



JÓNSBÓK AND THE MONARCHICAL PROJECT FOR ICELAND

INTERNATIONAL CONFERENCE – SEPTEMBER 9TH 2021

UNIVERSITY OF BERGEN



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CONFERENCE OVERVIEW

The period between 1262 and 1281 was decisive for Norwegian and Icelandic political and juridical history. The incorporation of Iceland into the Norwegian sphere of authority in the 13th century implied, in legal terms, a momentous change. It not only redefined the status of the island as a whole (which became from 1262 to 1264 a tributary land, ON *skattland*, rather than an independent polity in the Norwegian cultural and political sphere), but it also set in motion the reorganization of the administrative structure of the country. This reform took almost two decades to acquire a more or less definite form.

Unfortunately, the period between the acceptance of the king's taxes by the Quarter assemblies (1262/4) and the introduction of a stable form of royal administration (after 1281) is rather obscure, and only a few sources shed light on it, including but not limited to: laws (*Grágás*, *Járnsíða*, and *Jónsbók*), diplomas (compiled in the *Diplomatarium Islandicum*), and contemporary sagas (particularly *Árna saga biskups*).

The present conference invites some of the leading scholars to discuss how historical and legal changes influenced each other and shaped Norwegian and Icelandic societies. The conference will cover four themes:

1. Historical context of the introduction of *Jónsbók*;
2. Landslov and *Jónsbók*;
3. Royal and Ecclesiastical jurisdictions;
4. Manuscripts of *Jónsbók*: transmission and translation.

The aim of the conference is to facilitate the exchange of ideas concerning legal developments, innovations in legal codes, possible external influences on Norwegian and Icelandic legal cultures, focused on, but not limited to, *Jónsbók*, the Norwegian code for Iceland of 1280.

ABSTRACTS (BY SESSION)

Session 1: Historical Context of the Introduction of *Jónsbók* Chair: Viðar Pálsson

Else Mundal (UiB): The Political Context of *Jónsbók*'s Reception in Iceland

When *Jónsbók* was sanctioned as the new lawbook for Iceland in 1281, the union with Norway which was established in the years 1262/64, was still young. *Jónsbók*, which was sent from Norway with the Icelandic lawman Jón Einarsson, after whom the book is named, and the King's representative Loðinn leppr, replaced *Járnsíða*, the first lawbook for Iceland after the union with Norway. The Icelandic resistance to *Járnsíða* had been massive, the process of sanctioning the law started at the Alþing in 1271 and continued until 1273. There was resistance to *Jónsbók* too, but far from so massive, and partly of a different type. Much of the Icelandic resistance in 1281 had to do with the struggle between the King and the Archbishop over the jurisdiction of the Church, and was not in the same way as in 1271/73 a token of scepticism towards the union. In my paper I will discuss the reasons for resistance towards the two laws for Iceland, especially the resistance against *Jónsbók*. Scepticism towards the union and fear of not being able to have their own laws, may have been the major reason for resistance against *Járnsíða*, and such feelings most likely also existed 10 years later. The sources for what happened both in 1271/73 and in 1281 make it, however, possible to identify laws on a few subject matters that have caused discussion and have been seen as not suitable for Iceland – women's legal rights can be mentioned among those. Finally, the personal relations between the men who were involved in the process of sanctioning the laws, especially *Jónsbók*, may have influenced what happened both in a positive and a negative way. The King's representative in 1281, Loðinn leppr, was certainly not a dove of peace.

Julián Valle (UiB): The Crime of High Treason: between the Memories of the Civil War and the Strengthening of the Crown

Traditional views on the consolidation of the monarchy in Norway have stressed the growth of royal power at the expense of the secular aristocracy. In the present paper, I will analyse how this process was expressed in legal settings by the establishment and enforcement of a new conception of kingship in Norway. In order to do so, I will concentrate on the crime of high treason (ON *landráð*) and how this category was expanded over the decades, to include a wide array of crimes that responded to the political needs of the crown. The accusation of high treason existed in the old provincial codes of Norway (i.e., *Gulapingslög* and *Frostapingslög*) but since the revision of King Magnus V Erlingsson (king from 1163 to 1184) came to include breaking the established order of succession to the crown. Later revisions of

the laws, in particular the harmonization of the provincial codes by King Magnus VI Håkonsson and the National Code of 1274 (known as *Landslov*), expanded the crimes that were considered treason and established new forms of prosecuting traitors. The present paper will cover the development of this crime through the law codes and amendments for Norway and the tributary lands (ON *skattlond*), as to determine what was considered treason, who was considered a traitor, and how these criminals should be dispensed of. I will connect these legal developments with the historical context of the consolidation of royal power in Norway in the thirteenth and fourteenth centuries.

Helle Vogt (Københavns Universitet): Legal Reforms and the Strengthen of the Royal Power in 13th century Denmark and Norway

In the second half of the 13th century Denmark and Norway including Iceland, the kings tried to impose legal reforms with mixed success. The Norwegian king managed to unify the laws of the realm, and reform the Icelandic law with the introduction of *Jónsbók*. The Danish kings also tried impose legal reforms with the purpose of increasing the royal power at the expense of the aristocracy, and the “parliamentary” system (OD: *danehof* / Latin: *perlamentum*). The Norwegian royal power was successful, even if some of the legal reforms, as for instance the change in the law of succession that made daughters take inheritance together with sons, had significant importance on the property strategies of the elite. In contrast, most of the attempts of the Danish kings failed in the end, and after hard power struggles with the magnates, and lead to both a constitutional charter in 1282, and regicide in 1286, and the Danish aristocracy upheld a very strong position toward the royal power until the introduction of Absolutism in 1660.

In the paper I will discuss why the Norwegian king was successful and the Danish king not.

Session 2: *Landslov* and *Jónsbók*
Chair: Helen Leslie-Jacobsen

Miriam Tveit (Nord Universitet): Towns, Trade and Tribute. Regulating Mercantile Relations with Iceland

How did Icelandic trade shape Norwegian urban law? Exchange of goods was a vital component for the Norwegian government's relationship with Iceland, even if conflicts of legislation and investiture often took centre stage. The many amendments in the wake of King Magnús' legal enterprises were concerned with controlling the trade on Iceland and other tributary lands. Restricting foreign influence (from merchants from outside the realm) was imperative, but royal law also addressed the activities of its own; the Icelandic merchants in Norway, and domestic merchants sailing to the tributary lands. Trade was directed by law through the kingdom's towns. Icelandic merchants were thus identified in law as presences in Norwegian towns, by association. Further, the Icelandic goods coming into Norway as trade or tribute impacted the economy of Norwegian families and institutions. This paper will discuss the policies behind the regulation of traders and trade from the tributary lands on the Norwegian mainland, and examine how such policies were enforced in the decades before and after promulgating *Jónsbók*.

Sverrir Jakobsson (Háskóli Íslands): *Jónsbók* and the Introduction of Royal Government in Iceland

It is a common supposition that Iceland became a part of Norway over a period of few years following 1262, that this was done through the adoption of a document known as The Old Covenant (ON. *Gamli sáttmáli*) and that the most important part of this transition was that the Icelanders now accepted the Norwegian king as their own king. Some of these statements must be subject to qualification. In fact, different parts of Iceland became subject to the Norwegian king at various times, the Old Covenant had no legal status neither in Iceland nor the Norwegian kingdom at large, and the Norwegian king had already been accepted as the ruler of most of Iceland before 1262.

This paper will demonstrate that the incorporation of Iceland into the Norwegian realm involved three distinct but interconnected issues: The introduction of government into Iceland, the introduction of regular taxation and, finally, the adjustment of Icelandic laws to reflect the laws of the Norwegian kingdom. The focus will not be on the events of a single year or a period of few years, but on a longer period of transition, from 1220 to 1281, of which the adaption of *Jónsbók* was the final act. The adoption of a new law code changed the nature of the government that had been introduced in Iceland, which became more centralized than anyone might have expected. With the adoption of *Jónsbók* at the Icelandic parliament in 1281, the incorporation of Iceland into the Norwegian kingdom was finalized. The new law code defined the status of the king and the new government of Iceland and harmonized Icelandic laws with the laws of other parts of the kingdom, although Iceland retained some of its separate legal tradition.

Ole-Albert Rønning Nordby (UiB): *Turbulent Transplants: the Introduction of Oathtaking as Proof in Iceland*

The introduction of Járnsíða in Iceland in the 1270s is a striking contrast to legal developments elsewhere in Europe at the same time. The High Middle Ages was a period of rapid and drastic legal changes in Europe, especially in the realm of procedural law. A procedural system largely based on Roman law was introduced in both secular and ecclesiastical jurisdictions and traditional modes of proofs like oathtaking, trial by combat and the judicial ordeal were replaced by witness testimony and documentary evidence. While oathtaking as proof was largely disappearing as a mode of proof on the continent, Járnsíða introduced it in the Icelandic legal system, where it had not been before. This new system of proof was kept in Jónsbók, but it was not uncontroversial. This paper will examine the reception of this change in procedural law by analyzing the depiction of two legal disputes in Árna saga biskups.

Session 3: Royal and Ecclesiastical Jurisdictions Chair: Ole-Albert Rønning Nordby

Viðar Pálsson (Háskóli Íslands): Ecclesiastical Legislation in Thirteenth-Century Iceland

The legal and administrative changes that characterized Iceland's incorporation into the Norwegian realm brought up numerous questions about the nature and sources of law, both secular and ecclesiastical. While highlighting the continued debate on the demarcation between the two spheres of power and its respective jurisdictions, these changes also and inevitably brought attention to the nature of legislative authority. In my presentation, I will present some key passages on this issue from legal, diplomatic and saga material and discuss them in a wider European context.

Elizabeth Walgenbach (Stofnun Árna Magnússonar í íslenkum fræðum): *Kristinréttir Árna Þorlákssonar* in its Manuscript Context

The *Kristinréttir Árna Þorlákssonar* is a code of canon law produced for Iceland in the thirteenth century and accepted at the Alþingi in 1275. The code, which was composed in Old Norse Icelandic under the supervision of the Archbishop of Niðaróss Jón rauði and the Bishop of Skálholt Árni Þorláksson, replaced the earlier Christian laws for Iceland (*Kristinna laga þáttir*) and introduced many innovations that took into account newer developments in canon law concerning issues such as confession, usury, and the position of clerics in society.

In this talk, I will first briefly introduce the *Kristinréttir* as work of vernacular canon law, with a brief sketch of its scope and the nature of its innovations. I will then focus on the manuscript preservation of the *Kristinréttir*, which was often transmitted in manuscripts with *Jónsbók* as well as other shorter legal texts in the fourteenth century. I will discuss the contexts in which the *Kristinréttir* has been preserved and what these might tell us about the code's place in the legal landscape of Scandinavia in the late thirteenth and into the fourteenth centuries.

Embla Aae (UiB): Christ as Heir: The Divergence of Royal and Ecclesiastical Jurisdictions and its Implications for Pious Provision

Already in the twelfth century, the Archbishopric of Niðarós was attempting to mediate the involvement of lay people in its affairs. The canones for the province, issued in the 1170s, clearly responded to a culture where the spheres of lay and ecclesiastical influence had merged in a way that troubled Church authorities. This muddling of boundaries was not rectified by the issuing of the canones, however. The conflict only worsened throughout the thirteenth century and reached its peak with the famed Concordat of Tønsberg in 1277. The King and the Archbishop each had to relinquish significant influence in the sphere of the other, yet the power struggle would continue to wax and wane throughout the existence of the Catholic Archepiscopacy. This paper does not attempt to read the legal material on the terms

of the powerful men who drafted it, however, but on the terms of the culture to which it responded and the people it regulated.

Both royal and ecclesiastical law-mending certainly influenced the everyday lives of Medieval Scandinavians, yet the two spheres would especially come together at the end of a person's life. Death involved both the division of a person's property according to inheritance law and the judgement of a person's soul according to the precedent set by the Bible, which Gratian referred to as 'natural law'. Furthermore, statutes such as that of Nicolaus Brekespear would have regulated the size of any pious donation. This paper will consider how the divergence of royal and ecclesiastical jurisdictions might have influenced the practice of pious provision in Hólar and Skálholt, as well as in the bishoprics on the Norwegian mainland, at a time when these areas became not just subjects of the same Archbishop but also subjected to the laws of the same king.

Fraser Lucas Miller (Stockholms Universitet): 'To Him As His Castle': The Space of the Home in the Icelandic Laws

Out of all the spaces that have existed through history, the home was, and has remained, arguably the most important. The space has changed drastically in appearance over time and across different landscapes and cultures, and while certain functions have changed, reflecting the evolution in technology, its main purposes have remained remarkably constant: shelter, place of storage, piece of property and more. But one element in particular holds relevance to the medieval understanding of space: the role of the home as sanctuary.

Looking primarily through the lens of the harshest sanctions present in the law codes, in this paper I will break down what it was that legally constituted the home as a distinct and inviolable space, and who had access to it, in 13th Century Iceland, looking at its development as a spatial-judicial unit in the law codes of *Grágás*, *Járnsíða*, and *Jónsbók*. Some comparison will be made as well with Magnus Lagabøter's Law of the Realm. As a spatial exception, a space set apart, a study of the home in this context entails a study of the regulations protecting such spaces. I will therefore also discuss the entry of certain penal categories into the Icelandic legal system.

In so doing, the paper will provide some insights into how the juridical changes instituted in Iceland with the ascension of the Norwegian king may have affected the most basic element of the Icelandic social landscape. In other words, how these changes affected the socio-spatial culture surrounding the home and, consequently, how Icelanders may have felt in and understood that space.

Session 4: Manuscripts of *Jónsbók*: Transmission and Translation

Chair: Helle Vogt

Lena Rohrbach (University of Basel/ University of Zurich): Usability and Potentiality. Textual and Medial Features of 14th century Icelandic Legal Compilations

The majority of Icelandic legal manuscripts in the latter half of the fourteenth century are planfully executed comprehensive compilations. (Legal and non-legal manuscripts) of this period are characterized by complex arrangements of longer and shorter individual texts into a larger whole.

In this paper, I will take my departure point in discussing the material and textual characteristics of these manuscripts. By comparing the legal codices with contemporaneous compilations of non-legal kind, I will argue that the specific traits of fourteenth century legal manuscripts on the one hand reflect current legal and administrative developments, while at the same time also mirroring more general explorations and reflections of the medial potentials of books.

Helen Leslie-Jacobsen (UiB): The Development of Definitions and Attributing Meaning to Terms in the *Landslov* and Associated Law Codes

The *Landslov* contains a number of definitions, as is common in legal writing. In this paper, a definition is identified in the text when the meaning of a particular word or concept is explicitly stated as part of the narrative. Definitions control what terms mean in legal texts and therefore influence the interpretation of the text. We might expect definitions when a usual term is used in an extraordinary way or when an unusual word is used in the code. My approach traces the development of definitions across the *Landslov*, from the regional laws, *Járnsíða*, the *Landslov* itself, *Jónsbók* and the translations of the *Landslov* into Danish in the 16th and 17th centuries to examine shared understandings of terminology used in the law. By tracing definitions of terms across laws, I will investigate firstly the different ways in which words and concepts are defined, the phrasing used to indicate a definition and whether these methods of defining terms is original in the *Landslov* or has been carried through from earlier Norwegian laws. Secondly, I will look at where in the paragraphs definitions are found and whether they appear at the first use of a term. Thirdly, I will look at how different terms are translated in the early modern period and whether the use of terms in Danish is consistent. The definitions will be mostly drawn from Mannhelgi, the chapter on personal rights, to provide a sample for comparison across other law codes and the translations.

Stefan Drechsler (UiB): Text and Layout of Icelandic Law Manuscripts in the Middle Ages

In my paper, I wish to present and discuss the development of the textual arrangement of vernacular laws in Icelandic manuscripts up to the reformation in c. 1550. With emphasis on the relation of the two redactions of the vernacular law code *Jónsbók* from 1281 to statutes and law amendments, as well as to further Icelandic law codes such as *Grágás*, *Kristinréttir Árna Þorlákssonar* and *Búalög*, I will emphasize on the different choice of texts in and layout in the manuscripts. Examples are AM 343 fol. (*Svalbarðsbók*), AM 350 fol. (*Skarðsbók*), AM 130 4to (*Arnabælisbók*), AM 351 fol. (*Skálholtsbók eldri*), AM 136 4to (*Skinnastaðabók*), AM 147 4to (*Heynesbók*) and AM 148 4to (*Landeyjarbók*). The overall intention of this paper is to provide a material analysis of legal writing in medieval Iceland, and its temporal and medial developments.

OUR THANKS

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CONTACT US

The conference will take place in Bergen, Norway, at the Grand Terminus Hotel (Zander Kaaes gate 6) on September 9th 2021.

EMERGENCY CONTACT

Contact Julian by phone if you have any questions.

+0047 46 56 54 73

For non-urgent inquiries:

julian.valle@uib.no

Website:

<https://www.uib.no/en/rg/lawandculture/146170/jónsbók-and-monarchical-project-iceland>



