered as mediators, the parties to the dispute reached a settlement (Knipping 1909–1913: no. 2319; Lacomblet 1846: 315–320). At first, the citizens had to demonstratively bow to their city lord: judges, jurors, and citizens were to approach the Archbishop at the Judenbüchel, with bare feet, uncovered heads, and without bearing arms.

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20 On Engelbert von Valkenburg, see Brendler 1997: 7–31.

They were expected to assume a position of prostration and beg the Archbishop for his forgiveness.[21] The thirty-seven citizens who had been involved in the Archbishop's imprisonment were to lead the procession, two abreast, and they would additionally have to carry swords around their necks.[22] After this humiliating procession, all the citizens would have to admit their guilt and swear allegiance to the Archbishop. When the Archbishop entered the city for the first time after their submission, those thirty-seven citizens would have to meet him outside Severinstor, with bare feet, uncovered heads, unarmed, and holding sticks in their hands, before accompanying him to the Archbishop's Palace.[23] It is reasonable to infer that it was no coincidence that this was where the lord of the city usually held the assizes.

The symbols chosen for the citizens' act of submission consisted of several attributes and communicated clear messages to those watching. Carrying swords around their necks to the Judenbüchel was intended to symbolize the punishment that should have awaited the citizens at the execution site, but that had been lifted through the Archbishop's grace (Kocher 2007: 203–209; Deutscher et al. 2014). The sticks the citizens had to hold in their hands while accompanying the Archbishop to his palace had a twofold meaning: on the one hand, they alluded to the metropolitan's position as a judge; on the other, they pointed to the offence committed by the citizens (Fischer 1982: 3–39; Cavanna 1995: 2160–2162). While the citizens of Cologne were to clearly submit to the Archbishop when presenting the peace to the public, this expectation did not extend to the a substantive, constitutional provisions of the peace. As in 1258, the regulations here also benefited the city and made it clear that the political power balance had shifted in favor of the municipality.

The case of Cologne seems to have been a contradictory situation, for the peace agreements were compromises in the best sense of the word: by embarking on their humiliating procession to dishonorable places and, not least, by begging for forgiveness, the subdued citizens were sending a clear signal: they were pub-

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21 "Ordinamus et pronuntiamus primo, quod iudices, scabini, magistri ciuium et ciues Colonienses veniant in occursum domino nostro archiepiscopo inter Iudenbuggel et Husholz nudipedes, discincti et discoopertis capitibus, et prostrati super terram querant veniam ab eo et petant gratiam suam" (Lacomblet 1846: 315).

22 "Item, quod illi triginta septem, quos dominus noster archiepiscopus euocauit et proscripsit, precedant alios, bini et bini simul, et portent gladios in vaginis super colla sua unacum aliis prostrati veniam petant nudipedes, discincti et discoopertis capitibus" (Lacomblet 1846: 315–316).

23 "Item, quod quando dominus archiepiscopus intrabit primo Coloniam, predicti triginta septem viri occurant ei ante portam s. Seuerini nudis pedibus, discincti et discoopertis capitibus, virgas portantes in manibus, et precedant eum usque ad hoffium palacii sui" (Lacomblet 1846: 316).

licly admitting their guilt, but in the awareness that, first, they could expect a gracious reaction from their city lord and, second, they had gained constitutional leverage. Substantively, the tide had turned, for the citizens of Cologne had been able to crucially improve their position vis-à-vis the lord of the city. In terms of compromise, this peace avoided any attribution of victory or defeat, instead consisting of both parties making concessions in different fields: the citizens of Cologne at a public, demonstrative level, the archbishops at a substantive, constitutional level (Garnier 1998: 263–287). Thus, the parties were able to negotiate mutual accommodations across different fields and were ultimately brought together in a joint compromise.

4 Conclusion

Undoubtedly, the search for compromise is one of the fundamental challenges presented by human coexistence. In the context of the late medieval feud, it operated between the most extreme poles of political life: conflict on the one hand and peaceful coexistence on the other. Compromise allowed parties to a conflict to overcome contradicting positions – together and without violence at that. Involved in negotiating it were both the parties to the conflict themselves and also those who found a solution in the course of the process – such as mediators or arbiters. The "common third interest" that a compromise could derive from conflicting interests had to be communicated: materially by way of a (peace) document, in acts of public presentation – or both. As has been demonstrated by looking at the example of Cologne, mutual accommodations could take place at both levels and in different ways, and could ultimately lead to compromise. The two parties' readiness to make concessions manifested in the citizens of Cologne accommodating the Archbishop at the level of public staging, while the latter relinquished important legal claims in his function as lord of the city. Seen in this way, both sides kept face.

Thus, compromise had a twofold function in late medieval feuds. Going by the Medieval Latin idea of *compromissum*, it referred to a willingness to leave the path of armed confrontation and look for a joint solution. This was the task of the arbiters to whom decision-making power was delegated. They were appointed by way of a "compromise document," and in an ideal scenario, they reached a settlement through their verdict. However, mediators, who did not have any autonomous decision-making power, could also accompany negotiations and moderate settlements. Neither side came out victorious or defeated at the end of a negotiation process, which was an attempt to establish and secure lasting *pax et concor-*

dia – peace and unity – between the parties. Usually, this was achieved by redefining initial interests and positions, and combining them into a "common third interest." As demonstrated in the case of the *Dortmunder Fehde*, however, a solution to the issues under dispute that had caused the conflict did not necessarily have to be found. Rather, for the sake of peace, such issues could be deliberately excluded to avoid endangering a fragile settlement. A compromise signaled a readiness to discuss differences without armed violence or the ultimate need to solve all contradictions, which must be understood as both an advantage and a disadvantage. For one, this strategy allowed for at least a minimal basis for cooperation; conversely, this could perpetuate conflicts and result in many further negotiations. However, compromises always left open the possibility of discussing the dispute discursively, without violence, in the future.

Seen in this way, both the decision and even the initial willingness to negotiate can be logically understood as compromises. The question of which step required – or requires – a greater readiness to make both literal and metaphorical concessions seems almost universal: the willingness to leave the path of open confrontation and to start negotiations or bringing a controversy to a head and thus giving up on maximum demands and positions.

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