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***Eyrbyggja saga* and Legal Change.**

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Abstract

The discussion about saga origins and specifically about the temporal frame in which they were committed to parchment has been traditionally circumscribed to the literary field. Despite several attempts to enrich the debate considering the historical context (Torfi Tulinius, 2000, 2007, 2013), the scholarly consensus seems reluctant to redefine the datings traditionally accepted. Although a precise dating is a *desideratum*, a more concise framing for sagas could be useful to understand the context of their production. The saga genre is characterized by its connection with the upper ladders of Icelandic society and its nature as an *historicizing* discourse (Assman, 1992). Therefore, it is expected that there is an underlying political message, connected with the material circumstances of its production. This thesis considers *Eyrbyggja saga* as one of such cases. This saga has several advantages for an historical analysis. Firstly, it is a regional saga, most probably written in the area where the story takes place. Secondly, it has been linked with one of the most important families in the 13th century Icelandic history, the Sturlungar. Thirdly, the dating hypotheses provided by previous scholars, f. ex. Einar Ól. Sveinsson, relied on a cross-reading between *Eyrbyggja* and *Grágás* (or a previous non-preserved law code). This approach limited plausible interpretations that consider later legal compilations, as the one that is carried out in this thesis.

Following this statement, the saga could be read as a sort of *roman à clef*, emphasizing the political content of the narrative.¹ In this sense, two study cases will be identified among the several storylines in *Eyrbyggja*. The criterion will be to choose those scenes that present conflicting claims concerning the legal frame of the presumed period of its composition. From these cases, a comparative reading will be proposed between the saga and the legal corpora in force in Iceland since 1230 (the earliest proposed dating) to 1280 (the latest proposed dating). The correspondences between the saga discourse and the political context of production of the legal normative, interpreted in the light of Pospíšil's Legal Anthropology (1971), will be used to draw hypothesis on who might support such a claim. This dissertation will contend that the group most likely to present a defensive stance against the new administrative system was the aristocracy with a local power base, which saw its prerogatives being endangered by its introduction. This power conflict is framed within the long-standing conflict of the aristocracy with the Church, called *Staðamál*.

¹ Helgi Þorláksson, "Snorri goði og Snorri Sturluson", *Skírnir* 166, 295-320.

Ágrip

Umræðan um uppruna fornsagna, sérstaklega um ritunartíma þeirra, hefur yfirleitt verið einskorðuð við bókmenntafræðina. Þó reynt hafi verið nýlega að auðga umræðuna um viðfangsefnið (Torfi Tulinius, 2000, 2007, 2013), ríkir ákveðin tregða meðal fræðimanna til að hrófla við viðteknum aldursgreiningum. Þótt æskilegt hljóti að teljast að greina sem nákvæmast ritunartíma sagnanna, mætti skilgreina betur það samhengi sem þær urðu til í. Forsögurnar einkennast af því að þær verða til í efri stigum íslensks samfélags en jafnframt að þær eru „sagnfræðikennd orðræða“ (Assman 1992). Því má gera ráð fyrir undirliggjandi pólitískum boðskap sem tengist þeim efnislegum aðstæðum fyrir tilurð sagnanna. Í ritgerð þessari verður Eyrbyggja saga skoðuð sem dæmi um slíka fornsögu. Í fyrsta lagi er um héraðssögu að ræða, líklega rituð á því landsvæði þar sem atburðirnir eru látnir gerast. Í öðru lagi tengist sagan einni af fyrirferðarmestu ættum 13. aldar, Sturlungum. Í þriðja lagi, þá hafa tilgátur fyrri fræðimanna um aldur sögunnar einatt byggt á samanburði við Grágás (eða eldra lagasafni sem ekki hefur varðveist). Þessi nálgun þrengdi að öðrum mögulegum túlkunum sem líta til yngri lagabóka, en það er gert í þeirri ritgerð sem hér er lögð fram.

Það mætti því lesa söguna sem eins konar lykilorð, með áherslu á pólitískt innihald hennar.² Í því skyni verða tvö tilfelli úr sögunni skoðuð sérstaklega. Þau bjóða bæði upp á mismunandi túlkanir eftir því við hvaða lagasafn er miðað. Í framhaldi af athugun á tilfellunum tveimur verður boðið upp á samanburð milli Eyrbyggja sögu og þeirra lagasafna sem hafa varðveist frá 1230 (elsta mögulega aldursgreining) til 1280 (yngsta mögulega aldursgreining). Tengslin milli orðræðu sögunnar og þess pólitíska samhengis sem býr undir lögnum verða túlkuð í ljósi Lagalegrar Mannfræði (1971) Pospíðils, sem verður svo notuð til að setja fram tilgátur. Í ritgerðinni verður því haldið fram að sagan túlki líklega sjónarmið voru höfðingjar á viðkomandi landsvæði sem töldu að væri verið að grafa undan forréttindum þeirra með því að koma á nýju stjórnkerfi. Þessi átök um völd áttu sér stað við kirkjuna og heyra til hinna svokölluðu staðamála.

² Helgi Þorláksson, “Snorri goði og Snorri Sturluson”, Skírnir 166, 295-320.

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1.Introduction

1.1. General theoretical framework

The process of formal submission to the Norwegian Crown did not have an immediate impact for the Icelandic aristocracy. According to Jón Viðar Sigurdsson, in the years from 1262/4 to the acceptance of *Járnsíða* the political structure “remained primarily the same.”³ The same families who were in charge in the last years of the Commonwealth maintained control of the political system, although King Hákon of Norway urged his royal officers to take hold of the country.⁴ As Jón Viðar suggests:

Although Iceland was absorbed by the Norwegian crown in the early 1260s, the real breach with the Free State was marked by the introduction of new law-books: *Járnsíða* in 1271 and *Jónsbók* in 1281. *Járnsíða*, which took two years to be ratified, introduced some major constitutional changes, for example the abolition of local power structures and the implementation of the Norwegian administrative system. But given its unpopularity a new code, *Jónsbók*, was introduced in 1281.⁵

The terms of the submission have been studied in recent years. Pires Boulhosa and Ármann Jakobsson convincingly argued that Icelanders were particularly interested in kingship and the history of the Norwegian kings. This has been used to argue that Icelanders conceived monarchy as an option, even before this decision appeared on their horizon.⁶ In this context, the leading men in Iceland played a key role in installing royal service as an alternative way of competing for prestige and honor. Most -if not all- of the powerful chieftains in the period of civil strife before the submission were members of the royal retinue. Although this never implied that they disregarded the construction of power in Iceland, at least until *Járnsíða* was introduced, this could explain why the readjustment to the new administrative system took place with relative ease.⁷

³ Jón Viðar Sigurdsson, *Viking Friendship: the Social Bond in Iceland and Norway, 900-1300* (Ithaca and London, Cornell University Press, 2017), 117.

⁴ This was argued by Sverrir Jakobsson in his book *Auðnaróðal. Baráttan um Ísland 1096-1281* (Reykjavík: Sögufélag, 2016), 257-271.

⁵ Jón Viðar Sigurdsson, Frederik Pedersen and Anders Berge, “Making and Using the Law in the North, c. 900-1350”, in *Making, using and resisting the law in European history*, eds. Günther Lottes, Eero Medijainen and Jón Viðar Sigurdsson (Pisa, PLUS-Pisa University Press, 2008), 44.

⁶ See Pires Boulhosa, Patricia, *Icelanders and the Kings of Norway: Mediaeval Sagas and Legal Texts* (Leiden: Brill, 2005); and Ármann Jakobsson, *Í leit að konungi: konungsmynd íslenskra konungasagna* (Reykjavík: Háskólaútgáfan, 1997).

⁷ For a succinct discussion on this topic, see Gunnar Karlsson, *The History of Iceland* (Minneapolis: University of Minnesota Press, 2000), 83-86.

The intention of this thesis is to approach the transitional period from 1262-1280, in order to understand the role played by a part of the aristocracy who had a regional power base. The aim will be to identify if some part of the élite had a different political project than that supported by the royal courtiers. This does not imply to oppose royal power, but a different way to articulate the local power structure to that of the new administrative system. Although a similar characterization could be extended to all domains (ON *ríki*) in hands of the *stórgoðar*, the continuity or not of the élite from the Commonwealth depended clearly on the relationship each family and chieftain had with the king. Jón Viðar argues that, to prevent the aristocracy from constituting an internal front against the king's peace, the Norwegian legal codes limited the feasibility of a local power structure. Royal service, on the other hand, provided marks of status that differentiated the aristocracy from the householders. Therefore, it would be safe to assume that those who had a local power base could offer their aid to the King, in exchange of getting their local preeminence recognized.

In order to analyze the arguments supporting the position of this part of the aristocracy, I chose one profusely studied saga, *Eyrbyggja saga*. As the name describes, the saga deals with the events that took place in the area around Þórsnes, on the northern coast of Snæfellsnes, in the time span between the Settlement (c. 870) and the first thirty years after the formal Conversion of Iceland (c. 1000). The plot, which will be analyzed in Chapter 1, is centered on the figure of Snorri *goði*, a famous character in saga literature. *Eyrbyggja* connects the first settler of the region with some of the most powerful families in Iceland in the 13th century, through Snorri. This family, one of the main actors in the civil strife of the first half of the 13th century, was characterized by its internal conflicts and its member's ambition to control numerous districts of Iceland. The Sturlungar dominated the Eyr region and held its control after the fall of the Free State, even though the authority passed from the hands of independent and conflictive chieftains to those of a royal retainer and first lawmen of the post-Submission period, Sturla Þórðarson.

Saga literature has been the cornerstone of much of the scholarly research on medieval Iceland during the 20th century, especially since scholars of the Icelandic School, such as Sigurður Nordal and Einar Ól. Sveinsson, edited the saga manuscripts into the widely known Íslenzk fornrit collection. Einar Ól. Sveinsson, who studied and edited *Eyrbyggja*, was particularly concerned with its dating. He supported an early dating of the saga, amongst the oldest, and a great deal of his interpretations about it depended on the acceptance of this dating: the connection between the saga

and *Grágás* (or a previously existent law code), the anonymous author, the historical context in which the saga was committed to parchment the first time, the social milieu in which it did, etc. A thorough discussion on the dating method of Einar Ól. Sveinsson will be given in Chapter 1 of this thesis, along with a discussion on the features he considered “objective information” towards the dating, ex. g. structure, authorship, manuscripts, and literary relations. Through the reinterpretation of the saga’s structure, it will be argued that the underlying message, relevant to the construction of power and political situation of the aristocracy with regional power base, can be seen through the inconsistencies in the internal coherence of the saga plot.

The fundamental idea behind this thesis is that sagas such as *Eyrbyggja* could be compared to a *roman à clef*. The importance of dating a source is to understand the place the underlying discourse, which would be deemed political in this case, could have had in its context of production, regardless of the many possibilities it might have had after it became known. In the specific case of *Eyrbyggja*, discussing the dating implies discussing most of the interpretations that narrow down the many possibilities this saga’s discourse may have had. Some of the theories that will be presented here have a long history in *Eyrbyggja* scholarship, such as the connection of the saga with *Járnsíða*, proposed by Hugo Gering by the end of the 19th century, and later reviewed by Einar Ól. Sveinsson, or the theories surrounding Sturla Þórðarson’s authorship of the saga, which have been proposed many times without meeting substantial support.⁸ Nowadays, many of the premises of the Icelandic school’s method have been reassessed, thanks to the influence of anthropology, sociology, legal history, and literature. This multidisciplinary approach has proved to be of great benefit for the historical research on sagas.

Particularly relevant for this thesis is the approach of legal history. It will be argued here that interpretation of change in the power structure, as mirrored in the law codes, is another way to assess historical change in any society, such as medieval Iceland. The importance of law in Icelandic medieval society is widely known: sagas deal with feuds that normally escalate until a legal settlement is found; copies of the legal codes proliferated;⁹ one of the most important offices since the introduction of the first Norwegian law was that of the lawman (ON *lögmaður*). It will be

⁸ See Guðrún Ása Grímsdóttir, “The Works of Sturla Þórðarson”, in *Sturla Þórðarson: Skald, Chieftain and Lawman*, eds. Jón Viðar Sigurðsson and Sverrir Jakobsson (Leiden: Brill, 2017), 18.

⁹ Just to mention one example, *Jónsbók* had an enormous popularity, given the great number of copies that it had and that were preserved. For more on this specific issue, see the Appendix in Páll Sigurðsson, *Lagaslóðir: Greinar um lög og rétt* (Reykjavík: Háskólaútgáfan, 2005), 367-382.

assumed here that the inconsistencies in the saga plot, between the legal practices of the time of action and those of the alleged time of composition, reflect the focal points of the political content in the underlying message of the saga. This will be presented in two study cases, one about the authority of chieftains concerning witchcraft-related crimes (Chapter 3), and another one concerned with the appropriation of resources in hands of the chieftains (Chapter 4).¹⁰ The practices described in the saga will be compared with the norms present in *Grágás*, *Járnsíða*, *Jónsbók* and the *New Christian Law* of Bishop Árni.

This thesis' starting point is the theoretical approach of Leopold Pospíšil on Legal Anthropology. His comparative perspective of Law, supplied by the influence of Anthropology in the study of pre-capitalist and stateless societies -with extensive acceptance in the field of Icelandic Medieval history- could be combined in the study of the concrete changes that took place during the 13th century Iceland.¹¹ It is particularly relevant for this thesis to consider as law those norms that are effectively supported by an authority, as a mean of social control, given that this perspective allows us to analyze the change in the sphere of authority of the aristocracy and its political influence before and after the submission to Norway. This could explain the following statement made by Páll Sigurðsson:

At the king's instigation, and in connection with the legislative work that was being done in Norway in the 1260's, a draft of a law code was compiled for Iceland. This was duly sent to Iceland and enacted in stages during the years 1271-73, but met with a poor reception. This code, named *Járnsíða* ('Ironside') was to a large extent based on Norwegian law. In both its compilation and its enactment, too little consideration was given to conditions in Iceland, the country's own national legal traditions and the wishes of the local people.¹²

The cold reception of *Járnsíða* exemplifies the margin of negotiation that the Icelanders, most probably represented by the aristocracy of chieftains, had when meeting the new administrative structure imposed on them. Therefore, a comparative study of the legal codes from the last years of the Commonwealth to the acceptance of *Jónsbók* will help us elucidate the process of introduction

¹⁰ For the first study case, I will use Chapter 20 of *Eyrbyggja saga*, while for the second study case, I will refer to Chapters 57-62.

¹¹ Scholars such as Helgi Þorláksson, Jesse Byock, William Miller, and Jón Viðar Sigurðsson, adopted a perspective which has been defined as the "anthropological turn". This term has been applied to the shift in the approach of the scholarly discussion to a more interdisciplinary perspective. This renewed interest in social structures, such as feud, gift-giving, kinship, and friendship, benefited from the research of anthropologists all over the world, such as Evans-Pritchard, Mauss, Sahlins or Turner, just to mention a few.

¹² Páll Sigurðsson, *Lagaslóðir: Greinar um lög og rétt*, 371.

of the royal administration, and the adaptation of the Icelandic aristocracy and householders to the new power structure. The cross-reading of *Eyrbyggja* saga and the laws could provide a way to understand the discrepancies between the message underlying the saga and the newly introduced norms which changed the political structure. This could help us interpret the historical context in which this saga was committed to velum, and the interests of a part of the aristocracy that, as it will be argued, produced such a discourse.

1.2. Methodology

In the field of medieval Icelandic history, scholarly research has been devoted -since the second half of the 19th c.- to providing a reliable temporal reference for two strongly related corpuses. I am referring to legal texts and the sagas in general, but more specifically to *Grágás* and the Family sagas. Many scholars have built their theories using the comparative reading of both kinds of sources as a cornerstone. This has sometimes been done without acknowledging the problems behind the dating of *Grágás*. The uncertainty concerning the dating of sagas is an additional problem of the same kind. There is no universal approach to the problem, and therefore we must proceed by analyzing on a case by case basis. In this project, I will examine the case of *Eyrbyggja* saga, trying to find inconsistencies between *Grágás* and the saga, to check these cases against the norm provided by later law codes. I will support the theory that this saga was composed between the final years of the Icelandic Commonwealth and the introduction of the law code *Járnsiða* (1271). I believe that supporting a later dating for this saga could make it a valuable source for studying such problems as the concentration of power and its representation in saga literature, the development of an aristocratic identity, and the political use of this saga in the context of 13th c. Iceland. Given the importance of *Eyrbyggja* saga and the wide bibliography devoted to its study, I would like to propose a state of research on the topic, from the influential *Dating the Icelandic Sagas* of Einar Ól. Sveinsson to more recent works.

2. The Icelandic School's method

In the following paragraphs, I will present a brief survey of Einar Ólafur's method, and proceed after that to what he presents as "objective information", namely the manuscripts, the structure, the authorship and mentions of other sagas. In each section, I will provide the arguments elaborated in the years elapsed since the publication of Einar Ólafur's book. I will also propose a new organizing principle for the narrative and analyze the possible interpretations that it allows.

2.1. Overview of Einar Ól. Sveinsson's method

In his work, Einar Ólafur provides a detailed description of the method used by the Íslenzk fornrit editors. For him, two of the most important questions regarding the literary corpus of medieval Iceland were authorship and dating of the sources. The method described by Einar Ólafur consists of an interdisciplinary approach to the sagas both as material objects, and as narratives. He pays much attention to the state in which the manuscripts are preserved and to the quality of the works, both from a subjective and objective approach. Concerning the objective information, the literate culture at that time made it possible to have more than one version of the same saga, therefore multiple and possibly conflicting sources. Consequently, he suggests tackling the problem from the objective evidence. The underlying assumption of this method is that if there is a great number of manuscripts of a certain work and the compiler didn't introduce any contemporary material, the dating of the manuscript could coincide with the one of the composition of the saga. Einar Ól. recognized the problems that this implication could bring and advised to consider the literary relations between the works, the links between narratives and contemporary history, the linguistic evidence, the clerical and continental influences, among other factors that could provide additional information. This approach is manifold, as I will explain below.

Dating the Icelandic Sagas: an essay on method was published for the first time in English in 1958 in the English translation by Gabriel Turville-Petre. The book describes the method used by the Íslenzk fornrit editors, the so-called Icelandic School. Therefore, it expresses the ideas of a group of scholars trying to modernize the appreciation of sagas as sources. This is particularly evident in three ideas implied in the study. First, that the sagas are the product of a literate culture, and hence

cannot be used for interpreting the time before they were committed to parchment.¹³ Second, that sagas should be considered literature, thus not reliable sources for any historical endeavor.¹⁴ Third, that the evolution of sagas as a genre accompanied the decline of the culture of the Icelandic Free-State.¹⁵

The book is divided into fifteen chapters. The first five chapters are devoted to establishing the principles of Einar Ólafur's approach: as stated above, sagas are defined as written works, and thus composed by individuals immersed in a specific culture (Chapter 1). This culture provided the sources for the composition of sagas that took form in a scribal environment and therefore, they did not have a fixed form before they were written down. This argument challenges the free prose theories, although Einar Ól. declines to comment in depth on this debate (Chapter 2). According to him, the reproduction of the sagas was not a standardized process and hence we need to study every single manuscript in the form it came to us. In doing this we can reconstruct the stemma of the sagas by comparing the borrowing between the different copies of the same story. In Einar Ól. words: "we can say that the longer the time and the greater the number of intermediaries between our text and the original, the greater are the chances of corruption" (Chapter 3).¹⁶ The conditions in which we receive the sagas vary in every single case. This leads him to conclude that sagas were created either by the addition of *þættir* or by the interpolation of different stories into older texts. Nonetheless, once they were written they became fixed units (Chapter 4). Studying the sagas from a subjective point of view that considers "tone and character" is not an option for Einar Ól., and henceforth he calls for the use of objective information (Chapter 5), to be presented in the next five chapters of the book.

¹³ "When I speak of sagas in the following pages, I shall always mean written works, such as *Egils Saga*, *Njáls Saga*, *Heiðarvíga Saga*, or *Hrafnkels Saga*, and I shall use the word exclusively for such written works." In Einar Ól. Sveinsson, *Dating the Icelandic Saga: An Essay in Method* (London: University College London, 1958), 6.

¹⁴ Concerning the importance given by scholars to references to the past in sagas, Einar Ól. mentions that "scholars have attached great weight to statements like these, but investigation shows plainly how deceptive they are." Einar Ól. Sveinsson, *Dating the Icelandic Sagas*, 61-62. Also, about contemporary history: "It must be said that all these attempts to find similarities between the sagas and events of the age in which they were written present exceedingly difficult problems." Einar Ól. Sveinsson, *Dating the Icelandic Sagas*, 74.

¹⁵ Einar Ól. Sveinsson, *Dating the Icelandic Sagas*, 124-126.

¹⁶ Einar Ól. Sveinsson, *Dating the Icelandic Sagas*, 16. Patricia Pires Boulhosa discussed the method of the ÍF editors in depth, in her book about the Icelanders and the Kings of Norway. About this matter: The *Íslensk fornrit* editions of sagas were modelled on the idea of an original text which could be recovered from the extant manuscripts through the zealous application of Lachmannian principles of textual edition. In Patricia Pires Boulhosa, *Icelanders and the Kings of Norway: Mediaeval Sagas and Legal Texts* (Leiden: Brill, 2005), 28.

In chapter 6, the author surveys the references to saga writing in early works (*First Grammatical Treatise*, *Hungrvaka* and Snorri's *Ólafs saga helga*) as well as in sources contemporary to the date of the earliest manuscripts (the prologue of *Sturlunga saga*). The next chapter is devoted to the age of the manuscripts. Einar Ól. considers safe to conclude “that the sagas cannot have been written before the latter part of the twelfth century, and can, indeed, have been written in the thirteenth”.¹⁷ In chapter 8, he defines the “historical evidence” as “mentions of people or events of an age later than that with which it is concerned, or alludes to practices or details of antiquity which give some evidence of its age”.¹⁸ This argument relies heavily on the assumption that scribes did not change the text by introducing contemporary material or other details to give the saga an archaic tone. Einar Ól. concludes that the period of the composition of family sagas could be narrowed down to no earlier than the latter part of the 12th century.¹⁹ He proposes many different sources of historical evidence, such as cultural matters or the references to farms and landscape, among others. The most important of these for this thesis is the utilization of law as a source of such information, especially because *Laxdæla* and *Eyrbyggja saga* figure prominently in Einar Ólafur's argumentation.

In chapter 9, the use of contemporary history is disregarded as a mirror for the events that take place in the saga. The author prefers to rely on “literary relations” (Chapter 10), defined as the instances in which “the author of a saga shows in his own work that he knew an older written work”.²⁰ This could have happened consciously or not, and yet the “material similarity” does not constitute a proof of a scribal relationship.²¹ According to Einar Ól., saga-writers avoided repeating events that were previously treated in another work, thus this could be used as an indicator of a literary relationship between two or more works. This could be the case between *Eyrbyggja*, *Laxdæla* and *Heiðarvíga saga*, as other scholars like Guðbrandur Vigfússon and Hugo Gering considered.²² Einar Ól. subscribed to this opinion. Verbal similarities and the relationship with kings' sagas and *Landnámabók* are also explored in this chapter.

¹⁷ Einar Ól. Sveinsson, *Dating the Icelandic Sagas*, 58.

¹⁸ Einar Ól. Sveinsson, *Dating the Icelandic Sagas*, 50.

¹⁹ Einar Ól. Sveinsson, *Dating the Icelandic Sagas*, 57.

²⁰ Einar Ól. Sveinsson, *Dating the Icelandic Sagas*, 76.

²¹ Einar Ól. Sveinsson, *Dating the Icelandic Sagas*, 77.

²² Einar Ól. Sveinsson, *Dating the Icelandic Sagas*, 78. Although most of the scholars agreed that this was the norm, in the case of *Eyrbyggja* we see the repetition of the events related with the death of Víga-Styrr. This could work as a reminder that sagas are, after all, literature, and that the compiler of the saga might have appreciated the value of the story and therefore, decided to mention it nonetheless.

The last five chapters have a literary and philological approach. In chapter 11, Einar Ól. describes the linguistic evidence, with many examples of how scribes tended to modernize the language. He values the evidence differently, assuming that archaisms suggest an early writing but modern words do not necessarily indicate a later composition.²³ The author provides us with the example of the late and loan words present in *Eyrbyggja* and *Laxdæla*, which at least in the case of the latter he deems as early as 1220-1230, considering the historical evidence (Chapter 8).²⁴ In chapter 12, the author deals with the clerical and romantic influences. He sustains that the influence of Christian morality appears to have been stronger by the end of the 13th century than at the beginning.²⁵ He also analyzes the influence of Latin in saga writing and the possible intromission of courtly motifs in saga literature. Another chapter is devoted to the artistry of the sagas, where Einar Ól. argues that older sagas could show a “primitive” style, and even if this evidence is not conclusive, he considers that the relationship between both variables is strong enough to be reliable.²⁶ Chapter 14 portrays the opinion of Einar Ól. on the Heroic sagas (also labeled *Fornaldarsögur*) and the influence they had on the decline of the Free State. He argues that these sagas coincide with the latter part of the Icelandic Commonwealth period (1250-1262/4) and that the similarities between the treatment of some events in Family sagas and Heroic sagas should not be considered necessarily as an influence of the latter on the former. This, of course, supports the theory that family sagas were mostly composed during the first half of the 13th century.

2.2. The “objective evidence”

2.2.1. The manuscripts

Eyrbyggja saga seems to have been a popular saga during the Middle Ages, given the number of copies that survived from this time and the post-Medieval period. The text survives in four fragmentary vellum manuscripts, ranging from the 13th to the 15th centuries.²⁷ There are, also, more

²³ Some examples of this are the change of *s* to *r* in the forms of the verb to be (ON *vera*). Therefore, the forms *vesa* and *es* changed to *vera* and *er*. Other changes concern the expletive particles *of* and *um* and the switch from *umb* to *um*, that apparently took place around the first half of the 13th century.

²⁴ Einar Ól. Sveinsson, *Dating the Icelandic Sagas*, 105.

²⁵ Einar Ól. Sveinsson, *Dating the Icelandic Sagas*, 109.

²⁶ Einar Ól. Sveinsson, *Dating the Icelandic Sagas*, 120. The stylistic method of dating can be traced to Sigurður Nordal, in particular his work, *Snorri Sturluson* (Reykjavík: Þór. B. Þorláksson, 1920).

²⁷ Forrest S. Scott, *Eyrbyggja saga: The Vellum Tradition* (Copenhagen; C.A. Reitzels Forlag, 2003), 1-18.

than fifty copies on paper, later in dating. The four medieval manuscripts are listed below, following the research made by Forrest S. Scott in his scientific edition from 2003:

1. E, AM 162 E. fol., 13th century
2. W, Cod. Guelf. 9.10, 4^{to} in the Herzog August Library, Wolfenbüttel, fourteenth century
3. M (*Melabók*), AM 445 b 4^{to}, fifteenth century
4. G, AM 309 4^{to}, written in 1498

The most complete manuscript, that will be discussed below, is W, although the beginning of the saga is missing. The oldest manuscript, E, is the most defective one, covering just a few episodes and coinciding with the text covered by M and W. *Melabók* and manuscript G cover the beginning of the saga but do not have the middle part of the text. Of these two, *Melabók* is the least fragmentary one, covering the final third of the saga.

Concerning the relationship between the manuscripts, Forrest S. Scott concluded that two branches derived from the stemma, unfortunately both are missing (*B and *C). From these branches, manuscripts E, G, and W were sister manuscripts, while M and another lost manuscript, known as *A, descended from *C. From *A descended two other manuscripts, Z and *A¹, that were both used for the compilation *Vatnshyrna*, that was used later by Einar Ól. for the Íslenzk fornrit edition.

In *Dating the Icelandic Sagas*, the information provided by Einar Ól. Sveinsson about the manuscripts of *Eyrbyggja saga* is rather brief, probably because his scholarly edition for the Íslenzk fornrit collection (ÍF IV, 1935) contained a longer survey on the topic (§ 7. Handrit Eyrbyggju, Útgáfan). In the work from 1958, Einar Ól. mentions that fragments of four vellums and the transcript of a fifth (*Vatnshyrna*) survive. Also, he argues that “material differences are small, and comparison of the manuscripts does not suggest that the wording has been radically altered”.²⁸ The Íslenzk fornrit edition is based on *Vatnshyrna*, although he states that manuscripts from the B and M groups are closer to the original.

Jonna-Louis Jensen wrote a comprehensive critique of the method presented by Einar Ól. in his text from 1958. She argued that the approach of the Icelandic School relied on dating every single manuscript based on textual interrelations. This could lead to a relative knowledge, very feeble if we consider the textual variation in the sagas: manuscripts could be changed while being copied,

²⁸ Einar Ól. Sveinsson, *Dating the Icelandic Sagas*, 20.

therefore relying in the cross-references between sagas could lead to the equivalent of building a house of cards where the position of every element is relative. She proposed a genetic method, that Einar Ól. used himself in his critical edition of *Njáls saga*.²⁹ Jensen explained the history of the reconstruction of *Eyrbyggja* made for the Íslenzk fornrit edition of the saga, saying that Einar Ól. considered all the manuscripts (the lost *Vatnshyrna*, the fragmentary E, G, and W, and *Melabók*) as “stemmatically equal”.³⁰ In this way, Einar Ól. used parts of different manuscripts when they provided fuller information, therefore creating a continuous story that was not necessarily representative of the extant manuscripts. The scientific new edition of the saga, published by Forrest S. Scott in 2003, defended the idea that *Melabók* and *Vatnshyrna* came from the same branch, while the other three manuscripts formed the older branch. An important conclusion from Jonna-Louis Jensen’s article is that “W is the single manuscript that gives the best picture of the archetype of *Eyrbyggja saga*, even in some respects better than the old fragment E (AM 162 E fol.), which is both very short and marred with scribal errors.”³¹

The W manuscript, also known as Cod. Guelf. 9. 10. Aug. 4to, is a defective Icelandic manuscript from the 14th century. It is conserved now in the Herzog August Bibliothek in Wolfenbüttel, Germany. It is made of 54 parchment leaves, assembled in 8 gatherings, with some paper leaves added later. Árni Magnússon borrowed the codex and provided a copy of the first part of *Eyrbyggja*, written by an unknown hand in the 18th century. Forrest Scott mentions that a single hand has been identified in the manuscript.³² The codex has three lacunae, although only the first one, of approximately 8 leaves, concerns *Eyrbyggja saga*. It appears before the first gathering of the manuscript, which means that the beginning of the saga is missing.

The exact provenance of the manuscript is unknown, and its history is rather obscure. Guðbrandur Vigfusson guessed an origin in Snæfellsnes or Borgarfjörður, but the paleographic and marginalia analysis points to a North-Eastern Icelandic provenance.³³ A paper copy of the manuscript was

²⁹ Einar Ól. Sveinsson, *Studies in the Manuscript Tradition of Njáls saga* (Íslenzk fræði) (Reykjavik: H.F. Leiftur, 1953).

³⁰ Jonna Louis-Jensen, “Dating the Archetype: *Eyrbyggja saga* and *Egils saga Skallagrímssonar*”, in *Dating the Sagas. Reviews and Revisions*, ed. Else Mundal (Copenhagen: Museum Tusulanum, 2013), 136.

³¹ Louis Jensen, “Dating the Archetype: *Eyrbyggja saga* and *Egils saga Skallagrímssonar*”, 138.

³² Forrest S. Scott, *Eyrbyggja saga: The Vellum Tradition*, 48.

³³ The owner’s signature (f.48v) traces back to the North-East of Iceland. The owner of the book has been identified with the lögmaðr Audunn Sigurðsson “Laga-Auðunn” (c. 1470), who lived in Héðinshöfði for a while. Forrest S. Scott, *Eyrbyggja saga. The Vellum Tradition*, pp. 45.

ordered around 1640 by the Bishop of Hólar Þorlákur Skúlason (1628-1656), who was very active in preserving copies of medieval Icelandic manuscripts. The paper copy commissioned by the Bishop contained four sagas, *Eyrbyggja* and *Egils saga* included, most likely copied by the same unknown hand, familiar from the Bishop's work. Árni Magnússon obtained the copy before 1707 from one of his acquaintances of Hólar, then he split the book in four volumes. AM 446 4to, the paper manuscript of *Eyrbyggja*, shows the same lacunae in the contents as W, thus proving that W was already defective in the 17th century.³⁴

2.2.2. Authorship

Authorship was one of the main problems for the Icelandic School. The reasoning behind this search for the author was stated above in the survey on Einar Ól.'s method. It concerns his definition of "saga". If sagas are defined as written works composed by specific individuals, almost like contemporary novels, every copy of a saga is potentially a different version of the same story. By comparing different versions of the same saga, we could reach the "core" of the story, that would resemble the original version (i.e., the *Urtext*). Consequently, both dating the manuscript as a material object and the matter of a saga, were necessary to reconstruct the history of the so-called original version. This notion has been challenged since the introduction of the structuralist approach in saga scholarship. Carol Clover argued convincingly that sagas are products of a literary culture that valued Continental influences more than Einar Ól. could accept.³⁵ The assessment of oral sources and the constant reworking of the tradition, that eventually crystalized in the sagas that we access through the manuscripts, has also been reintroduced in saga scholarship.³⁶ It is not the object of this thesis to discuss further the changes in the literary field, although the question of authorship could be meaningful from a historical perspective. Of course, the question posed by the Icelandic School needs to be reshaped: the stress is not in finding the individual in charge of

³⁴ The manuscript had a long history and moved to and from Germany several times. For the sake of brevity, I omit this information which can be read in Forrest S. Scott 2003, *Eyrbyggja saga*, 45-51.

³⁵ The influence of Romantic and Continental literature was conceived as an intromission into the native literary culture. See Einar Ól. Sveinsson, *Dating the Icelandic Sagas*, 124-126. Carol J. Clover argued against this idea: "The sagas themselves, and he manuscripts in which they are contained, offer prima facie evidence that this literary climate was by no means restricted to Continental authors but prevailed in Scandinavia as well. That saga composition was influenced by Latin history writing is clear. Whether it also received reinforcing secondary impulses from French prose romance is not clear, though circumstantial evidence points in that direction." Carol J. Clover, *The Medieval Saga* (Ithaca and London: Cornell University Press, 1982), 203

³⁶ One example is Pernille Hermann, "Concepts of Memory and Approaches to the Past in Medieval Icelandic Literature", *Scandinavian Studies* 81:3 (2009), 287-308.

committing the saga to parchment, rather to identify the interest group behind the crystallization of a specific tradition.

Einar Ól. did not provide a theory regarding the authorship of *Eyrbyggja*. Given the local character of the saga, it is commonly accepted that it was composed in the Snæfellness region, and most probably in the entourage of the Sturlungar.³⁷ Jean-Pierre Mabire, who follows Einar Ól. in most of his views about the saga, proposes Þórðr Sturluson, brother of Snorri Sturluson and father of Sturla Þórðarson, as one possible author.³⁸ This theory is closely related to an early dating of the saga, as Mabire clearly states:

Si nous retenons comme période probable de composition de la *Eyrbyggja* les années autour de 1220, comme notre essai de datation semble nous y autoriser, alors le nom d'un personnage célèbre s'offre à nous comme auteur possible de la saga : il s'agit de Þórðr Sturluson, frère du grand Snorri, et descendant de l'illustre goði Snorri, héros de notre saga. Þórðr vécut de 1165 à 1237 et, à l'époque considérée pour la rédaction de la *Eyrbyggja*, il régnait en maître sur la Presqu'île-du-Mont-des-Neiges [the Snæfellness peninsula]. C'était un homme rempli de bon sens, prévoyant, pacifique et plein de bienveillance, mais qui savait défendre ses intérêts. Entre lui et le goði Snorri on peut déceler de profondes affinités spirituelles.³⁹

Mabire's theory about Þórðr as the possible author departs from the earliest dating proposed by Einar Ól. Sveinsson.⁴⁰ This dating had been disregarded during the years, especially since the references to *Laxdæla* had been accepted as integral parts of *Eyrbyggja*.⁴¹ Accepting some of the points made by Mabire and others about the character of the saga, the involvement of the Sturlungar seems to be out of question, although given the quarrelsome character of the members of this family, speaking of a unified ideological endeavor seems unfitting. The connection between Þórðr

³⁷This argument has a long story in *Eyrbyggja*'s scholarly research: e.g., Einar Ól. Sveinsson and Matthías Þórðarsson, eds., *Eyrbyggja saga* (ÍF IV) (Reykjavík : Hið Íslenska Fornritafélag, 1935), liii.; Jean-Pierre Mabire, *La composition de la Eyrbyggja saga* (Caen : Association des Publications de la Faculté des Lettres et Sciences Humaines de l'Université de Caen, 1971), 41-43; Forrest S. Scott, *Eyrbyggja saga*, 20-21; Ryan E. Johnson, "Eyrbyggja and Icelandic Scholasticism: The Boethian Influence on Saga Narrative" (Unpublished MA diss., University of Iceland, 2014), 4-8.; among others.

³⁸Jean-Pierre Mabire, *La composition de la Eyrbyggja saga*, 41-43.

³⁹Jean-Pierre Mabire, *La composition de la Eyrbyggja saga*, 42-43.

⁴⁰Elín Bára Magnúsdóttir argued convincingly for the relevance of studying the literary and thematic relationship between *Eyrbyggja* and Sturla Þórðarson's literary work (*Íslendinga saga* and *Hákonar saga Hákonarsonar*). According to Elín Bára, Sturla could have been the author of *Eyrbyggja* and the depiction of many of its characters, such as Snorri goði, could be modelled after Sturla's uncle, Snorri Sturluson. See Elín Bára Magnúsdóttir, *Eyrbyggja saga: Efni og höfundareinkenni* (Reykjavík, Háskólaútgáfan, 2015).

⁴¹This will be discussed extensively in the next chapter, but in his edition from 2003, Forrest S. Scott confirms that the references are present in all the older manuscripts, without any mark of being a later interpolation.

Sturluson and Snorri goði is beyond question, given that he was the first son of Hvamm-Sturla to possess the Snorrungagoðorð and later he incorporated the Þórsnesingagoðorð. The Snorrungagoðorð changed hands later to Sighvatr Sturluson, Þórðr's brother.⁴² Even if the region had an inherent value in the political construction of Hvamm-Sturla's descendants, the infighting and the power basis that each of the Sturlungar amassed until the fall of the Commonwealth took place outside the Snæfellness peninsula. In this sense, a discourse as that conveyed by *Eyrbyggja* would not fit in the context of an undisputed power of the same family in the region. But who could benefit from such a discourse? In the following section, I will propose a new argument concerning the structure of the saga, that could help clarify this question.

2.2.3. Structure

In an article from 2007, Lars Lönnroth describes the evolution of structuralist ideas in the study of saga literature.⁴³ According to him, the idea of patterns in the composition of Icelandic sagas had a long tradition before Continental anthropologists delineated the Structuralist theories. He starts his survey with Albert U. Bååth's *pátr* theory, and continues on to Andreas Heusler, Theodore M. Andersson, Joseph Harris, Richard F. Allen, and Carol Clover. The structuralist approach evolved until the beginning of the 1980's, when two different evolutions took place: on the one hand, the stress put on fixed patterns shifted to a more lax organizational scheme; on the other, scholars started to bring the structuralist approach outside literary criticism and into fields like historical and legal research. Lönnroth mentions the American scholar Jesse L. Byock as a pioneer in this approach, and his book *Feud in the Icelandic Saga* (1982) as the beginning of a new trend in saga scholarship. This is what would be known later as the "anthropological turn", or what Gisli Pálsson considered the "ethnographical oriented saga scholarship", referring to Byock and William Ian Miller.⁴⁴

In the case of *Eyrbyggja saga*, the search for a structural pattern in the saga was greatly influenced by Lee Hollander's article from 1959. One of his main points that must be taken into consideration

⁴² Jón Jóhannesson, *A history of the Old Icelandic Commonwealth: Íslendinga Saga* (Winnipeg: University of Manitoba Press, 1974), 233.

⁴³ Lars Lönnroth, "Structuralist Approaches to Saga Literature." In *Learning and Understanding in the Old Norse World: Essays in Honour of Margaret Clunies Ross*, ed. Judy Quinn et al (Turnhout: Brepols, 2007), 63–73.

⁴⁴For a deeper insight in the scholarly discussion concerning this, see Santiago Barreiro, "Big men during the Icelandic Commonwealth" (Unpublished MA diss., University of Iceland, 2010), 6.

is that the saga was composed and shaped in the way we know it not by mere chance. He argued that the way in which the stories are interwoven in the saga followed the interlacing of sentences of skaldic poetry. In this way, Hollander reassessed the artistry in the composition of *Eyrbyggja* that was being discussed at that time.⁴⁵ After the work of Lee Hollander, many authors have tried to provide a unifying idea to explain the fragmentary narrative of the saga.⁴⁶ Many principles have been proposed over the years: Carol Clover argued that *Eyrbyggja* was an example of a multi-stranded story with roots in the contemporary continental literature, while Vesteyinn Ólason and Einar Ól. Sveinsson agreed on the centrality of Snorri *goði*. Torfi Tulinius proposed heroism as an organizing factor. Jennifer Livesay organized the saga in relation to the female characters in the saga.⁴⁷

Einar Ól. argued that scribes avoided repetition between sagas with a literary relationship, such as *Eyrbyggja* and *Laxdæla*.⁴⁸ If we consider that Snorri *goði* is an important character in both sagas, and that the story in *Eyrbyggja* stretches from the colonization of the Snæfellsness area until Snorri moves out to Sælingsdalr (with the only exception of the events in Tunga that will be addressed in Chapter 3), then chronological criteria could be at work.

Bernadine McCreesh argued that the Conversion marked the point where the story lines in *Eyrbyggja* developed as a reflection of elements previously presented. She mentions five elements that occur both in Pagan and Christian times: 1) death by drowning; 2) rivalry between two women; 3) curse by the dying; 4) hauntings; 5) laying of Þórólfr.⁴⁹ Her theory is that this fact reflects the importance of Christianization in the history and ideology of 13th century Iceland. In this sense, *Eyrbyggja saga* would be a tale about the transition from a pagan and unorganized society to a

⁴⁵ The question concerning the artistry had a long history. A short summary is provided by Forrest S. Scott: “The question of whether there is a structural plan behind *Eyrbyggja saga* is particularly well dealt with by Jean-Pierre Mabire, who summarizes the views of critics down to the time of his *La Composition de la Eyrbyggja Saga* - Guðbrandur Vigfússon, Finnur Jónsson, Eiríkur Magnússon, Sigfús Blöndal, all of whom assume that chapters have either been interpolated or suppressed. Without advancing such radical views, others have criticized the structure of the saga – Gering, Turville-Petre (who however suggests that this very fault does in fact make the story seem more like real life).” In Forrest S. Scott, *Eyrbyggja saga*, 23.

⁴⁶ Lee M. Hollander, “The Structure of *Eyrbyggja Saga*”, *The Journal of English and Germanic Philology* 58.2 (1959):222-227.

⁴⁷ For more about every specific argument, Torfi Tulinius (2014), “Deconstructing Snorri. Narrative Structure and Heroism in *Eyrbyggja saga*”, in *Narration and Hero. Recounting the Deeds of Heroes in Literature and Art from the Early Medieval Period*, eds. Victor Millet et al. (Berlin: De Gruyter, 2014), 195-208.

⁴⁸ Einar Ól. Sveinsson, *Dating the Icelandic Sagas*, 78.

⁴⁹ Bernardine McCreesh, ‘Structural patterns in the *Eyrbyggja Saga* and other sagas of the Conversion,’ *Medieval Scandinavia* 11 (1978-9), 273.

Christian and political society.⁵⁰ McCreesh's model could be extended to many of the family sagas with different structural patterns, therefore, it loses some of its explanatory value for the specific case of *Eyrbyggja*. Nonetheless, I will argue that the idea of a transitional character could be supported if we think about other organizational patterns that are specific to this saga.

Torfi Tulinius argued that certain events in the saga could have expressed the concerns of the lay aristocracy towards the advance of the Church and a reluctant collaboration with the ecclesiastical structure.⁵¹ In this sense, the saga could be related to the growing competition for power in Iceland during the last years of the Commonwealth. Although Torfi proposed heroism as the main organizational element of the narrative in *Eyrbyggja*, the context in which it is measured is the political activity of chieftains: Snorri struggles to achieve supremacy in the area around Þórsnes, fulfilling the legacy of his forefather, the settler Þórólfr *Mostrarskegg*. If we follow the saga, the undisputed authority of Þórólfr lasts until the Kjalleklingar defy the rules established by him and a conflict between the two most important families in the region begins. After Þórðr *gellir*'s arbitration, we see how the *goðorð* is divided and the upcoming generations must deal with the competence of other less entitled men, such as Arnkell. The young Snorri is confronted with the doubts about his character, when the saga explains that:

Hann varðveitti þá hof; var hann þá kallaðr Snorri goði; hann gerðisk þá höfðingi mikill, en ríki hans var mjök ofundsamt, því at þeir váru margir, er eigi þóttusk til minna um komnir fyrir ættar sakar, en áttu meira undir sér fyrir afls sakar ok prófaðrar harðfengi.

He maintained a temple and was afterwards called Snorri goði. He became a great chieftain, but many envied his rank, because they felt they were equal in birth to him, and they had more strength and confirmed willingness to use force to achieve their ends.⁵²

We can read in the saga a conflict between a traditional and a new established power, that is repeated three times, first with the Kjalleklingar, then with Arnkell and finally with Óspakr. We see how the chieftaincy evolves in the lapse of four generations, from the authority of Þórólfr *Mostrarskegg* to that of Snorri's descendants. If we consider the beginning and the end of the saga, we can see that the common element in these two points is Snorri, and thus his centrality in the

⁵⁰ Some of the political milestones in the governmental history of Commonwealth Iceland could be traced in the saga, such as the establishment of the Fifth Court.

⁵¹ Torfi Tulinius, "Deconstructing Snorri. Narrative Structure and Heroism in *Eyrbyggja* saga", 196.

⁵² The translation is from Torfi Tulinius, "Deconstructing Snorri", 198.

saga. He represents the highest peak in the evolution of the authority and power of this family, and many elements in the saga seem to have been introduced for the sake of enhancing his power (e.g., the depiction of Arnkell's character as a complete opposite of Snorri's).⁵³ In this sense, Vésteinn Ólason and Einar Ól. Sveinsson would be right in postulating him as the organizing factor. Snorri fits the image of the transition perfectly, receiving a chieftaincy at a young age in a competitive environment and overcoming all the odds to unify his heirloom. But how to explain the many narratives in *Eyrbyggja* that don't concern Snorri? The fact that he is not always playing a leading role in the narratives has influenced the search for alternative structural factors holding the story together. Some of these theories have been presented, but there is no compelling reason to accept any one of them in particular over the alternatives. Another problem common to all these theories is that not all of them take into consideration the possible interpretations that such a discourse might have offered to the 13th century Icelanders. Many elements, such as the chronological frame, the regional character, the importance of Snorri, the heroism and the Conversion could all be incorporated in a single explanation. I will argue that the main structuring factor in the saga is the *goðorð* itself, and that we witness its evolution from the *Landnám* period to the time of Snorri's successors. The preeminence of Snorri in the saga responds to his role in restoring and consolidating the legacy of Þórólfr *Mostrarskegg*, in other words, the sole rulership over the Þórsnessþing. The cyclical evolution of the story, under this light, naturalizes the right of the Þórsnesingar to control the region, and the Conversion could be the dividing point from which the saga starts repeating itself. This could be the underlying message of the saga, and it could reshape our understanding of the fragment quoted above: many doubted Snorri and felt more entitled to wield the chieftaincy, and yet he managed to surpass them all. This could be a message to all his descendants, but especially to those whose influence and power was being questioned at the time when the saga was written.

But which would be the context in which this message resonated the most? The fact that the saga describes a transition, and in some point, naturalizes the rulership of the lay aristocracy with a traditional base of power gives us a clue as to where to look. Þórólfr's authority is based on three principles: 1) the authority he had over his neighbors in Norway; 2) his religious authority as Þórr's temple-priest; and 3) his rights as the first settler in the region. After Þórólfr died, his son Þorsteinn

⁵³ Torfi Tulinius, "Deconstructing Snorri", 197.

Þorskabítr failed to hold the chieftaincy together and he was forced to share the authority with the Kjalleklingar. By the time of the third generation of farmers, that of Snorri and Víga-Styrr, the basis of chieftain's authority shifted away from those of the time of the settlement. The possession of a *goðorð* is no longer the defining factor, as Arnkell's case proves. In *Eyrbyggja*, the only possessors of such office are the descendants of the original settlers who divided the Þórsnessþing among themselves, i.e. Snorri and the Kjalleklingar. The saga shows that a few generations after the land-taking, legal maneuvering and political representation were the key factors for sustaining a successful chieftaincy. Economic factors are not thoroughly described, although the saga mentions all of those involved in the political struggle in the district as prosperous farmers. In the last part of the saga, after Arnkell's death, we can see how Snorri concentrated power in this region. This process is manifold: he combined coercive means with shrewd political maneuvering with other chieftains and important farmers. This process seems to work hand in hand with concentrating more economical power, holding more than one farm, and brokering larger groups both in the local and national assemblies. This development is closely related with the concept of "sphere of authority", discussed by Sverrir Jakobsson.⁵⁴ As he writes, the early laws of Iceland don't stipulate any geographically defined principle for political authority, although saga evidence provides many examples of an unstable principle of local authority in the hands of chieftains.

I believe *Eyrbyggja saga* presents a clear ideological stance on the basis of authority and the extent of the sphere of authority of Snorri. The image we get from the saga on the chieftain's authority gains complexity after Arnkell dies: Snorri retains some of the features of Þórólfr *Mostrarskegg*, such as his chieftaincy and the prestige inherent to the family of the first settlers. But he also adds other layers, such as the legal brokering and the representation of larger groups against chieftains in other regions, i.e. after Víga-Styrr's assassination.

In the end, the trajectory of the descendants of Þórólfr *Mostrarskegg* closes a cycle, when Snorri becomes the principal authority in the region, although not on the same basis as his forefather. This power structure was unstable, but the networking built by Snorri extended to future generations, as the last chapter of the saga (*Ævi Snorra goða*) describes. Interpreting the saga as a political tool for Snorri's successors in a context where their authority is being questioned, like after the submission of all the chieftaincies to the Norwegian king, seems plausible considering the

⁵⁴ Sverrir Jakobsson, "The Process of State-Formation in Medieval Iceland", *Viator* 40.2 (2009), 158.

arguments provided here. By naturalizing their authority and their right to rule, they could have been providing an argument to limit the intervention of the crown in local affairs. This does not mean necessarily that they were antagonizing King Haakon or his son Magnús, rather that they could have offered an alternative solution or even their services as loyal courtiers. In this sense, the role played by Sturla Þórðarson after the submission, and his connection to the legacy of Snorri (he possessed the Snorrungagoðorð before becoming the Crown representative) could have been connected.⁵⁵ We mentioned before the doubts concerning Snorri's right or ability to hold such an important office as the Þórsnesingagoðorð. Sturla was born out of wedlock, and his rise in the family came closely related with the struggle to defeat his cousin Þórðr *kakalí*, therefore some doubts could have risen concerning his position. The similarities between the uncertain status of young Snorri goði and some of his descendants, like Hvamm-Sturla or Sturla Þórðarson, can be interpreted in a context as the one presented in this section as a political tool. This is one of many possible interpretations, but its plausibility reinforces a later dating for the saga, most likely after the submission to the crown.

2.2.4. Relationship with other sources

This section will deal with the references in *Eyrbyggja* to other sources. Einar Ól. mentions the relationship between *Eyrbyggja* and two other sagas: *Laxdæla* and *Heiðarvíga*. Both are quoted in the text and therefore it could be assumed that the author knew about them or that a later compiler interpolated those references. For Einar Ól. however, *Heiðarvíga* was a model of an archaic saga while *Eyrbyggja* was amongst the oldest of the classical sagas. The relationship with *Laxdæla* was different, as Einar Ól. assumed that the author of *Eyrbyggja* knew an early version of the saga or at least some version of the story. This relationship is explained in depth in Chapter 2 of this thesis. For the case of *Heiðarvíga saga*, the chapters concerning the death of the *berserkir* (27 and 28) and

⁵⁵ Forrest S. Scott summarized an additional argument supporting this theory: "Einar Ól. Sveinsson, Rolf Heller and Peter Hallberg all consider the verbal similarities between *Eyrbyggja saga* and the works of Sturla Þórðarson, for example the shared use of *öfund (ar) samt, mannasættir*. This could be explained in two ways, that Sturla (born 1214) became familiar with *Eyrbyggja saga* 'in his cradle', or that he himself was the author of *Eyrbyggja saga*. In the latter case, he must have been told by his grandmother (who died in 1221), or perhaps his father (who died in 1237), about the exhumation of the bones. If, moreover, he was the author, one can explain the relative absence of features typical of 'romantic' literature when compared with *Laxdæla saga*. For content and style may be the product not only of chronology but of individual writers; Hallberg points out that this relative lack of interest in romantic material does fit the nature of Sturla." in Forrest S. Scott, *Eyrbyggja saga*, 22. See also Elín Bára Magnúsdóttir, *Eyrbyggja saga: Efni og höfundareinkenni*.

the case after the death of Víga-Styrr (ch. 56) seem to have been borrowings from this saga, taken by the compiler of *Eyrbyggja*.

There is also an interesting relationship between *Eyrbyggja saga* and *Landnámabók*. It is important to remember that Sturla Þórðarson composed a version of the *Book of Settlements (Sturlubók)*.⁵⁶ Sturla made extensive usage of saga narratives for his version of the *Landnámabók*, as has been showed by Jón Jóhannesson and is now being reassessed by Sveinbjörn Rafnsson in a recently published book.⁵⁷ Sveinbjörn's theory fits the interpretation of the present work, when he argues that:

The 'dialogue' between the various versions of *Landnámabók* and sagas is difficult to explain fully, but it is all a matter of historical evidence. The motivations behind these saga-interpolations are obviously influenced by secular interests in a hierarchical society of chieftains or wealthy farmers with claims to noble ancestry, traditional power or special rights. The authors of the late thirteenth-century versions of *Landnámabók* seem to have found a niche for their interests by interpolating excerpts from sagas, cultivating friendships or reflecting political connections in certain localities or regions in Iceland – all of which underpinned their demands for power.⁵⁸

The value of *Landnámabók* as a cross reference for dating the sagas comes as an additional problem. Einar Ól. mentioned this issue, given that the older extant versions of *Landnámabók* were considered to have followed the text of the lost **Styrmisbók*. Einar Ól. subscribes to Jón Jóhannesson's argumentation, concerning the numerous sagas that influenced the *Sturlubók*

⁵⁶ In an article published in 2004, Axel Kristinsson explored the relationship between sagas and their alleged place of composition. One of the fundamental conclusions that he drew from his research was that social memory was at some point reconfigured to validate the current state of affairs against history. One of such instances concerned the land-taking of Skalla-Grímr as it was presented in the *Sturlubók*. This version presented some discrepancies with other manuscripts of *Landnámabók* but apparently borrowed the information from *Egils saga Skallagrímssonar*, attributed to Sturla's uncle, Snorri Sturluson. This theory relied on a biased use of the concept of cultural memory and has been recently reassessed by Ann-Marie Long, in his chapter "Sturlubók and Cultural Memory" in *Sturla Þórðarson: Skald, Chieftain and Lawman*, eds. Jón Viðar Sigurðsson and Sverrir Jakobsson (Leiden: Brill, 2017), 56-69. This problem and the potential use of the theoretical framework of "cultural memory" exceeds the point of this thesis, therefore it will not be addressed. For more on the topic, see Assmann, Jan, *Cultural Memory and Early Civilization: Writing, Remembrance, and Political Imagination* (Cambridge: Cambridge University Press, 2011); Vansina, Jan, *Oral Tradition as History* (Wisconsin: University of Wisconsin Press, 1985); and the aforementioned chapter by Ann-Marie Long.

⁵⁷ Jón Viðar Sigurðsson and Sverrir Jakobsson, eds., *Sturla Þórðarson: Skald, Chieftain and Lawman* (Leiden: Brill, 2017).

⁵⁸ Sveinbjörn Rafnsson, "Landnámabók and Its Sturlubók Version", in *Sturla Þórðarson: Skald, Chieftain and Lawman*, eds. Jón Viðar Sigurðsson and Sverrir Jakobsson (Leiden: Brill, 2017), 51.

version at our disposal, but he mentions in the list other sources whose dating has been debated and assumed later in recent years, e.g. *Hænsa-Póris saga* (1250-1270), *Vatnsdæla saga* (1270-1320).⁵⁹

2.3. Conclusion

In this chapter, the method for dating sagas established by Einar Ól. Sveinsson was explored. A survey of the main concepts in this model was provided. The ideas behind the decisions taken by the Icelandic School when editing the sagas were explained. The sources information that Einar Ól. labelled “objective information”, namely the manuscripts, the authorship, the structure, and the literary relationships, were considered from a historical perspective. Each of these elements served the purpose of illuminating a different aspect of the scholarly research done since the publication of *Dating the Icelandic Sagas: an essay on method* (1959). Besides summarizing the critics received by the editor of the scholarly edition of *Eyrbyggja* most commonly used, the ÍF IV, the problems inherent to those interpretations were addressed, and the present writer’s ideas about the organizational pattern giving sense to the narrative were presented. One of the many possible theories about the authorship of the saga was chosen, although the question about the authorship has been disregarded nowadays, giving more emphasis to the idea of the Icelandic scribal culture integrated in the Continental trend in the last three decades. Nonetheless, for a historical endeavor, the question of who could be responsible of crystalizing a discourse with so many possible political uses (and intentions) needed to be addressed. In order to do so, a new interpretation of the structure of the narrative has been provided, showing that the main aim of the plot was twofold, first to connect the first settler with the 13th century aristocracy, and second, to naturalize the leadership of a certain group who traditionally held power in the northern coast of Snæfellsnes. This new interpretation of the structure supported some of the theories on the authorship and the relationship with other sources, such as the possible involvement of Sturla and the feasibility of a different, later dating, than the one usually accepted by some scholars.

⁵⁹ The dates provided here have the only purpose of evidencing the striking differences between the dating provided by the ÍF editors and those currently accepted. I base this periodization on Vesteinn Ólason, “Family Sagas”, in *A Companion to Old Norse-Icelandic Literature and Culture*, ed. Rory McTurk (Oxford: Blackwell Publishing, 2005), 114-116. To see the datings proposed by the Icelandic School, see Einar Ól. Sveinsson, *Dating the Icelandic Sagas*, 90.

3. Study case 1: Witchcraft and Law

3.1. The case of tróldómr in *Eyrbyggja*

In chapter 20 of the *Eyrbyggja saga*, an interesting scene takes place. After the attack on Gunnlaugr and the tragic maiming of Þórarinn's wife, Arnkell decides to go to Mávahlíð to look for Oddr Kötluuson, a man charged for the deed and for slandering Þórarinn. The chieftain of Álptafjörðr gathers forces and goes to the farm where Katla, Oddr's mother, lives. From this point on, the saga describes the ruse that Katla uses for hiding her son: three times she uses optical illusions to disguise the presence of Oddr, and three times Arnkell and his men fail to discover him. The fourth time, with the help of Geirríðr, sister of Arnkell and mother of Þórarinn, the truth is unveiled. Then the following scene takes place:

Eptir þat váru þau færð inn til Búlandshöfða, ok var Oddr þar hengðr. Ok er hann spornar gálgann, mælti Arnkell til hans: "Illt hlýtr þú af móður þinni; kann ok vera, at þú eigir illa móður." Katla mælti: "Vera má víst, at hann eigi eigi góða móður, en eigi hlýtr hann af því illt af mér, at ek vilda þat; en þat væri vili minn, at þér hlytið allir illt af mér; vænti ek ok, at þat mun svá vera; skal nú ok eigi leyna yðr því, at ek hefi valdit meini Gunnlaugs Þorbjarnarsonar, er þessi vandræði hafa ǫll af hlotizk (...)"

Eptir þat þorðu þeir Kǫtlu grjóti í hel þar undir höfðanum; síðan fóru þeir í Mávahlíð ok váru þar um nóttina, en riðu heim eptir um daginn; spurðusk nú þessi tíðendi ǫll jafnsaman ok var engum harmsaga í. Líðr nú svá vetrinn.

After that, they were taken to Búlandshöfði, and Oddr was hanged there. And when he was kicking on the gallows, Arnkell said to him, 'It's your own mother who's brought you to this. One thing's sure, it's a wicked mother you've got!'

'Maybe he has got a wicked mother,' said Katla, 'but I never wanted him to come to this. I hope every one of you will go through agonies because of me – in fact I know you will. There's no point in denying it any longer, I'm the one who caused Gunnlaugr's mishap, and all these troubles stemmed from me' ...

Then they stoned Katla to death just below the cliffs. After that they went back to Mávahlíð, stayed the night there, and rode back home the following day. The news of what had happened soon spread, but no-one had any misgivings about it. So another winter passed.⁶⁰

⁶⁰ This translation has been taken from Hermann Pálsson and Paul Edwards, eds., *Eyrbyggja saga* (Edinburgh: Southside, 1973), 79-80. The original text in Einar Ól. Sveinsson and Matthías Þórðarson, *Eyrbyggja saga* (ÍF IV), 54. For the English translation, I adapted the names to the original in Old Norse.

As we can see, two felons are being executed for different and non-related crimes. On the one hand, Oddr is being held responsible for the assault on Þórarinn and the maiming of Auðr. Katla, on the other, committed several felonies including slandering Geirríðr, hiding her son using magic and the one that probably sentenced her to death, the attack on Gunlaugr. Oddr's execution takes place shortly after he committed the attack on Mávahlíð, and therefore there was legal ground to justify the action taken by Arnkell and Þórarinn, according to the *Mannhelgi* section in *Grágás*. But what happens with Katla? In the following pages, I will compare this episode in *Eyrbyggja* with a similar scene in *Laxdæla*.

3.2. Comparison with *Laxdæla*

In chapters 35 to 38 of *Laxdæla saga*, we read that a family of sorcerers from the Hebrides migrates to Iceland. They are received by Hallsteinn goði and settled in Urðir in Skálmarfjörðr. The winter after their settlement, the mother of Þórðr Ingunnarson came to his son begging for help against the Hebrideans who were stealing her livestock and practicing black sorcery under the protection of Hallsteinn. Þórðr went to Urðir and “Síðan stefndi hann þeim Kotkatli ok Grímu ok sonum þeira um þjófnað ok fjölkynngi ok lét varða skóggang; hann stefndi sökum þeim til alþingis...”/ “After he charged Kotkell and Gríma and their sons with theft and sorcery, punishable by full outlawry. They would have to answer the charges at the Althing...”⁶¹ After this, when Þórðr was on board a ferry returning home, Kotkell and his family began chanting and practicing black magic and Þórðr's vessel sunk. Kotkell's family was held responsible for the death of Þórðr.

After receiving pressure from his neighbors, Hallsteinn decided to ask Kotkell to leave Skálmarfjörðr. The sorcerer and his family could expect to be attacked by Þórðr's family, and therefore needed protection. Kotkell asked Þorleikr Høskuldsson for permission to settle in Kambsnes, in exchange for some horses. Þorleikr accepted this exchange and at the next Althing, he is approached by a certain Eldgrímr who intended to acquire the horses. After Þorleikr's refusal, Eldgrímr stole the horses but came across Hrútr Herjólfsson, kinsman of Þorleikr, who killed Eldgrímr and recovered the horses. Þorleikr was infuriated by this news and asked Kotkell and his family to discredit Hrútr. The Hebridean family proceeded to chant and sing spells for a second time, outside Hrútr's farm. Because of this, a 12-year-old boy died.

⁶¹ Einar Ól. Sveinsson, ed., *Laxdæla saga* (ÍF V) (Reykjavík: Hið Íslenska Fornritafélag, 1935), 99.

A party is assembled to execute the felons and they run away, although all but one are captured thereafter. Then, the same punishment as in *Eyrbyggja* is applied:

váru þau þar barið grjóti í hel, ok var þar gøt at þeim dys ór grjóti, ok sér þess merki, ok heitir þar Skrattavarði. Stígandi tók undan suðr af hálsinum til Haukadals, ok þar hvarf hann þeim. Hrútr ok synir hans fóru til sjávar með Hallbjörn. Þeir settu fram skip ok reru frá landi með hann; síðan tóku þeir belg af höfði honum, en bundu stein við hálsinn.

were they there stoned to death, and was there built to them a cairn out of stones, and it can be seen of its remains, and is named there Skrattavarði. Stígandi took away south through the hill to Haukadallr, and there he disappeared for them. Hrútr and his sons traveled to the sea with Hallbjörn. They put forward the ship and rowed from the land with him; after took they the (sealskin) bag off his head, and bounded a stone to the neck.⁶²

After that, the prisoner was taken into the sea. Then he cursed his captors and was drowned.

As we can see, both scenes are strikingly similar. The scene in *Laxdæla* is more complex, given that Kotkell's family kills twice using magic, the first time Þórðr, and then the unnamed 12-year-old child. In the case of Katla, she resorts to magic on two occasions, but only the first time her practice harms another farmer, namely Gunnlaugr. Another point in common between both scenes concerns the punishment of the culprits. In both cases, the sorcerers are executed by being stoned to death. Katla's execution; combines elements present in all the executions in *Laxdæla saga*: she is carried away from her house with a seal-skin bag covering her head like Hallbjörn, and when facing her imminent death, she curses her captors and is put to death.

More important than the similarities are the differences between the two scenes. In *Laxdæla*, the author makes an explicit reference to the law in *Grágás* concerning the practice of *trolldómr*.⁶³ The penance for the crime of sorcery is described as full outlawry and a summons to the Althing to answer for it. Once the procedure has been initiated, Þórðr intends to return home and proceed legally over this matter, but instead he dies because of Kotkell's magic. The saga only tells about

⁶² Einar Ól. Sveinsson, ed., *Laxdæla saga* (ÍF V) (Reykjavík: Hið Íslenska Fornritafélag, 1935), 106-107.

⁶³ A brief definition of the concept of *trolldómr* is provided by Catherine Raudvere: “*Trolldómr* is chosen here as an umbrella term to indicate the notions rituals, and social interactions in the Old Norse traditions relating to conceptions about the influence certain persons had -by innate qualities or through skill – on the world surrounding them. *Trolldómr* covered an extensive field and complex combinations of abstractions and ideas as well as ritual practices. Conceptions of *trolldómr* were always related to ideas about power and the experience of the balance of power.” in “*Trolldómr* in Early medieval Scandinavia”, in *Witchcraft and Magic in Europe*, eds. Bengt Ankarloo and Stuart Clark (London: Athlone, 2002), 87.

the pressure of the neighbors on Hallsteinn, the chieftain responsible for the settlement of the Hebrideans in the area. He chose to oust them, and the farmers in the area, following Snorri's advice, put the matter to rest, hoping that the troublesome sorcerers would find their death at the hands of someone else.

In *Eyrbyggja saga*, we read no mention of the legal procedure. The first intention of Arnkell and his company was not to take Katla's life, rather to look for her son and hold him responsible for the attack at Mávahlíð and the maiming of Auðr's hand. But after Geirríðr's intervention, Katla is found responsible for concealing her son using magic, a crime that would deserve a sentence of lesser outlawry according to *Grágás*. Her confession to the attack on Gunnlaugr, deserving of full outlawry, was only made when Katla was already facing a certain death. There is no mention in the saga of any kind of procedure or legal basis to proceed to the violent redress, as we could read in *Laxdæla*, and this fact points us in the direction of two different aspects to explore. First, the literary relationship between *Eyrbyggja* and *Laxdæla*, and second, the place of the scene in *Eyrbyggja* concerning other similar scenes in the saga.

3.3. The relationship between *Eyrbyggja* and *Laxdæla*

In *Eyrbyggja saga* we find two direct references to *Laxdæla*: in chapter 56 of *Eyrbyggja saga*, we read that: "In the spring Snorri exchanged farms with Guðrún Ósvífrsdóttir and moved to a new house in Tongue in Sælingsdalr, two years after Guðrún's husband Bolli Þorleiksson had been killed."⁶⁴ In chapter 65, the saga says that: "Snorri plays a part in other sagas as well. Many people know about his role in *Laxdæla saga*, where he was such a good friend of Guðrún Ósvífrsdóttir and her sons."⁶⁵ These references have fueled a long-standing debate concerning the dating of both sagas and the possibility that the author of *Eyrbyggja* used *Laxdæla* as a source. Einar Ól. Sveinsson defined a "literary relationship" as the evidence in the work of the author knowing an "older *written* work".⁶⁶ According to him, there were two possibilities for explaining this reference: the first, that the author had an earlier, non-extant version of *Laxdæla* at his disposal.⁶⁷ The second was that these

⁶⁴ Einar Ól. Sveinsson and Matthías Þórðarson, *Eyrbyggja saga* (ÍF IV), 170.

⁶⁵ Einar Ól. Sveinsson and Matthías Þórðarson, *Eyrbyggja saga* (ÍF IV), 196.

⁶⁶ Stress added. Einar Ól. Sveinsson, *Dating the Icelandic Sagas*, 76.

⁶⁷ Einar Ól. Sveinsson and Matthías Þórðarson, *Eyrbyggja saga* (ÍF IV), xlv-lii.

two references were a later interpolation made by the copyist.⁶⁸ Later on, he seems to have favored the former theory.

Many scholars since then have taken a stance defending one or the other positions. In the introduction of his edition of the vellum tradition, Forrest S. Scott presents a complete account of the arguments presented by the supporters of each standpoint. One of the main arguments supporting a rather earlier dating of the saga than the one proposed in this thesis, is the linguistic evidence. Forrest S. Scott mentions the studies of Peter Hallberg and his own, on the occurrence of the verbs *hitta(sk)/finna(sk)*: according to this approach, the proportion of occurrences of *hitta(sk)*, an archaic form of the verb “to meet”, instead of the more recent *finna(sk)*, meaning approximately the same, could support an earlier dating. As a result of this study in manuscripts Z and W, Forrest S. Scott finds that the percentage ranges between 10,5% in Z to 26,7% in W.⁶⁹ The difference with Hallberg’s results, whose percentage of *hitta(sk)* over *finna(sk)* is 3,2% could be explained by the fact that Hallberg used the version in the Íslenzk fornrit collection, based on manuscripts Aa/Ak.⁷⁰ Similar studies on *Laxdæla* saga have shown an occurrence of 58.3%, which lead Jean-Pierre Mabire, following Hallberg, to say that “La Laxdæla doit (...) être sensiblement plus ancienne.”⁷¹

Forrest Scott seems reluctant to accept that *Eyrbyggja* saga could have been composed after *Laxdæla*.⁷² One of his main arguments is that it would be unlikely that a saga of the character of *Eyrbyggja* could be later than the more “romantic” *Laxdæla*, although he acknowledges that “there is no ascertainable break in the text; moreover the reference to the latter (*Laxdæla*) is present in all the older manuscripts.”⁷³ His argument follows a similar line of thought of that of the Icelandic School, more specifically that of Einar Ól, when he argues that Romantic influence could have come either in oral or in written form, but that this process was rather late in the first half of the 13th

⁶⁸ Einar Ól. Sveinsson and Matthías Þórðarson, *Eyrbyggja saga* (ÍF IV), xlv-lii.

⁶⁹ The other extant manuscripts, given their brevity, are not susceptible of statistical analysis. Forrest S. Scott, *Eyrbyggja saga: The Vellum Tradition*, 20.

⁷⁰ Jonna Louis-Jensen, “Dating the Archetype: *Eyrbyggja* saga and *Egils saga Skallagrímssonar*”, in *Dating the Sagas. Reviews and Revisions*, ed. Else Mundal (Copenhagen: Museum Tusulanum, 2013).

⁷¹ Jean-Pierre Mabire, *La composition de la Eyrbyggja saga*, 28.

⁷² Bjarni Guðnason argues that the scholarly consensus around *Heiðarvíga* being the oldest of the three sagas should be reconsidered. His study on the literary relations, the content, and the narrative techniques, among other features of the saga, lead him to affirm that “the age order of these three sagas is: *Laxdæla* from 1255, *Heiðarvígasaga* from 1260 and *Eyrbyggja* from 1265, these dates being subject to a margin of error, of course.” See Bjarni Guðnason, *Túlkun Heiðarvígasögu* (Reykjavík: Háskólaútgáfan, 1995), 283.

⁷³ Forrest S. Scott, *Eyrbyggja saga: The Vellum Tradition*, 19

century. In Einar Ól. Sveinsson's words: "People were struck nearly dumb by the splendor of the Romantic Sagas, by their courtousie, levity, and gallantry. We can see from the Sturlunga saga, to some extent, how and when these influences penetrated Iceland about 1240-50, and if unquestionable marks of them are found in Family sagas they provide excellent criteria of age."⁷⁴ Nonetheless, Einar Ól. prevented from taking this criterion as a strong argument, saying that "We may ask whether archaic sagas are necessarily old sagas, and whether these archaic characteristics are enough for us to conclude that a saga is old."⁷⁵ In *Eyrbyggja* we find many references to old practices that were no longer current in the 13th century, and this could have been placed to give the saga an archaic character.⁷⁶ Therefore, we must assume that the linguistic evidence is not conclusive in this topic and that other sources of information could shed more light on this literary relationship. For the purpose of the present work, I will assume that *Laxdæla* predates *Eyrbyggja*, based on the similarities mentioned above between the two scenes concerning *trölldómr*. The following question arises: why is there an explicit mention to *Grágás* in *Laxdæla* and not in *Eyrbyggja*, if we suppose that the former somehow influenced the latter? The theory I would like to introduce here is that both authors were making a reference to the legal context of the time of writing, although in *Eyrbyggja* the reference had been omitted. But which would be the context in the case of *Eyrbyggja*? I would try to provide a tentative answer in the following sections, where I will first analyze the internal coherence of the events of chapter 20 of *Eyrbyggja* in respect of other similar situations, and then provide a summary of the debate on the role of law for understanding saga evidence.

3.4. Internal coherence in *Eyrbyggja*

Given the importance of feud and power struggle in Icelandic saga literature, we are not surprised to find many stories about chieftains killing other farmers or slaves in reprisal for some offence. Particularly in *Eyrbyggja saga*, the conflict for almost half of the saga is centered on the rivalry between Arnkell and Snorri, with many others taking part as allies of one of the two factions. My intention here is not to reconstruct the succession of violent exchanges in the saga, nor to narrow my account to the aforementioned conflict, but rather to see those instances where someone

⁷⁴ Einar Ól. Sveinsson, *Dating the Icelandic Sagas*, 114.

⁷⁵ Einar Ól. Sveinsson, *Dating the Icelandic Sagas*, 119

⁷⁶ For a description of such instances, see Einar Ól. Sveinsson, *Dating the Icelandic Sagas*, 63.

infringing the law is being punished and to analyze the treatment that the culprits receive.⁷⁷ I will then proceed to compare these situations with the scene presented in chapter 20 involving Katla.

We have three instances where slaves are sent by their owners to commit some crime: in two of these (chapters 26 and 43) a slave is sent to kill someone, fails in his attempt, and receives death. In the third case (chapter 31) a group of slaves was sent to burn the farm of a freedman but was caught before committing the arson. In the first case, in chapter 26, we find that Vigfúss, who was offended by Snorri's uncle Már Hallvarðsson, sends a slave called Svartr *inn sterki* to try to kill Snorri. The attack is carried out clumsily and fails, hurting Már instead of Snorri. The attacker is killed right on the spot, following the prescription in the *Mannhelgi* section in *Grágás*.

The situation in chapter 43 is rather different. The slave Egill the Strong is sent from Álptafjörðr, following Þorbrandr's orders, to try to kill one of the Breiðvíkingar. He fails in his attempt without harming anyone but is held captive, confesses and the day after receives death. According to the saga, it was the law at that time that if someone kills another farmers' slave, he can pay the price of the slave or a customary fee and avoid legal prosecution. This is the course of action taken by the Breiðvíkingar in this chapter.

The last of these scenes takes place in chapter 31. Þórólfr *baegifótr* inebriates a group of slaves and sends them to set fire to Úlfarsfell, the farm of one of the Þorbrandssynir's freedmen. Arnkell and his men caught the arsonist and take them to Vaðilshöfði where they are hanged. According to the saga, Arnkell and his company could have rightfully killed the slaves at Úlfarsfell when they were caught, but not after they transferred them to Vaðilshöfði, therefore a compensation had to be paid to the owner, Þórólfr. This was the settlement agreed by Arnkell and Snorri, who represented Þórólfr, at the thing.

There are three other scenes in *Eyrbyggja* which depict free men working as hired hands for chieftains. The first scene, in chapter 32, concerns Spá-Gils, a poor farmer, friend of Þórólfr *baegifótr*. He is hired by Arnkell's father to kill the freedman Úlfarr when he is coming back from a feast at Álptafjörðr. After he committed the assassination, he was spotted from Arnkell's farm and caught shortly after. After he confessed, he was killed right on the spot, following the prescription

⁷⁷ For a more detailed study of this cases, see Michael Irlenbusch-Reynard, "Killing to qualify: The underprivileged assassins of *Eyrbyggja saga*", *Nordica Bergensia* 33 (2005), 75-95.

present in *Grágás* about the rightful vengeance of a killing in the 24 hours time-lapse after the crime is committed.⁷⁸

In chapter 35, the saga tells about the exploitation of a forest, previously owned by Þórólfr *baegifótr*, by Snorri goði. Arnkell wants to get back this property and goes with a few of his servants to seize the wood already cut. When he reaches the forest, he confronts Snorri's men and meets the opposition of Haukr who tries to stab Arnkell. Haukr's attempt fails, leading to his death at Arnkell's hands. Later on, Snorri takes the matter to the local assembly but Arnkell proves that Haukr was the first to attack, therefore that he became an outlaw and that his killing was lawful.

The last scene takes place in chapter 36. An outlaw allegedly sent by Snorri, tried to kill Arnkell at his farm. Arnkell managed to kill the outlaw and no legal action was taken from this. As we can see, in *Eyrbyggja saga* there are many examples of people being caught while committing a crime or shortly after, that receive the same punishment as Katla, although not on the same terms. In some of these cases, there is legal ground to do so like when capturing a murderer right after the manslaughter and making him confess, or someone killing another man who tried to attack him first. In the cases where there was no legal ground for taking a life, the saga describes the procedures undertaken in the assembly to outlaw those killed, therefore obtaining a legal sanction *ex post facto*. In the case of Katla, her involvement in the attack on Gunnlaugr is confessed when she is already about to be killed, and most important of all, long after she committed the felony. Below I will discuss the section of the Christian Laws concerning the use of black magic in *Grágás*. According to this law, Katla should have been outlawed, either before or after she was stoned to death. The saga makes no mention of this process taking place and makes an explicit remark that leaves no doubt about the lack of interest for doing so: "The news of what had happened soon spread, but no-one had any misgivings about it. So another winter passed."

3.5. Laws and sagas

The extent to which we should rely on the laws of the Commonwealth (*Grágás*) as a source of information for historical enquiries has been questioned profusely. Many scholars have used this material to decipher the social structure of medieval Iceland, while others have contested its validity

⁷⁸ Peter Foote et al., trans., *Laws of Early Iceland. Grágás: The Codex Regius of Grágás with Material from Other Manuscripts* (Winnipeg: University of Manitoba Press, 1980 (2006), 141.

and confronted these laws against the information provided by the sagas. Some of the most prominent scholars engaged in this debate are William Ian Miller, Jesse Byock, Gunnar Karlsson and Jón Viðar Sigurðsson.

I would like to start this summary of the debate with *Bloodtaking and Peacemaking*, published in 1990 by William I. Miller. The book analyzed the relationship between laws and sagas, discussing the use of legal and literary sources as reliable evidence of the development of the Icelandic society in the later centuries of the Commonwealth. As Gisli Pálsson defined it, establishing the difference between his own work and that of authors like Jesse L. Byock or Miller himself, *Bloodtaking and Peacemaking* was part of the “ethnographical oriented saga-scholarship”.⁷⁹

The general idea of Miller’s book is that Iceland, during the Commonwealth period, was a frontier society where an egalitarian ethos subsisted through periods of economic concentration and social differentiation.⁸⁰ Due to the apparent lack of markers of status and hierarchy, the Icelanders would have resorted to a complex system of competition, centered around honor. This competition is described as a zero-sum game, where honor circulated like a commodity.⁸¹ Thus, status became a by-product of several practices of honor circulation, mainly feud and gift-giving. Individuals competed only at their own level, with others that sought the same scarce commodity, and in such activity, constructed unstable echelons of hierarchy. By comparing the legal corpus⁸² with family and contemporary sagas, Miller believed in the possibility of explaining the functioning of the high-medieval Icelandic society. He was concerned with the idea of “plausibility”⁸³, and hence assumed the correspondence between the ideas expressed in the sagas with the normative codes as a continuity of the frontier society’s ethos. Even when he acknowledges the limits of the use of the

⁷⁹ Barreiro, Santiago. “*Big men* during the Icelandic Commonwealth.” (Unpublished MA diss., University of Iceland, 2010), 6.

⁸⁰ William I. Miller, *Bloodtaking and Peacemaking: Feud, Law, and Society in Saga Iceland* (Chicago: University Chicago Press, 1990), 33.

⁸¹ William I. Miller, *Bloodtaking and Peacemaking*, 30.

⁸² The versions of *Grágás* that Miller uses are those preserved in *Konungsbók* and *Staðarhólsbók*. For a broad analysis on the nature of these sources and a historiographical account on their use, see Patricia Pires Boulhosa, *Icelanders and the Kings of Norway*, 45-58.

⁸³ Plausibility would be the resemblance of the image produced by the saga writers with their own reality. Even if is impossible to confirm that the events presented in the sagas actually happened, the fact that they were accepted as if is enough for Miller to consider them as a reliable source for an ethnographic research. To quote Miller: “The family saga world is thus not merely the world of the author’s time; it is an amalgam representing the effects of a temporal compression that included whatever the culture knew or wished to believe about its own past.” William I. Miller, *Bloodtaking and Peacemaking*, 46-50.

sagas as sources for the Settlement period, that extended between c. 870 and the 930 A.D., the use of the concept of “plausibility” allows Miller to cover the 12th and 13th centuries.⁸⁴ In his analysis, he compared both family and contemporary sagas with *Grágás*, therefore assuming a continuity of the legal system throughout these two centuries. This book has been strongly criticized during the past two decades, especially concerning the notion of feud, honor and continuity during the 12th and 13th centuries that it described.⁸⁵ This had been partly a consequence of accepting the law presented in *Grágás* as a hermeneutical key for the understanding of the Icelandic society without acknowledging its complexity.

The American historian Jesse Byock shares some of the assumptions made by Miller. In his book from 1988, Byock argues that Icelandic medieval society had a “cultural focus” on laws, mainly because of its development without a centralized executive power.⁸⁶ Although Byock shares with Miller the appreciation for *Grágás* as a source of ethnographical data, he makes a clear distinction between the norm and the actual process that may have taken place during the Commonwealth period. He argues that “alongside the provisions in *Grágás* there surely existed a body of customary rule and law whose operation we at times witness in the sagas.”⁸⁷ Therefore, Byock argues that during the Commonwealth period, Icelanders worked in a broad sense along the lines of what is prescribed in *Grágás*, although the sagas are the evidence of how this norm can be bent to favor those who wield power.

Taking a more radical stance, Gunnar Karlsson argued that given the nature of *Grágás*, born as a compilation of different laws arranged differently in the extant manuscripts, “it is difficult to imagine that this collection could have emerged in any other way than in the form of actual law.”⁸⁸ According to Gunnar, saga evidence was not conclusive in all cases but was normally favorable towards the actual validity of the law during the 10th and 13th centuries. He used the political structure of the Icelandic Commonwealth as a case study. The aim of his article from 2009 was to discuss the idea of Iceland as a democratic society.⁸⁹ The milestone of his argumentation, extracted

⁸⁴ William I. Miller, *Bloodtaking and Peacemaking*, 51.

⁸⁵ Barreiro, Santiago, “Feud”, in *The Routledge Research Companion to The Medieval Icelandic Sagas*, eds. Ármann Jakobsson and Sverrir Jakobsson (London and New York: Routledge, 2017), 292-304.

⁸⁶ Jesse Byock, *Medieval Iceland: Society, Sagas, and Power* (Berkeley: University of California Press, 1988), 7.

⁸⁷ Jesse Byock, *Medieval Iceland*, 27.

⁸⁸ Gunnar Karlsson, “Was Iceland the Galapagos of Germanic Political Culture?”, *Gripla* XX (2009), 78.

⁸⁹ Gunnar Karlsson, “Was Iceland the Galapagos of Germanic Political Culture?”, 77-92.

profusely from his book *Goðamening. Staða og áhrif goðorðsmanna í þjóðveldi Íslendinga*, is that the laws created at the time when the Althing was established were operative during the Commonwealth period. This could be possible given the experience brought by the first settlers, most likely from southern Norway, but more importantly, thanks to the absence of a king. That absence of a centralized executive power would have allowed the Icelandic legal culture to flourish and therefore, to produce a vast number of laws specifically designed for this context. In sum, what Gunnar Karlsson is proposing is a re-evaluation of the views of scholars from the first half of the 20th century, which were tainted with nationalistic values. His approach benefited from the critics of scholars from the last forty years, although he defended a more conservative stance about laws and literature than that of the recent scholarly consensus.⁹⁰

Jón Viðar Sigurðsson took on the same topic to propose a different approach to the problem. In an article about the political developments during the Commonwealth period, he argued that saga evidence explicitly contradicted the norm expressed in *Grágás* about the number of chieftaincies existing since 930 to 1262/64. In his extensive survey on the topic, Jón Viðar proposed that

...the *Sturlunga saga* so clearly contradicts the constitutional provisions in *Grágás* about the number of chieftaincies can only be because the information about the number of chieftaincies was either the fabrication of a later age or because it had become a dead letter... So we will abandon this myth of creation -that of the number of chieftaincies established in *Grágás*- and work with a theory of development.⁹¹

For Jón Viðar, the evolution of the political system in medieval Iceland underwent three different phases during which Icelandic society evolved from a lax organization, where chieftaincies could be created or disappear, to a structure centered around domains controlled by very few families. Although Jón Viðar recognized that the previous structure of the *goðorð* continued existing beneath the domains (ON *ríki*), the real number of surviving chieftaincies and their role during the

⁹⁰ Just to mention those authors that Gunnar Karlsson explicitly mentions: Jakob Benediktsson, Björn Þorsteinsson, Sigurður Línal, and Ármann Jakobsson. In the words of the author: “One can discern here two basically opposite views of the Icelandic commonwealth. One of them, which could be called romantic, sees it as a deliberately founded egalitarian and democratic society, albeit with its inherent weaknesses. The other one is a bleaker view which sees the commonwealth as having been shaped by external necessity, without much thought or initiative, mostly ruled by an oppressive upper class and longing for royal power some time before it submitted to it. As I mentioned, I participated in setting out this bleak view in the 1970s, but when I returned to the subject in the late 1990s and began to write my book *Goðamening*, I felt that the revision of the romantic view had perhaps come far enough and that it was now time to establish a more balanced view.” Gunnar Karlsson, “Was Iceland the Galapagos of Germanic Political Culture?”, 84.

⁹¹ Jón Viðar Sigurðsson, *Chieftains and Power in the Icelandic Commonwealth* (Odense; Odense University Press, 1999), 41.

last period of the Commonwealth could not be described with any certainty. Especially interesting for the arguments of this thesis is the fact that, during the period of concentration of chieftaincies and development of the domains, the Icelandic elite came up with new institutions, such as the oath of fidelity, that were not incorporated into *Grágás*. Therefore, we can assume that the laws of the Commonwealth, in the extant versions at our disposal, are far from being a complete representation of the evolution of the political system in medieval Iceland.

In an article concerning the role of unprivileged characters in *Eyrbyggja saga*, Michael Irlenbusch-Reynard argued that these characters were represented as pawns in the game of *goðar*. The role of poor farmers, outlaws and slaves was to enhance the importance of chieftains and rich farmers through a display of comical clumsiness in their attempts to ameliorate their situation. The lapidary statement “þat vǫru lög í þann tíma/ that was the law at that time” went hand in hand with the skewed profiles of these characters in underlying their role as literary tools. If that was the case with many of the allusions to legal procedures antedating the norm in *Grágás*, we could parallel these with the references to regular practices during the 10th century. These facts, as well as the laws of the early period, were hardly known to the author of *Eyrbyggja*, and they are displayed most probably to show a taste for antiquarianism.

To summarize this debate, I agree with Jón Vidar in his interpretation of the political evolution of the Commonwealth, as a transition from a laxer organizational system to more defined institutions. The number and character of chieftaincies and chieftains present in saga literature cannot be taken at face value. Legal evidence seems to share the same problems in this respect, thus we are forced to take an extremely cautious stance concerning the dialogue between both corpuses. The presence of an older norm cannot be taken as a proof of age, as much as a circumstance that is not contemplated in the Law does not necessarily belong to a different period or legal frame. As Jesse Byock argued, Icelanders during the Middle Ages had a “cultural focus” on laws. This fact does not mean that they contemplate every single situation, nor that the extant laws reflect the whole custom in which the laws are based.⁹² Nonetheless, I think that especially in those sagas where a legal

⁹²“The law of the Commonwealth was Customary Law, as was all laws of that era. Customary Law is a living law that is rich in details rather than in principles. The law is perceived as old, the older the better, although this does not exclude the possibility of the law's changing. Change, however, is seen as the rectification of older law rather than as the creation of law. To confirm his recitation of the inherited law, the Lawspeaker required simple majority in the *Lögretta*. But Lindal (1984) claims that all chieftains had to agree unanimously to the amendment of a law. It is therefore essential that the people in a community governed by customary law agree on what the law is, since the motives of the accused

concern underlies the narrative, such as *Eyrbyggja saga*, the lack of internal coherence in the references to the Law, whether it is an older or younger code, speaks of conflicting points in the narrative. Such circumstances can be expressing the desire to fix the narratives into a tradition no longer in force, or of the lack of a frame to which to refer. This would be the case of a transitional period. Given that the compiler of *Eyrbyggja saga* repeatedly uses references to old customs to explain the situations where the narrative goes against the legal frame currently in force at the time of the composition, I believe that this brings to the fore the cases where the saga author does not mention any legal ground justifying facts, such as the killing of Katla

In the extant manuscripts of *Grágás* we find three versions of the same norm with slight changes in the wording. All versions agree on: 1) the difference between the use of witchcraft entitling lesser⁹³ or full outlawry⁹⁴ concerns its use for harming people or cattle; 2) the crime deserving lesser outlawry implies a summoning at the local assembly, while for the crime deserving full outlawry there is no explicit mention of any summoning; 3) both crimes (the lesser and greater offenses) are supposed to be prosecuted by a panel of twelve.

Ef maður fer með galdra eða fjölkynngi, og varðar honum það fjörbaugsgarð, og skal stefna heiman og sækja við tylftarkvið. Þá fer hann með galdra ef hann kveður það eða kennir eða lætur hann kveða að sér eða fé sínu. Ef maður fer með fordæðuskap, það varðar skóggang. Það eru fordæðuskapir, ef maður gerir í orðum sínum eða fjölkynngi sótt eða bana mönnum eða fé. Það skal sækja við tylftarkvið.⁹⁵

were not considered when juries decided the guilt of defendants.” In Birgir T.R. Solvason, “Institutional Evolution in the Icelandic Commonwealth”, *Constitutional Political Economy* 4:1 (1993), 110-111.

⁹³ “LESSER OUTLAW(RY) Lesser outlawry involved payment of a “lifering” (a mark in legal tender, one-eighth of which, i.e. one ounce, was called the “sustenance pledge”) to a *chieftain* (waived if the chieftain was able to take an ox or cow from the estate as he was entitled to do), forfeit of other property, and banishment from Iceland for three years (starting within three years of the sentence). The procedure of the *confiscation court*, the lesser outlaw's permitted homes, and his efforts to get passage abroad were extensively regulated. Failure to abide by the rules meant total forfeit of *immunity*. While abroad the “lesser outlaw” enjoyed normal immunity. Cf. pp. 92-95, 98, 117-18, Add. § 37.” IN Peter Foote et al., *Laws of Early Iceland. Grágás*, 246.

⁹⁴ “FULL OUTLAW(RY) Full outlawry cast a man out of society. The outlaw forfeited his property and all rights, civil, family, and ecclesiastical. He could not lawfully be given any *assistance* —sustenance, passage, or any saving advice. He might be killed by anyone with impunity and had a price on his head; this applied for ever even if he escaped abroad. In certain cases he could win reprieve by killing other outlaws. Full outlaws whose sentence was imposed by *private settlement* might benefit from mitigation: passage from the country might be permitted for them, their banishment might be local or temporary. Cf. pp. 30, 96-98, 119-21, 170-72, Add. § J 131-33.” In Peter Foote et al., *Laws of Early Iceland. Grágás*, 250.

⁹⁵ Gunnar Karlsson et al., eds., *Grágás: Lagasafn íslenska þjóðveldisins* (Reykjavík: Mál og menning, 2001), 19. Although Gunnar Karlsson based his edition in Staðarhólsbók, I choose to quote this version here, for the sake of clarity. In the Appendix, the full text of the laws, extracted from the different manuscripts will be quoted.

As we have seen in *Laxdæla*, the sentence of outlawry implies a summoning at the domicile of the culprit, and the obligation to comply in front of the local assembly. This coincides with the norm in *Grágás* for the practice of magic without involving other farmers or their property. The crimes deserving full outlawry take place after this formal procedure and we cannot know what would have been the steps to ratify the sentence and make it effective.

For what we can infer from chapter 20 in *Eyrbyggja*, Arnkell has no idea of the involvement of Katla in the attack on Gunnlaugr. Arnkell and his company come into Mávahlíð looking for Oddr, and the only crime of Katla is to conceal his son using witchcraft. This can fit better the norm entitling lesser outlawry than the gravest one. Therefore, what happens next seems to have nothing to do with a legal sentence in the context of the law of the Commonwealth. We have seen, also, that the author of the saga makes explicit mentions of the laws of the preceding period when necessary. Therefore, my assumption is that this scene could be understood in a different legal context, most probably that of the post-Commonwealth period, that we can look for in *Járnsíða* (1271) and *Jónsbók* (1281).

With the acceptance of *Járnsíða* in 1271 the legal landscape changed completely. The introduction of the stewards of the king and their power to enforce the legal provisions implied the appearance of capital punishment. The law concerning witchcraft-related crimes changed as well, as can be read in the following excerpt from the *Mannhelgi* section:

Menn þeir er láta líf sitt firi þýfsku eða útilegu, hvárt sem þeir ræna á skipum eða landi, og svá firi morð og fordæðuskap og spáfarar og útisetur að vekja tröll upp og fremja heiðni með því, og þeir menn er gerast flugumenn til að drepa menn þá er þeir eigu engar sakar við og taki fé til, nema konungs umboðsmenn láti refsfa til landhreinsanar og friðar, og svá gjörningamenn og svá þeir er konur taka nauðgar eða dætur manna firi utan vilja þeirra manna er forræði eigu á að lögum og svá sjálfra þeirra, hversu sem síðan gerist vili þeirra er samvista gerist, og svá þeir er hefna þessara óbótamanna eða heimta gjöld eftir svá að vitni veit, þá eru þeir óbótamanna allir, firigört fé og friði. En þeir friðhelgir er verja fé sitt og frændkonur firi þeim en hinir eru allir ógildir, hvárt er þeir fá sár eða bana, bæði konungi og frændum.⁹⁶

Those men who lose [the right to] life because of theft or outlawry, whether as they rob to ships or land, and so because of murder and witchcraft and soothsaying and sitting outside to wake up trolls and promote heathenism with this, and those men who become assassins for killing men when they have no case to and

⁹⁶ Haraldur Bernharðsson, ed., *Járnsíða og kristinréttur Árna Þorlákssonar* (Smárit Sögufélags) (Reykjavík: Sögufélag, 2005), 76.

take money for, except for stewards of the king [who] punish for clearing the land of miscreants and [for] peace, and so sorcerers and so they who take wife or daughter of men unwillingly against the will of those men who have guardianship according to the law and so of themselves, so as after became their will that of living together, and so they [who] avenge this criminals [literally, men without right of compensation] or claim compensation after so that witness knew, then are they all criminals, forfeit of wealth and peace. But they [are] protected by law when defending their property or kinswomen against them but the rest are all unworthy [literally, not to compensate], whether when they are wounded or killed, both by king or [his] kinsman.

As we can see, *Járnsíða* equates a long list of crimes with the fall into the legal condition of “man without right of compensation” (ON *úbótamaðr*, sometimes translated plainly as “criminal”): this term is a compound of the negative suffix *ó-/ú-* and the noun *bótamaðr*, literally translated as “a person who has to receive compensation (ON *bætr*) for hurt and damage suffered”. The most important difference with the previous law code is that all crimes related with witchcraft become punishable by death, erasing the difference between lesser and full outlawry-related crimes. The law seems to have changed little with the introduction of *Jónsbók* in 1281. In the section about Personal Rights (IV, 2 Concerning the deeds of a villain), the law states:

Suo ok þeir mem er at flikum oknýttum werða kenndir. at þeir hlaupa brott með eingingkonur ma/nna. þa ero þeir vbota mem bæði fyrir konungi ok karlí dæpír ok deýddir. Menn þeir er la/ta líf sítt fyrir þýffku eða wtilegu. huart er hellsæna a skípum eða landi. ok sua fyrir moð ok fozdædu fkap ok spafarar allar ok wtfetur. at vekia troll vpp ok fremía heidni með þui. ok þeir menn sem gerazft flugu mem til. at dæpa þa mem er þeir eiga engar fakir víð. ok taka fe til. nema konungs wmbods mem læ/ti reffa ti/landreínfanar ok friðar.

Those men who are identified with such crimes as running away with men’s wives are men without the legal right to atone by paying compensation, both in the sight of king and kinsmen; they can and should be put to death. Likewise, those men who devote their lives to thievery or robbery, whether they rob men on shipboard or on land, or because of murder or witchcraft, and all kinds of soothsaying, or because of spending the night outside to practice witchcraft to wake trolls and thereby promote paganism; and the men who become assassins in order to kill only men against whom they have no quarrel and accept money for it, unless the king’s agents punish them with expulsion and establish peace.⁹⁷

To summarize, we can see that the events in Chapter 20 could be fully interpreted in the context of *Járnsíða* and/or *Jónsbók*: 1) there is no difference between a minor and a major crime concerning witchcraft; and 2) capital punishment is the atonement prescribed by law for all crimes related with

⁹⁷ Jana K. Schulman, trans., *Jónsbók: The Laws of Later Iceland* (Saarbrücken; AQ-Verlag, 2010), 37-39.

witchcraft. Therefore, what Arnkell did would be fulfilling the role of a local authority of the post-Commonwealth period concerning the practice of *trölldómr*, projected into the context of the late 10th century. This could be the explanation why the author of the saga omitted any reference to a legal practice.

3.6. Conclusion:

To summarize, I have presented the events in two closely related sagas about the practice of *trölldómr*. I have explained the many striking characteristics of the scene in *Eyrbyggja* by comparing it with other similar scenes in the saga, proving the lack of internal coherence of this chapter with the rest. I explained the possible role of the pre-Commonwealth laws as literary devices. In doing so, I had to summarize the historiographic debate concerning the reliability of the extant laws of Early Iceland as hermeneutical tool for understanding saga evidence. I believe that in the case of chapter 20 of *Eyrbyggja*, the evidence points into a closer relationship with either *Járnsíða* or *Jónsbók* than to *Grágás*. This evidence could help us rethink the dating of the saga and the possible intentions behind its commitment to writing.

4. Study case 2: Property rights and social control

4.1. The appropriation of a stranded whale

In this chapter, I will present the events concerning the appropriation of the meat of a stranded whale in the northern coast of Snæfellsnes, as portrayed in chapters 57 to 62 of *Eyrbyggja saga*. The scene will be described below and then compared with the evolution of the legislation concerning drifted whales. I will look for a possible connection between the stance of the saga and the law codes of different periods. Then, this will be compared with the institutional evolution in Iceland, after the concentration of all chieftaincies in hands of the Kings of Norway. I will argue that, once the elite lost the control of the chieftaincies, the control of the regional interests shifted to the communes (ON *hreppr*) and that this change is reflected in the scenes in *Eyrbyggja saga*.

4.2. Presentation of the scene

In chapter 57 of *Eyrbyggja*, we read that some years after Snorri moved to Tunga, a hard winter came to Bitra, a fjord north of the Snæfellsness peninsula. The farmers had no grazing for cattle and many suffered losses and moved their cattle south. In this context, after a big blizzard, a finback whale (ON *reyðr*) appeared on the beach between Stika and Guðlaugshöfði. From the meat of the whale, Snorri and another chieftain had the largest claim, while other farmers had rights too. The only farmers mentioned with name and filiation are those representing both chieftains, namely Álfr *inn litli* and Þórir, but other farmers from the Bitra region are said to take part in the carving of the whale.

While Álfr, Þórir, and the other farmers were working on the beach, a boat approached them manned with fifteen men demanding a share of the whale. The leader of the boat crew, a farmer from the north side of Bitra called Óspakr, refuses to buy the meat from the farmers and takes all the meat that had been already cut by violent means.⁹⁸ Óspakr went back to his farm and prepared himself to be besieged, hosting a large crew in his farm at Eyr. He ran out of provisions shortly after, and decided to attack Álfr's farm. On his way back to Eyr, Óspakr met with Þórir, who asked him how he got the goods he was carrying. Óspakr's answer contains a clear reference to the law, as will be explained below: "Hvárki váru gefin né goldin né solum seld/Neither were given nor sold

⁹⁸ The name Óspakr seems to be an allusion to the inclinations of the character. It derives from the negative prefix "ó-" and the substantivized adjective "spakr", meaning "quiet, gentle" or "wise". This allows us to interpret it as a literary device to build up the tension in the narrative, something usual in sagas when describing secondary characters created *ad hoc* for the story.

nor by payment bought.”⁹⁹ This event was followed by a skirmish where men died on both sides. Snorri took on the case and sentenced Óspakr to outlawry. Later, Snorri held a confiscation court and divided the goods among those affected by Óspakr’s incursions, although he was not able to capture the raiders.

Óspakr joined forces with another Viking, called Hrafn, and the next winter they attacked Þórir’s farm, killing him, and trying afterwards to kill Álfr. This second attempt did not succeed, and Álfr moved to Tunga to spend some time under the protection of Snorri. The saga describes how Snorri organized a party to go after Óspakr, summoning Víga-Sturla and other important farmers. When the raiders’ menace was finally vanquished, Snorri allowed Óspakr’s surviving family to stay in Eyr.

4.3. The role of the narrative in the saga

The events in this narrative take place some years after Snorri moves to the Dalir area. As has been discussed in Chapter 1 of this thesis, many of the theories concerning the organizational pattern of the saga are insufficient to hold the narrative together, and the story of Óspakr would be one of the most difficult to fit in any pattern. Why did the compiler choose to tell us this story when he probably had at his disposal many other stories about Snorri, which are told in several sagas?¹⁰⁰ The fact that this scene does not involve any other important farmer in the region, until the siege at Óspakr’s farm, is also relevant. The only figure of importance seems to be Snorri, and we see him marshalling the support of another chieftain. Another factor can be decisive in defining the intention behind the introduction of this narrative: Óspakr seems to be an *ad-hoc* character. As shown before, his name could be literally translated as “un-wise” and he acts and speaks clearly against the law, which considering the stance of the saga concerning the importance of the law, and the outcome of the story, seems clearly unwise. The compiler decided to put in this character’s mouth a sentence that could be tracked down to the text of the law (either *Grágás* or *Járnsíða*), and this could mean that he wanted him to speak for someone else.

What is this scene portraying? The first element is the hardships that the people in the Bitra region endured during that year. The lack of grazing for cattle is a common theme in sagas, such as *Hænsa-Þóris saga*, but it is not the main element here. It serves however to highlight the importance of the

⁹⁹ Einar Ól. Sveinsson and Matthías Þórðarson, *Eyrbyggja saga* (ÍF IV), 161.

¹⁰⁰ Snorri is mentioned in *Njáls saga*, *Íslendingabók*, *Heiðarvíga saga*, among others.

whale, whose meat was an important source of protein that would have been lacking in a year without sufficient cattle. The next important element in this scene is the composition of the group of farmers taking care of the carving of the meat. We read that two farmers, both with a sound economic position, acted as representatives of two chieftains in the area, protecting their rights to drifted goods. Several other farmers took a share of the whale, but none of them is mentioned by name. The saga describes the division in the following manner: “Í hval þeim átti mest Snorri goði ok Sturla Þjóðreksson; Álfr inn litli ok enn fleiri bændr áttu þar nokkut í/ Snorri goði and Sturla Þjóðreksson had the greatest claim to the whale, but Álfr inn litli and other farmers had a share in it too.”¹⁰¹

The third element of importance came after Óspakr fled the area. The farmers decide to share the loss among them therefore, not touching the part allotted to Snorri and Sturla. No mention is made of them reporting this to their chieftains, and the fact that Snorri only took the matter into his hands after Álfr’s farm is ransacked and Þórir hurt could be indicative that they did not have a reason to seek redress beforehand. The fourth aspect to analyze is Snorri’s part in the case. He acted only after Álfr’s house was pillaged, proceeding with an outlawing sentence and a confiscation court. The confiscated goods were shared among the farmers, but no other measure was taken to either prevent Óspakr from coming back or prosecute him. We read in the saga that he went up north and had several conflicts with the farmers up in Strandir, a region in which Snorri apparently had no interest.

We can argue, on the basis of these four elements, that the scene is intended to portray the influence Snorri held after his departure from the Þórsnes area. His interests are represented by one of the leading farmers in the area, and his supporter finds protection and redress for the harm suffered, unlike Þórir, who died and whose death was avenged after Snorri gathered forces with Sturla. Another possible interpretation has to do with the appropriation of the whale: the two leading farmers, Álfr *inn litli* and Þórir, organize the distribution of the meat. They protected the rights of their *goðar* and guaranteed their share, even at the cost of diminishing the part allotted to the farmers who were suffering because of the hard winter. A literal reading of this scene would be that

¹⁰¹ Einar Ól. Sveinsson and Matthías Þórðarson, *Eyrbyggja saga* (ÍF IV), 158. The English translation belongs to Hermann Pálsson and Paul Edwards, *Eyrbyggja saga*, 175.

the rights of the elite are to be respected in any context, and that the interest of the commune is in the hands of the elite.

4.4. Evolution of the legislation concerning whales

In the introduction of the German edition of the saga, from 1897, Hugo Gering argued that the scene from chapter 57 concerning Óspakr was related to *Járnsíða*. His main argument was that the phrase uttered by Óspakr about the goods pillaged at Álfr's farmstead ("Hvárki váru gefin né goldin né solum seld") was present in the Frostapingslög, and had a long tradition in Norwegian law but none in Iceland.¹⁰² Gering proposed a later dating for *Eyrbyggja*, between the submission to the Norwegian king and the acceptance of *Járnsíða* in 1273. He suspected, also, that the compiler had legal instruction and access to the previous versions of the first Norwegian law before it was presented to the Alþingi. In his own words:

Sehen wir also von dieser Möglichkeit ab, so kann der Verfasser der Saga, wenn man nicht annehmen will, dass er während eines Aufenthaltes in Norwegen juristischen Studien obgelegen hat, frühestens im Jahre 1271, in welchem König Magnús die Jarnsida nach Island schickte, die Formel kennen gelernt haben. Ich denke mir, dass er, der baldigen Vollendung seiner Erzählung froh, dem Gesetzbuche, das für Island damals von dem aktuellsten Interesse war, jene Worte, die im Munde seines Óspakr eine so vortreffliche Wirkung machen mussten, mit vergnügtem Schmunzeln entlehnt hat.

Thus, if we disregard this possibility, the author of the saga, if one does not suppose that he has been the subject of legal studies during a residence in Norway, can be at the earliest in the year 1271, in which King Magnus sent the *Járnsíða* to Iceland, to get to know of the formula. I think that, as soon as he gladly finished his story, he then borrowed willingly the words of the law, which was of imminent interest to Iceland at the time, the words which were in the mouth of his Óspakr that might have made such an excellent effect.

¹⁰² This is not the only connection between the scene and the Norwegian influence. Forrest S. Scott mentions an additional argument: "A feature that might point to a still later date is the third-person ending 'ir' for the first person singular present indicative in the phrase 'ek hefíir' in a passage occurring in all three of the oldest MSS of *Eyrbyggja* saga (E 45.17, W 45.48, M 45.9), where it almost immediately follows 'þv hefíir' in the same line. In this passage Óspakr is playing on words in the phrases 'þú hefíir haus þunnann... ek hefíir øxi þunga'. *þunnann* and *þunga* are near puns and the grim joke becomes still more effective if he is allowed to use the identical *hefíir* forms. This suggests that the author -or at least the scribe of the archetype of all extant manuscripts of the saga - knew of the *ek hefíir* combination, even if he did not regularly use it (it is the only example of its kind in E, and M, while W has several instances...). The *ek hefíir* form is usually regarded as a Norwegianism and is not attested from thirteenth-century manuscripts; the earliest hitherto registered examples (in Haukr Erlendsson's text in *Hauksbók*) are from the first decades of the fourteenth century." In Forrest S. Scott, *Eyrbyggja* saga, 22-23.

In *Dating the Icelandic Sagas*, Einar Ól. Sveinsson contradicted Gering's hypothesis by quoting the fragments in all *Grágás* manuscripts where the same wording was present.¹⁰³ Although Einar Ólafur considered this to be the proof of the connection between *Eyrbyggja* and *Grágás*, his assumption relied either on an early dating of the law code, or in the circulation of an oral version of *Grágás* before it was committed to parchment. This has been questioned over the years, especially by Patricia Pires Boulhosa, who criticized the preconceptions in the treatment given by scholars to legal and literary sources. Concerning the legal texts, Boulhosa has argued that the influence of German legal positivism and the reliance on alternative sources of information (annals and sagas) permeated the understanding of *Grágás* in many ways. She defended the thesis that sagas were complex social products of a manuscript culture, where variant readings respond to changing historical conditions. This interpretation extended to legal texts, and specifically to *Grágás-Konungsbók* (c. 1250) and *Grágás-Staðarhólsbók* (c. 1260-1270):

In the present analysis, the two *Grágás* manuscripts are not taken to be a prescriptive and codified legal text, encompassing all the laws of Iceland of the pre-submission period. Nor are they a definite sign that things happened according to what was written in them, that every text—especially a saga—which does not conform to what is written in the legal texts is considered to be pervaded with fiction. I consider the legal texts as the product of the period when they were written down, namely, as all scholars agree, during the decades around the Icelandic submission to the Norwegian king.¹⁰⁴

Consequently, any interpretation based solely on the extant 13th century manuscripts of *Grágás* cannot provide any substantial proof of dating for *Eyrbyggja*, as Einar Ól. maintains when arguing against Gering. However, this does not mean that Gering's hypothesis carried more weight. An interpretation based on a comparative reading of the different law compilations that were in force in Iceland in the span of thirty years since the writing of *Grágás-Konungsbók* and *Jónsbók* (c. 1280), seems to be a more reasonable approach for the study of the changing historical conditions.

In an article from 2015, William Miller and Helle Vogt describe the complicated prescriptions concerning the right over whales in Iceland.¹⁰⁵ The distribution of the meat depended on many factors: if the whale was floating in common waters, those dragging the whale ashore received a third of the animal, while the owner of the beach or of the rights over the driftage goods in that

¹⁰³Einar Ól. Sveinsson, *Dating the Icelandic Sagas*, 69.

¹⁰⁴ Patricia Pires Boulhosa, *Icelanders and the Kings of Norway*, 56.

¹⁰⁵ William I. Miller & Helle Vogt, "Finding, sharing and risk of loss: of whales, bees and other valuable finds in Iceland, Denmark and Norway", *Comparative Legal History* 3:1, 38-59.

beach, got the remaining two thirds. This picture was complicated if a harpooner was involved in the operation, then dividing the meat in equal shares among the parts. If the whale was already ashore, it was the sole property of the landowner, unless a harpooner was involved, sharing again in equal parts. The size of the animal was another factor, and depending if it was 20 *alnar*¹⁰⁶ or bigger, those who saw the whale floating or the tenants of the land where it landed could get their share (a fixed amount in both cases). Once the animal was secured on land, the people taking part of the carving of the meat received at least a quarter of each part cut, possibly going up to a half.

The law also prescribes the obligations of the people involved in the operation, regardless of the share they were allotted. In *Grágás-Konungsbók* we read: *Reka hval eigu men at flytia. oc festa. oc skera ef eigi um festir (...)* *Gefa scal af inn fimta lut sem af annarr drottins daga veiði.* (Men must carry a whale drifted ashore and fasten or cut it if not fastened. (...) [They] shall give the fifth part like any other Sunday capture).¹⁰⁷ The text of *Grágás-Staðarhólsbók* is virtually the same.¹⁰⁸ We see here how the share of the whale to be donated is fixed and responds to a general rule over captures in holy days.

The first Norwegian law sent to Iceland in 1271, *Járnsíða*, had no prescription concerning whales. This law was produced rather hastily, adjusted badly to the Icelandic context, and consequently was replaced by *Jónsbók* in 1280.¹⁰⁹ Nonetheless, the law of 1271 did not replace every single provision in *Grágás*, and therefore we could assume that some practical matters of Icelandic life could have been solved referring to the previous custom or to a higher authority, either king or archbishop. The relationship between temporal and ecclesiastical power in Norway has been interpreted in two opposite ways: the first interpretation stresses the clash between Church and Crown interests, arguing that aristocracy in Iceland could have supported the king in exchange of offices and honors.

¹⁰⁶ Barely equal to 9 meters.

¹⁰⁷ Vilhjálmur Finsen, ed., *Grágás: Islændernes Lovbog i Fristatens Tid, udgivet efter det kongelige Bibliotheks Haandskrift* (Copenhagen: Berlings Bogtrykkeri, 1852), 32. The translation is mine.

¹⁰⁸ *Rek hual eigo menn at flytia oc festa. oc skera ef eigi festir. (...)* *Gefa scal af hinn v^{ta} lut sva sem anars staðar af drottins daga veiði.* (Men must carry a whale drifted ashore and fasten or cut it if not fastened. (...) [They] shall give the fifth part like any other Sunday capture). In Vilhjálmur Finsen, ed., *Grágás efter det Arnemagnæanske Haandskrift Nr. 334 fol., Staðarhólsbók* (Copenhagen: Gyldendalske Boghandel, 1879), 40. The translation is mine.

¹⁰⁹ This seems to be the scholarly consensus nowadays. In the words of Páll Sigurðsson: “At the king’s instigation, and in connection with the legislative work that was being done in Norway in the 1260’s, a draft of a law code was compiled for Iceland. This was duly sent to Iceland and enacted in stages during the years 1271-73, but met with a poor reception. This code, named *Járnsíða* (‘Ironside’) was to a large extent based on Norwegian law. In both its compilation and its enactment, too little consideration was given to conditions in Iceland, the country’s own national legal traditions and the wishes of the local people.” In Páll Sigurðsson, *Lagaslóðir: Greinar um lög og rétt* (Reykjavík: Háskólaútgáfan, 2005), 369.

The second interpretation is that Crown and Church had a good relationship after the pope sent one of his cardinals, William of Sabina, to crown Hákon Hákonarson.

Several scholars support this second interpretation. Sverrir Jakobsson argues that the Peace of God movement was a product of the collaborative effort of the Crown, propagating the courtly ideology and Christian moderation, and the Church, backing the Crown in exchange for peace.¹¹⁰ According to Sverrir, the Church was confronted with two options, either supporting a sole Icelandic ruler for the island, or the Norwegian king to put Iceland under his heel. The Icelandic aristocracy took the lead in this case, becoming king's men and responding to the expansive policy of king Hákon. When Gissur Þorvaldsson became the royal candidate to the Earldom of Iceland, he returned the favor to the Church for supporting him by putting the church law over the local law, therefore granting the independence of the ecclesiastical power. Another scholar, Lára Magnúsdóttir, argues that the agreement between both powers could be interpreted by reading the coinciding law codes.¹¹¹ Her argument is that king and archbishop agreed to maintain their spheres of authority and that both powers worked conjunctly until the Lutheran Reform. Lára analyzes the continuity of this understanding and the connection between the vernacular *Christian law* of Árni Þorláksson and the laws of the Church in Western Europe, represented by the *Liber extra*. This argument could help us explain the omission of some aspects that were contemplated in *Grágás* but that were absent in *Járnsíða*.

The nature of the *Kristinréttur* of 1275 requires some explanation. This law became known in the context of the *Staðamál*, the secular conflict over the property of the Church in Iceland.¹¹² Bishop Árni Þorláksson was consecrated in 1269 in Norway, and took his see in Skálholt with the task of putting the property of all the churches under his control. This mission conflicted with the interest of the aristocracy, and especially with the interest of the Oddaverjar, descendants of Jón Loptsson.¹¹³ This conflict was centered on the ownership of Oddi, confronting the bishop with

¹¹⁰ Sverrir Jakobsson, "The Peace of God in Iceland in the 12th and 13th centuries," in *Sacri canones servandi sunt. Ius canonicum et status ecclesiae saeculis XIII-XV*, ed. Pavel Krafl (Prague: Opera Instituti historici Pragrae. Series C – Miscellanea 19, 2008), 212-213.

¹¹¹ Lára Magnúsdóttir, "Icelandic Church Law in the Vernacular 1275-1550", *Bulletin of Medieval Canon Law* 32 (2015), 127-143.

¹¹² Gunnar Karlsson, *The History of Iceland* (Minneapolis: University of Minnesota Press, 2000).

¹¹³ Jón Loptsson was the leading aristocrat that confronted saint Þorlák, by that time bishop of Skálholt, about the property of the Church. The focal point in this discussion was Oddi, the property of Jón Loptsson. In the words of Orri Vésteinsson, concerning the Oddaverja þátr: "Arguments have been presented here suggesting that the writing of Oddaverja þátr must be considerably removed in time from the events it describes. Its author clearly did not

Steinvör Sighvatsdóttir. The *Alþingi* had already passed a sentence favoring Árni, but the conflict remained open until 1272, when the case was presented to the King for arbitration. At this moment, Icelandic and Norwegian policy towards the Church coincided, although different law codes separated them: King Magnús and Archbishop Jón of Niðaróss sealed the Concordat of Tønsberg in 1273 (although it was finally ratified in 1277), a pact that conferred the Church important concessions. The favorable winds for the Church in Norway benefited the Icelandic bishop as well: Árni returned to Iceland with instructions from the King and Archbishop to take control over Church property and to strengthen the independence of the ecclesiastical power from the secular authority. In 1275, Árni promulgated his *New Christian Law*, where among other things, we read a norm concerning the appropriation of stranded whales. The norm is similar to the one present in Grágás: “Rekahval eigu menn að flytja ok festa. Gefa skal af inn fimta hlut / A whale drifted ashore have men to carry and fasten. Give shall [they] off the fifth part”.¹¹⁴ Therefore, if we follow Sverrir and Lára in their interpretations about the peaceful coexistence of secular and ecclesiastical power, we could interpret the silence concerning the rights of the Church over specific matters, such as whales, as a tacit acceptance of the offensive of bishop Árni over the prerogatives of the lay aristocracy.

The conflict over Church property took a new turn when King Magnús died, in 1280. By that time, a new Norwegian law code was introduced in Iceland, the so called *Jónsbók*. After the death of the king, a regent took charge of government in Norway, with a strong anti-clerical stance. We know that the bishops in Iceland resisted the introduction of this new law and that by 1282, Archbishop Jón was outlawed in Norway. In 1283, Hrafn Oddsson, representative of the Crown, came back to Iceland with a royal decree reestablishing the old *Christian Law*, therefore, giving the laymen control over those *staðir* that had changed hands shortly before. A change in the relationship between church and crown can be perceived in *Jónsbók*: the prescription over the appropriation of whales appears in the rights over land property section (*landsleigubálkr*), while before it was

understand the difference between the claims of the Church in the late twelfth century and the claims for absolute control which were beginning to be aired in the middle of the thirteenth. The arguments that that þátrr was written as a propaganda piece in Bishop Árni's struggle against secular church-owners in the 1270's or 1280's must remain circumstantial, but its content and objective certainly fit such a context best. That Oddaverja þátrr portrays Jón Loptsson in particular as a figure of resentment may be because he was a famous chieftain whom late thirteenth-century audiences would have recognized, but it may also suggest that the þátrr was written in the 1270's when Bishop Árni's main opponents were Jón's descendants in Oddi.” In Orri Vésteinsson, *The Christianization of Iceland: Priests, Power, and Social Change 1000-1300* (Oxford: Oxford University Press, 2000), 123.

¹¹⁴ Haraldur Bernharðsson, *Járnsíða og kristinréttur Árna Þorlákssonar*, 176.

circumscribed in the Christian Law section (in *Grágás* and in the *Kristinréttur* of Bishop Árni). The law in *Jónsbók* is more detailed:

Ef hualr er fluttr eða skoðpinn a lóghelgum degi þa skal gefa af hínna fimta lut ef flu/ttr er. ok af sua míklu sem skoðit er a lóghelgum degi. en ægi er meira skýllt nema fluttr se |Af selaueiði ok allri þeirri er loghelgan dag er veitt. skal gefa þeim fataekum monnum inman re/ps. þar sem a land kemr er ægi gera tíund. ok skulu reppftioznar mem þessu skípta mílli fataekra. þviat sua hafa verit forn lög ok venia. |En huerr er ægi vill þetta gzeiða.

If a whale is salvaged or fensed on a holy day, then a fifth part is to be given to the poor if it was salvaged and, in addition, as much of it as was fensed on a holy day. No more is required unless the whale was salvaged.

Concerning seal hunting and all else caught on a holy day: [a fifth part] is to be given to the poor men in the commune where the catch comes ashore, to those who cannot give a tenth, i.e., pay the tithe; the commune council is to divide this among the poor because the old laws and customs have always been this way. Whoever refuses to give that [is fined six ounce-units].¹¹⁵

The nature of the law remains unchanged, as the redactor of *Jónsbók* states when explaining the reason behind such law, “þviat svá hafa verit forn lög ok venja “/because the old laws and customs have always been this way. The fundamental change is who is responsible for administering the share allotted to the poor. This implied that the Church lost the right to these resources, and therefore, to give this part of the tithe as charity.

The existence of the term “hvaltíund” (tithe over whales) reinforces our interpretation. This word appears in the *diplomatarium* only after the introduction of the Norwegian Law codes,¹¹⁶ in the manuscript of *Jónsbók* of c. 1340-1360 (GKS 3268 4^{to}) as “Um hvaltíund”, and in the *New Christian Law* of Archbishop Jón of Niðaróss, from c. 1273. In the case of the law of Archbishop Jón, the law says that: “Þessar tíundir skulu oc geraszt sem i vana huaa verit. oc her fylgia (...) skreidar tíund. af sælom oc hvaltíund. / These tithes should also become as has been accustomed. And is here to follow (...) the fishing tithe, of seals and the tithe over whales.”¹¹⁷ The same norm is present in the

¹¹⁵ Jana K. Schulman, *Jónsbók*, 69.

¹¹⁶ Jón Sigurðsson, Jón Þorkelsson, Páll Eggert Ólason, and Björn Þorsteinsson, eds., *Diplomatarium Islandicum: Íslenzkt fornbréfasafn, sem hefir inni að halda bréf og gjörninga, dóma og máldaga, og aðrar skrár er snerta Ísland eða íslenzka menn* (Copenhagen and Reykjavík: Hið íslenzka bókmenntafélag, 1857–72), Vol. II: 153, 345-347, 407, 443, 612-614; Vol. III: 89, 230; Vol. V: 265.

¹¹⁷ Rudolf Keyser, Peter Andreas Munch, Gustav Storm, and Ebbe Hertzberg, eds., *Norges gamle love indtil 1387* (Vol. II) (Christiania [Oslo]: C. Grøndahl, 1846–95), 355.

Concordat from 1277.¹¹⁸ From this, we can interpret two different lines in the legislation: one, from the archdioceses, where the tithe over whales appears to be a right over all the catches and not specifically over those made during holidays. Another line that we could read in the Icelandic law codes and especially in *Jónsbók*, was the right to the share allotted to the poor belonging to the commune.¹¹⁹ We can conclude of this, that there was an open conflict, and that this depended mostly on the relationship between Crown and Church.¹²⁰ In the context of *Staðamál*, and since Árni took his see in 1269 until the arrival of the royal decree of 1283, the political situation was ripe for the Icelandic aristocracy to defend their rights over the property disputed with the Church.

4.5. Chapter 57 against the historical context

Now, we should return to the scene in *Eyrbyggja*. As was stated before, in the saga we could read how the prerogatives of the chieftains were respected, even in a context where the farmers risked a possible famine. The contrast between the attitude of Óspakr and those unnamed farmers, who agreed to share the losses among themselves, is the key to understanding the meaning of this scene. There is no detail of the share allotted to the farmers that helped Álfr and Þórir, therefore we cannot know their role in the finding of the whale. The only reference concerns the share of the landowners, who have a right to the meat because of the whale stranding in between Stika (controlled by Sturla) and Guðlaugshöfði (controlled by Snorri). If we assume that the farmers cutting the whale were the same who had lost cattle in the winter, and the hints provided by the saga concerning the fragile economic situation of Óspakr, both would be poor or in need of food.¹²¹ Consequently, the dividing line would be between those who abided by the law and who did not.

¹¹⁸ “Þessar tiundir skulu oc geraz sem i uanda hefir uerit oc her fylgia. (...) skreidar tiund. Af selum ok huælum tiund. / These tithes should also be done as accustomed have been and here follows (...) the tithe on fishing. On seals and the tithe over whales.” In Rudolf Keyser, Peter Andreas Munch, Gustav Storm, and Ebbe Hertzberg, eds., *Norges gamle love indtil 1387* (Vol. II) (Christiania [Oslo]: C. Grøndahl, 1846–95), 474.

¹¹⁹ To read more on the role of the commune in the distribution of the tithe for the poor, see Orri Vésteinsson, *The Christianization of Iceland*, 73, 83-84.

¹²⁰ The allegiance between the commune or the landowners with one side or the other must have depended on the convenience and the political context of the moment.

¹²¹ The saga describes the behavior of Óspakr before the attack for the whale as a problematic neighbor and abusive with the farmers in Eyr. He maintained a large crew in his farm, and therefore he needed abundant resources. After the attack, he awaited a siege and consumed his provisions very quickly, what forced him to attack again. When he left the region to go raiding in the North, he left his wife and son with two cows, as only resource, what put his family in the fringe of poverty.

Another significant detail is that we have no mention of a part of the whale being assigned to the poor in the region. All the law codes expressed the obligation to reserve a fifth part of the catch, although after 1275 the recipient would have been the Church. Under the light of the law of *Grágás* and *Járnsíða*, this fact would have not been relevant, because as we explained, the right over the fifth part remained under the sphere of the laymen. If the idea of the *hvaltíund* would have been in force, around the time of the *Concordat* and the offensive of bishop Árni (c. 1273-1275), we would expect a mention to the right of the Church over this. I think is safe to assume that Chapter 57 of *Eyrbyggja* should be older than this, given that the message seems to be a staunch defense of the legal order currently in force at the time of the writing of the saga. Thus, we have three possible options: the first, that the scene was a reference to an existing law that assigned the distribution of the poor's share to the lay aristocracy or the commune, namely *Grágás*. The second option is that the compiler was defending the right of the aristocracy in a context where that prerogative was not explicitly mentioned, and such will have been the case of the time between *Járnsíða* and the *New Christian Law* of bishop Árni (1271-1275). The third option is that the saga was presenting in this scene the arguments of the aristocracy in a context where this right (or other rights analogous to this) would be under discussion, therefore, in the years of the offensive of bishop Árni over the property of the Church (1269-1272/3).

If we follow the same logic as in Chapter 1 of this thesis, such a scene would only make sense when the prerogative of the aristocracy was endangered. Three elements allow us to think that this scene has an underlying message: 1. the placement of this narrative in the saga is odd; 2. the character of Óspakr seems to have been introduced *ad-hoc*; and 3. his speech has oblique references to the law. Under this light, the narrative would make much more sense in a context of conflict over this right. In this way, we could discard the first option, that the saga was composed during the time when *Grágás* was in force, thus narrowing down the time of composition to the years between the submission to the king of Norway (1262/4) and the arbitration of King Magnús favoring bishop Árni over the *Staðamál* (1273). I think is not advisable to narrow the dating of the saga any further.

4.6. The *hreppr*

There has been mention throughout this chapter of an institution under control of the laymen who had a major role in the administration of resources and the allocation of the tithe. This institution, called commune (ON *hreppr*, pl. *hreppar*), was defined by Helgi Þorláksson as:

The communal unit known as hreppr (pl. hreppar) was geographically, or territorially, defined, consisting of a minimum of 20 tax-paying farmers who held meetings independently of the goðar and independently also, later, of parish arrangements. Like the word goði, the word hreppr (repp) is found elsewhere among the Nordic peoples; neither of them, however, is found in exactly the same meaning. Each of them may therefore reflect a specifically Icelandic development.¹²²

Among the attributes of the commune, there is a significant role in distributing the poor's share of the tithe and in taking care of the pauper in more general terms, either providing them with food and lodging or allowing them to stay in the district or not. Gunnar Karlsson, based on *Grágás*, draws attention to an important detail concerning the people leading the commune: it should be a group of five landowners, unless the people in the *hreppr* agrees to choose someone else.¹²³ This means that the commune was normally under control of landowners.

In Chapters 57 to 62 of *Eyrbyggja*, we see a detail that could be a reference to the commune: after Óspakr is killed, Snorri allows his widow and son to stay in the farm. Óspakr's widow would have been in a precarious economic situation, given that after the attack on Álfr, Snorri held a confiscation court and distributed his goods among the farmers. We also know that after Óspakr leaves the region for the first time, his family stays behind with only two cows. Therefore, the decision of allowing the family to stay would have been in the hands of the commune and not of Snorri, unless he acted as a leading member of the *hreppr*, which would be possible if we consider that he owned some rights associated to the land, although we do not know if he held any land property. Most probably, Snorri was just acting as a chieftain and not in relation with the commune administration, even if his income as an owner played a central role in the scene.¹²⁴

4.7. Conclusion

In this chapter, I have presented a narrative concerning the appropriation of drifted goods. We have read this scene in comparison with the changes in the different law compilations, from the Commonwealth period until the introduction of *Jónsbók*. We have also considered the context in which these changes in the law took place, paying special attention to the relationship between the

¹²² Helgi Þorláksson, "Historical Background: Iceland 870-1400", in *A Companion to Old Norse-Icelandic Literature and Culture*, ed. Rory McTurk (Oxford: Blackwell Publishing, 2005), 143.

¹²³ Gunnar Karlsson, "Social Institutions", in *A Companion to Old Norse-Icelandic Literature and Culture*, ed. Rory McTurk (Oxford: Blackwell Publishing, 2005), 505.

¹²⁴ For more on whaling evidence in the sagas, see Ian Whitaker, "Whaling in Classical Iceland", *Polar Record* 22:138 (1984), 249-261.

Church and the aristocracy in Iceland. I argue that, given that *Eyrbyggja* could be supporting the claims of some of the aristocracy in the discussion with the new administrative system, and that this administrative system was buttressed both by Crown and Church, the saga could have expressed also a defensive stance over the prerogatives of the élite, against the increasing authority of the Church in the period c. 1262/4-1275.

I followed here the approach of Patricia Pires Boulhosa concerning the use of law and sagas as historical sources, and her criticism over the method of the Icelandic School and the German legal positivist school. I have argued in favor of an historical reading as a fruitful method to understand the possible interest behind the composition of both sagas and law.

The role of the commune has been discussed as well, although it seems to be less important than other factors in this narrative, as the ownership of land or rights over it, like the driftage rights. As I have been proposing during this thesis, the legalist tone of the saga appears to be of paramount importance in understanding these five chapters: the conflict develops in an impoverished community where the majority abides by the law and respects the privileges of the landowners, who in this case are also chieftains, and one farmer, who is not by mere chance called Óspakr (“un-wise”), defies the legal order and meets a tragic end.

The political context of the first twenty years after the submission to the king of Norway plays a major role in interpreting the claim of chapters 57 to 62 in *Eyrbyggja*. The Icelandic aristocracy had to defend its rights, which were under the attack from Church and Crown. Given that the conflict with the episcopal power was unresolvable, the aristocracy turned its attention to the Crown, and when the tide changed and the relationship between the king and the archbishop in Niðaróss deteriorated, the Norwegian law book *Jónsbók* was introduced in Iceland. The cold reception it had among the churchmen, on one side, and the popularity of this code among the laity, on the other, expressed this shift in the political landscape.

5. Conclusion

In chapter 2, the method for dating sagas established by Einar Ól. Sveinsson was explored. A survey of the main concepts in this model was problematized. The ideas behind the decisions taken by the Icelandic School when editing the sagas were discussed, and the sources information that Einar Ól. labelled “objective information” were considered from a historical perspective. This approach was adopted in order to answer the research questions posed in the Introduction: which was the purpose behind the production of this saga? If the intentions were political, who was behind it? Each of the analyzed elements served the purpose of illuminating a different aspect of the scholarly research done since the publication of *Dating the Icelandic Sagas: an essay on method* (1959). The problems inherent to those interpretations were addressed, and the present writer’s ideas about the organizational pattern giving sense to the narrative were presented. This new theory on the structure of the narrative shows that the main aim of the plot is twofold. First, to connect the first settler with the 13th century aristocracy. Second, to naturalize the leadership of a certain group who traditionally hold power in the region. This new interpretation of the structure supports some of the theories exposed concerning the other elements mentioned, such as the possible authorship of Sturla and the feasibility of a different, later dating, than the one usually accepted by the scholarship. Although the question about the authorship has been displaced from the scholarly discussion nowadays, giving more emphasis to the idea of the Icelandic scribal culture integrated in the Continental trend in the last three decades, it is worth to recover it for a historical endeavor. The question of who could be responsible of crystalizing a discourse with so many possible political uses (and intentions) remains open.

In chapter 3, I have presented the events in two closely related sagas about the practice of *tróldóm*. I have described the many striking features of the scene in *Eyrbyggja* by comparing it with other similar scenes in the saga, proving the lack of internal coherence of this chapter with the rest. I explained the possible role of the pre-Commonwealth laws as literary devices, and in doing so, I had to summarize the historiographic debate concerning the reliability of the extant laws of Early Iceland as hermeneutical tool for understanding saga evidence. I believe that, in the case of chapter 20 of *Eyrbyggja*, the evidence points to a closer relationship with either *Járnsíða* or *Jónsbók* than to *Grágás*. This evidence helped reconsider the dating of the saga and the possible intentions behind its commitment to writing.

In Chapter 4, I have presented a narrative concerning the appropriation of drifted goods. I have checked the legal evidences from this scene against the background provided by different law compilations, from the Commonwealth period until the introduction of *Jónsbók*. I have also considered the context in which these changes in the law took place, paying special attention to the relationship between the Church and the aristocracy in Iceland. I argue that, given that *Eyrbyggja* could be supporting the claim of a part of the aristocracy in the discussion with the new administrative system, and that this administrative system was supported both by Crown and Church, it could have expressed also a defensive stance before the advancement of the Church over the prerogatives of the aristocracy in the period c. 1262/4-1275.

My point of departure here were the theories of Patricia Pires Boulhosa concerning the use of law and sagas as historical sources, and her criticism over the method of the Icelandic School and the German legal positivist school. I have argued in favor of an historical reading as a fruitful method to understand the possible interest behind the composition of both sagas and law.

The role of the commune has been discussed as well, although it seems to be less important than other factors in this narrative, as the ownership of land or rights over it, like the driftage rights. As I have argued in this thesis, the legalist tone of the saga appears to be of paramount importance in understanding this narrative in the saga: the conflict develops within an impoverished community, where the majority abides by the law and respects the privileges of the landowners, who in this case are also chieftains, and one farmer, who is not by mere chance called Óspakr (“un-wise”), defies the legal order and meets a tragic end.

The political context of the first twenty years after the submission to the king of Norway plays a major role in interpreting the claim of chapters 57 to 62 in *Eyrbyggja*. The Icelandic aristocracy had to defend its rights, which were under the attack of the Church and Crown. Staðamál, a long-standing conflict between the lay aristocracy and the Church in Iceland seemed unresolvable. Its outcome shifted according to the power-balance between Church and Crown in Norway, and this resonated in Iceland and its laws. Part of this debate was presented here in Chapter 4. The cold reception *Jónsbók* had among the churchmen, on one side, and the popularity of this code among the laity, on the other, expressed this shift in the political landscape.¹²⁵

I believe a similar analysis as the one intended in this thesis could be extended to other sources, both with similar or different characteristics. Trying to read the message underlying sagas such as

¹²⁵ Páll Sigurðsson, *Lagaslóðir: Greinar um lög og rétt*, 371-373.

Hœnsa-Þóris saga, which has been contextualized in the period after the fall of the Commonwealth, or *Bandamanna saga*, that has been interpreted as a satirical saga against the aristocracy, could provide different perspectives on a similar conflict. Another comparable reading that could yield more support to the approach of this thesis would be to analyze the context in which different manuscripts of *Eyrbyggja saga* were produced, to examine if this discourse responded to a political need of the aristocracy.

6. Appendix

Grágás-Konungsbók:

Section 7: 23

“Ef maþr ferr með galldra eþa gørnigar. Eþa fiolkýngi. þa ferr ham með fiolkýngi. ef ham queðr þat eþa kennir. eþa lætr queða. at ser eþa at fe sinv. þat varþar honvm *fiorbavgs garþ*. oc scal honvm heiman stefna. oc sækia við .xij.^{tar} qvið. Ef maþr ferr með fordæs skap. þat varþar *scoggang*. þat ero fordæs skapir. ef maþr gérir I orðvm sinvm. eþa fiolkýngi sott eþa bana. fe eþa mavnnvm. þat scal sekia við .xij.^{tar} qvið.”

“If a man uses witchcraft or sorcery or black magic –that he uses black magic if he utters that or teaches, or let utter for himself or his property- this entails a penalty to him of lesser-outlawry and shall (be) summoned him from home and prosecuted with (a panel of) twelve. If a man uses witchcraft, that entails full outlawry, It is witchcraft if a man brings with his words or black magic sickness or death to cattle or men, that shall be prosecuted with (a panel of) twelve.”

Grágás-Staðarholsbók

Section 18: 27

“Ef maðr fer með galldra. eða fiolkýngi. oc vardar honom þat *fiorbavgs garð* oc scal stefna heiman. oc sækia við xii. quið. Þa fer hann með galldra ef hann queðr þat. eða kenir. eða lætr hann queða at ser eða fe sino. Ef maðr fer með fordöðo scap. þat varðar *scog gang*. Þat ero fordöðo scapir ef maðr gørir i orðum sinum eða fiolkýngi sótt eða bana mönnum eða fe. þat scal sækia við .xii. quið.”

“If a man uses witchcraft or sorcery and this entails to him lesser outlawry and shall (be) summoned from home and prosecuted with (a panel of) twelve. Then he uses magic if he utters or teaches or let utter for himself or his property. If a man uses witchcraft, this entails full outlawry. It is witchcraft if a man brings with his words or magic illness or death to men or cattle. This shall be prosecuted with (a panel of) twelve.”

Grágás-Skaltholtsbók

Section 11: 25

“Ef maðr ferr með galldra æða fylkyngi. ok kuedr þat æða lætr kueda at ser eða fe sinu. þat wardar honum fiorbaugs garð ok skal sök þeirre stefna Heiman ok sækia wið tolfar kuið. Ef maðr ferr með fordæðu skap ok wardar þat skog gang. þat er fordæðu skapr ef maðr gerir j orðum sinum æða fiölkyngi sott æða bana fe æða mönnum. þat skal sækia wið tylftar kuið.”

“If a man uses witchcraft or sorcery and utters this or let utter for himself or his property, it entails for him lesser outlawry and shall (be) summoned from home and prosecuted with (a panel of) twelve. If a man uses witchcraft and entails this full outlawry. It is witchcraft if a man brings with his words or magic illness or death (to) cattle or men. It shall (be) prosecuted with (a panel of) twelve.”

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