

Changing Gender Relation in Medieval and Early Modern Iceland: The Role of Canon Law According to Court Case Narratives

by

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The marriage legislation of medieval Iceland are to be found in the provincial law collection of *Grágás*,¹ from the late 12th and early 13th century, the *New Christian Law* of 1275,² the royal lawbook of *Jónsbók* from 1281,³ as well as the correction of the royal law in the 14th century, and many Church statutes of the same century.⁴ These regulation, as well as the change in the legislation after the Reformation in the 16th century, can give valuable indication of change in gender relation. All these regulation where highly influenced directly or indirectly by the international Church law, called canon law. In this paper I shall not primarily discuss this legal regulations rather give some ideas of how the law was used (and shaped on a textual level) at the local courts. Examples will be taken from several court case narrations.

I will begin with a warning: It is not difficult to use the legal documents from the Middle Ages as an evidence for development of legal regulation. However, as soon as we begin using the law or the court material as a text, which represents the legal discourse, problems rise. One important question is related to the representations of the court narrations. Can we use them as factual evidence, or should we read them more as fiction in the meaning of text constructed according to the legal knowledge of those taken part in the case?

First some facts about the knowledge and use of canon law in Iceland.

The knowledge of canon law

During the central and late Middle Ages there was widespread knowledge of canon law in Iceland. Icelandic medieval sources provide information about the libraries at the Sees of Hólar and Skálholt, where many books about canon law are found in the registers. How these books were brought to Iceland is not as well known, but Bishop Árni Þorláksson probably had

¹ *Grágás*, (Ia, Ib and in Danish translation in Ic and Id), *Islændernes lovbog i fristatens tid*, Konungsbók Ia, Første del, København 1852. Ib, Anden del, Copenhagen, 1852. Ic and Id, tredje del, Oversættelse, (II), Staðarhólsbók, København 1870-79

² *NgL: Norges gamle love indtil 1387*, (eds.) R. Keyser, P.A. Munch, Gustav Storm og Edde Hertzberg, Christiania (Oslo), 1846-1895, Bind V

³ *Jónsbók, Kong Magnus Hakonssons lovbog for Island vedtaget paa Altinget 1281, og réttarbætr*. De for Island givne retterbøder af 1294, 1305 og 1314, (ed.) Ólafur Halldórsson, Copenhagen, 1904

⁴ The Church statutes are published in *DI: Diplomatarium Islandicum, Íslenzkt fornbréfasafn*, I-XVI, (eds.) Jón Sigurðsson, Jón Þorkelsson. Páll Eggert Ólason, Björn Þorsteinsson, Kaupmannahöfn and Reykjavík 1857-1972. See for instance *DI* II, 628-629, 752-753

the *Liber extra* with him when he came to Iceland in 1269, and the influence of canon law may also be found in the provincial law and the penitence practice of the bishops.⁵ I have myself argued that the earliest marriage legislation of the country, found in *Grágás*, reflects a process of change towards a Christian understanding of marriage that was evident in the letters of popes and archbishops by the end of the 12th century.⁶ We also know that clerics began interfering in matters of divorce and marriage of close relatives at the end of the 12th century in Iceland.⁷ The ecclesiastical model of marriage was thus introduced into Norway and Iceland during the late 12th and early 13th centuries. This resulted in new marriage legislation at the end of the 13th century which was strongly influenced by canon law. This influence can be further traced in legal documents of the late middle ages and at least as far as the year 1600.

The text of the *New Christian Law* of 1275 reflects a process of this redefining of gender relations. It begins with the declaration that a marriage is sacred if it is instituted according to the rules of God and is otherwise legally made.⁸ The new requirement of mutual consent was presented alongside the requirement of parental consent. Another change concerned the rules, which under the older law had required a couple to have a certain amount of wealth in order to be allowed to marry. These rules were excluded from the new marriage law.⁹ This must be seen as a direct consequence of the consent theory. Consent made a marriage valid.

Property continued, however, to be a central part of the marriage legislation and the marriage rule in *Jónsbók* makes a close connection between inheritance law and what constituted legal marriage. The legal heirs were the children born in a marriage made with the consent of both the couple and their parents.¹⁰

⁵ Sigurður Línadal, „Um þekkingu Íslendinga á rómverskum og kanónískum rétti frá 12. öld til miðrar 16. aldar“, *Úlfjótur. Afmælisrit*, 1. tlb. 50. árg. Reykjavík, 1997, 241-273. See also Magnús Lyngdal Magnússon *Kristni-réttur Árna frá 1275. Athugun á efni og varðveislu í miðaldahandritum*. Ritgerð til M.A. prófs í sagnfræði. Reykjavík, 2002, 44

⁶ Agnes S. Arnórsdóttir „Two models of Marriage? Canon Law and Icelandic Marriage Practice in late Middle Ages“, Mia Korpiola (ed.), *Nordic Perspectives on Medieval Canon Law*, Helsinki, 1999, 79-92. See also the discussion of marriage legislation in Denmark and Iceland in a European context, in Agnes S. Arnórsdóttir and Thyra Nors „Ægteskabet i Norden og det europæiske perspektiv. Overvejelser om især danske og islandske normer for ægteskab i 12. og 14. Århundrede“, (eds.) Kari Melby, Anu Pylkkänen and Bente Rosenbeck, *Ægteskab i Norden fra Saxo til i dag*, Copenhagen, 1999, 27-51

⁷ Magnús Stefánsson, „Frá goðakirkju til biskupakirkju“, *Saga Íslands III*, Reykjavík, 1978, 150-151, 252. Jón Jóhannesson *Íslendinga saga I*, Reykjavík 1956, 193-194. Magnús Stefánsson „Kirkjuvald eflist“, *Saga Íslands II*, Reykjavík 1975, 57, 68

⁸ *NgL*. V, (note 2) 36

⁹ Sigurður Línadal, „Ægteskab. Island“, *KLNM XX*, Oslo 1976, 498, compare to *Jónsbók*, kv. 4, and *Réttarbót*, 1314, § 14.

¹⁰ *Jónsbók*, (note 3) 78

Now let's look at the relation between those laws and what happen at the court according to the narrations. Apart from the court at the assembly of Þingvöllur the most important were the courts of the bishops of Hólar and Skálholt. The cases were preserved in some of the copybooks of the bishops, as well as in more general private collections related to other disputes often about inheritance matters. This material is all printed in *Diplomatarium Islandicum*. Towards the end of the 16th century bishops were increasingly holding their meetings at the assembly of Þingvöllir. From 1570 on those cases exist in printed version in the *Alþingisbækur Íslands*.¹¹

The narrative use of canon law

The focus in many of the court case narratives was constructed after the principle of canon law, for example the principle of the mutual consent of the couple. A court decision from 1545 is an example of that.¹² The case was as follows:

Einar had made a marriage agreement with Guðrún, and her parents had given their consent. The marriage banns had been published in church. Guðrún first told the judge that she had been forced to make this agreement, in accordance with the wishes of her parents. Witnesses backed up her story, saying that the same account of the situation had been heard by almost everyone. Then Guðrún claimed that it was not possible for her to live with her husband as he did not take good care of her and as she received neither food nor clothing from him. She said that his behaviour was so bad that she was actually uncertain whether she would live or die. Her testimony alleged that he had tried to kill her more than once. The court's decision given is not surprising: she was allowed to separate from her husband on the grounds that he could not deny the charges made against him.

This case has been interpreted as proof that the issue of parental consent was so significant in Iceland in the 16th century that women were forced to make marriages against their will. However, by looking at it from the canon law point of view it can be interpreted as an example of how it was possible to get a separation. Forcing women into marriage contravened canon law, and when there was also testimony to the effect that the husband had tried to kill his wife, there was no doubt that the marriage would be annulled.

This case and many others give reason to analyse how local people knew and used the law and especially how different actors could use elements of the law code to argue in favor of their claims. The structure of the narration in the court cases illustrate this even better.

¹¹ *Alþingisbækur Íslands* I-III (1570-1605), Reykjavík 1912-1918

¹² *DI* XI, (note 4) 407, 419-420

A court decision from the end of June 1599 concerning a act of Björn Magnússon and his friends can be used to further illustrate this point.¹³ According to the narration it became evident that Björn took the girl Oddný from her parents' home. He was sentenced for this crime although not as an outlaw because the girl had not been taken by force but by her own free will. The norm was that women could not be taken from their husbands or guardians,¹⁴ but because it could be proved that she had freely chosen to join Björn, the case was no longer considered a criminal case. Here the woman's own consent was used as an argument against the argument that her parents should give consent to her marriage.

This case can, of course, be interpreted as an illustration of a conflict between the authority of parents and the free will of a girl still being a problem in the end of the 16th century. Again, we may also argue that it is an example of how canon law changed the understanding of marriage so that the parents no longer could decide alone, who should arrange a marriage but that the couple also had to consent. There is, however, another way to interpret this narration. Not all the involved parties were represented as the parents and the young girl did not actively participate in this case. It was the man, Björn Magnússon, who was the instigator of this case. He had written to the king on the subject. It is through the discussion of lawmen using different legal principles as the basis for their arguments that the conflict between Björn and the girl's parents, her capture and acceptance of capture are presented to us. The document speak thus for his own wishes in the case. It is thus a primary evidence for the strategy of Björn Magnússon.

However, this case does not only give information about how Björn and the lawman used canon law. Even if the case underlines that it was possible to use this development in order to win a case brought before the courts, it also emphasises an important change in legal practice concerning women's right to choose their partners. It is a manifestation of the fact that the consent of the woman became a requirement which took precedence over the consent of her parents.¹⁵ The court narrations can thus be used also as a factual evidence. One must, however, be aware of the canon law context of each case before making any conclusion.

Many more examples exist which illustrate how the use of canon law shaped court cases and, in particular, the way in which such cases were presented. It is thus very important to be aware that the stories which lay behind many of the court cases were translated into the legal

¹³ *Alþingisbækur Íslands III*, (note 11) 156-157

¹⁴ *Alþingisbækur Íslands III*, (note 11) 157

¹⁵ DI X, (note 4) 664

language of the courtroom in a way that could affect the outcome of the case.¹⁶ Let me give a more detail example of this by a case dated 8 July 1594. It deals with the marriage of Jón Jónsson and Grafar-Gunna and their separation.¹⁷

The background to the case began with a decision in 1590 following a claim of Grafar-Gunna that Jón Jónsson had not been a proper husband to her.¹⁸ The second decision in the case from 1591 tells us that Grafar-Gunna's husband, Jón, accused another man of having a sexual relationship with Grafar-Gunna and then running away with her. The Bishop and the lawman made a third decision in 1592 at the assembly at Alþingi. It considers whether this couple should be allowed to separate: "because they wanted so seriously and desperately to separate, as she would by no means live any longer with him."¹⁹ The fourth attempt was made at Alþingi in 1594, when it was ruled that the case should be sent back to the local authorities.²⁰ The view of the local authority was clearly reflected in one final document dating to 1595. The couple was supposed to come to court. He came but she did not because "she had run away with another married man, to an unknown place in the most distant region of the country".²¹ The following decision was made: Jón Jónsson had given Grafar-Gunna the chance to return, but she then ran away with another man. The judges concluded that they should free the couple from their marriage bond, which had been made by the law of God and the country.²²

The decision was based on following arguments: According to the Bible, marriage should be honored, and the bed of a couple should never be made unclean. Men should love women and be kind to them, and in the same way women should be kind to their men. A woman had no control over her body, it was to be controlled by the man. The same rule applied to the man. He had no control over his body, which should be controlled by the woman. Consequently, neither of the sexes should tempt each other. God had ordered that a woman could not separate herself from her man and, if she did, then she should be excluded

¹⁶ On the translation of oral culture into formal legal proceedings see Karin Granquist „Til hvem gir du din sjel?“ *Hekseprosser og trolldom, Ottar* 1, 2001, Populærvitenskapelig tidsskrift fra Tromsø Museum, Universitetsmuseet, Nr. 234, 36-40

¹⁷ *Alþingisbækur Íslands* III, (note 11) 46-49. On this case see also Agnes S. Arnórsdóttir "Hlaupin í fjarlæga fjórðunga. Nokkur orð um réttarstöðu íslenska kvenna á 15. og 16. öld", *Kvennaslóðir. Rit til heiðurs Sigríði Th. Erlendsdóttur sagnfræðingi*, Reykjavík 2001, 33-45

¹⁸ *Alþingisbækur Íslands* III, (note 11) 46. "hann hefði sér ekki að karlmanni orðið"

¹⁹ *Alþingisbækur Íslands* III, (note 11) 47. "þar sem þau leituðu svo þrásamlega og alvarlega þar eptid, að þau mætti aðskiljast, því hún vildi i aungvan máta leingur við hann halda."

²⁰ *Alþingisbækur Íslands* III, (note 11) 47

²¹ *Alþingisbækur Íslands* III, (note 11) 47. "í burt hlaupin með öðrum giptum manni, Birni Þorleifssyni, í óvísa staði og fjarlæga landsfjórðunga"

²² *Alþingisbækur Íslands* III, (note 11) 48. "sundurkilin frá sínu hjúskaparbandi að guðs lögum og manna."

from marriage and from later attempts to make an agreement with her husband. The woman should be humble towards her husband, showing her submission to him in the same way as she did to her God.

After these arguments, taken from different texts from the *Bible*, the decision cites arguments from the legislation of the 13th and 14th centuries, for example the contemporary legal rule concerning adultery. Adultery was given as the first reason for separation, but if the two individuals wanted to be joined again, they would be allowed to do so.

Thirdly, we find arguments from the ordinance of 1587 of King Frederick II concerning marriage.²³ The problem of *desertio*, which very much had shaped the case had gained new meaning after the marriage legislation of 1587, because it was named as one of the reasons for obtaining a separation. The problem had been known before, but it had not been referred to in Icelandic legislation. As soon as it became a legal phenomenon that could be described in general legal terms, it gave new significance to those situations in which people ran away from their home districts to other places. The case of Grafar-Gunna and Jón can be explained in relation to this.

Thus did change in the juridical culture affect the participants in the courtroom. The case of Grafar-Gunna could indicate a change in the position of women in the court: by refusing to come to the court, by running away with another man, and by using the legal concept of *desertio*, Grafar-Gunna made it clear that she wanted a separation and had no intention of being reunited with her husband. Another possible way to understand the case is to look at it from the husband's point of view. Maybe he was just using the history of her running away (*desertio*) with another man (*adultery*) as an argument for getting divorce.

Virginity and the legal consequences of the “joining of minds”

To return to the question related to the representations of the court narrations. I have argued that narration can be used both as an example of legal change and as a “textual construction” in relation to the use of canon law and other relevant legal rules. It is from the focus in the narration of those court cases we can see how the different legal principles were used. However to be able to study further the parties of the cases, we need to analyse the legal texts in relation to other source material about the people involved. The motive behind the cases cannot be explained by the court material alone.

²³ *Lovsamling for Island I*, 113-116. “Ordinants, hvorledes udi Ægteskabssager paa Island, dømmes skal 2. juni 1587”, with a reference from the king to the ordinance of 1582 for Denmark and Norway

These cases indicate that individuals who found themselves in a potentially problematic situation could take their case directly to court. According to my Icelandic sources these individuals could include the clerics, the couple themselves or their possible heirs. Often the case began with the spreading of rumours, which could ultimately result in a marriage being deemed illegal. This means that the couple could be separated because an impediment became apparent. This did not necessarily refer to adultery or to the fact that the spouses were too closely related. Impediment could also refer to the husband having had a relationship before the wedding with a woman who was related to his future wife.²⁴

One of the most interesting impediments I have found comes from a case brought to court in 1521 and concerned a rumour that a man had had a sexual relationship with a woman before his wedding. The woman concerned was not a mistress, but actually the intended bride. The parents for this reason "destroyed the agreement they had arranged concerning the financial gifts to her ... especially those concerning [a specified piece of land]".²⁵ This case demonstrates strong parental authority in questions concerning the transfer of property, and in this case the control of transfer of property became related to the question of virginity. A man who had a sexual relationship before marriage with his becoming bride could not just marry her and receive her property because he had broken the marriage agreement made with her parents. We can thus sum up by saying that parental influence did not disappear even if the mutual consent of the couple became one of the most important criteria for legal marriage.

In *Íslandslýsing*, a general description of the history of Iceland assumed to have been written by Bishop Oddur Einarsson at the end of the 16th century, there is a reference to the legal rule concerning inheritance rights of a woman who had lost her virginity. It reads that she could only inherit from her father or relatives after she had been forgiven and her honor had been restored.²⁶ Those involved in the offence were instructed to pay a penalty to the secular authorities before they received forgiveness and indulgence from the church. The account of the case reads:

This custom and this strict law preserves the chastity of both sexes and their beautiful youth without any dirtiness, until the fire of the pure love is lighted in

²⁴ Einar Arnórsón "Gottskálk biskup Nikulásón og Jón lögmaður Sigmundsson", *Safn til sögu Íslands og íslenskra bókmennta*, Reykjavík 1953-1954, 105 compare to chapter 23 in the *New Christian Law*, (note 2).

²⁵ *DI VIII*, (note 4) 775-777. "ónýtan þann skilmala um féggjafir til hennar, er þau höfðu gert, og sér í lagi um jörðina Grafargil í Valþjófsdal"

²⁶ "endurreist og tekin í sátt"

both of them, and they can legally be together according to the customary rules for living a married life.²⁷

According to the author of this description the ‘pure love’ between a man and a woman, together with parental consent, were preconditions for happy marriage.

The former understanding of marriage as a contract concerning the transfer of wealth between families has here melted together with the Christian understanding of marriage. This understanding was further symbolised by the image of youth, innocence and love. Marriage thus understood furthers the interests of the couple’s parents as only this situation could ensure the safety of both the honor of their family and its property. Only the fruits of pure and mutual love would secure the continuation of the family line. But from the late 16th century onwards a woman’s honor was no longer merely an element of family honor, but also a personal issue, relating to her own virginity. The impression of women given by documents from the court dating to the late 16th century as for instance of Grafar-Gunna, is however very different from the one provided by the description of *Íslandslýsing*.

This disparity between the idealized image of woman and the actual woman involved in court case is not surprising. It does not necessarily mean that one of these pictures was false, but that they co-existed. At the same time that stronger control of sexual behaviour was emerging, the romantic notion of pure and innocent love between the virgin and her bridegroom was reinforced. Cases like that of Grafar-Gunna came to court because the control of sexual behaviour was now being sanctioned.

The court case also suggests how the individuals involved reacted to, and could even escape from, the control of the authorities. One significant element of the changes in the judicial process which took place in the 16th century meant that it was no longer sufficient in adultery or separation cases for evidence to be given only by male witnesses. By 1594, the testimony of both the wife and the husband was necessary in divorce cases.²⁸ It is possible that adultery committed by a woman was not understood as a crime on the same level as adultery committed by a man. In the case under consideration here, this would appear to be connected to the old tradition of disregarding the woman as an actor in adultery cases brought to the courts. This is related to the old medieval understanding of the woman as a passive object to be dealt with by the courts. But from the end of the 16th century the court cases indicate that women had indeed become subjects of the courts as men had always been. This

²⁷ *Íslandslýsing* 1971, in translation of Sveinn Pálsson, Reykjavík 1971, 83. ”Með þessari venju og strangleika laganna er vel hugsað fyrir skirlífi beggja kynja svo að æskublóminn haldist ómengaður og óskertur, þar til í báðum kviknar eldur hinnar hreinu ástar og þau geta haft lögmætr samskipti, eftir tíðkaða viðhafnasiði, við háttbundinn framgang hjónabandsins”

change was related to long development of the new understanding of gender relation based on canon law. What was this relation about?

New gender relation

A new gender relation was formed in the high and late Middle Ages. Of course this was related to new marriage policies. The spouses became more strongly united in marriage. They should love each other, and only “through full parental control could the beauty and the purity of virginity be maintained” as the Icelandic bishop Oddur Einarsson formulated it.

At the heart of the Christian understanding of a sacred marriage was the idea that the couple loved each other. This also meant that personal reasons for choosing a partner became important. This does not mean that there was an instant shift from social to individual choice once this theory became fashionable, but a process began that did not end until much later in early modern or modern Europe. The love of God came to be symbolised by the loving earthly relationship between a husband and a wife. How far people identified with these new ideals is unclear. In practice, marriage involved many issues besides morality.

The case of the Páll Jónsson and his wife Helga Aradóttir shall be mentioned here to illustrate further this point.²⁹ This case came first to court in 1591 and was dealt with the following year. The husband had accused his wife of illegally leaving him many years earlier. He also claimed that she had given away some landed property, that she had been separated from him for thirteen years by "table and bed," that she had always, when he tried to make love to her, refused him with strong words, and finally, that she had not only given away or lost his wealth, but also gone to live with another man while her husband was in Denmark.³⁰

Fortunately, we have more information about the persons involved in this case. Páll Jónsson was born in 1535, and when he was sixteen or seventeen years old he fell deeply in love with this woman Helga Aradóttir, the daughter of the lawman Ari Jónsson.³¹ She was reputed to have been a strong woman, as well as one of the most attractive women in the country. It was thought both by Helga and her relatives that her status was too high for her to be married to Páll, but he persisted, writing many love poems to her, and they were finally

²⁸ *Alþingisbækur Íslands* II, (note 11), 426-428

²⁹ *Alþingisbækur Íslands* II, (note 11), 426-428

³⁰ *Alþingisbækur Íslands* II, (note 11), 427-428

³¹ Páll Eggert Ólason, *Íslenzkar æviskrár. Frá landnámstímum til ársloka 1965*, vol. IV, Reykjavík, 1951, 123-124

married in 1558, however, only after he had gained confirmation from the court that his status was as high as hers.³²

Helga and Páll had children, but their marriage was not a happy one. This can also be reflected in his poetry. As soon as they married, his poems became negative in tone. One poem has survived from the time at which Helga wanted to separate from him. Páll claimed among other things that "all men" now laughed at him at the assembly.³³ Páll and Helga were never formally divorced. We do, however, know that Páll fell in love with another woman, Halldóra, the daughter of Bishop Guðbrandur. He did not marry her, but there are evidence of his feelings towards her through his love poems.³⁴ This later love story can explain why Páll accused his wife for both adultery and misusing their wealth at the court in 1591. Páll did however not win the case. In 1594 a decision concerning this marriage could not be given because she had not testified.

It was not enough to hear only the testimony of the husband,³⁵ and probably Helga had no interest in paying her husband back what he had accused her of spending. So she never showed up at the courtroom. Four years later was Páll dead.

One of the keys to understanding how court case narration was constructed, as the one between Helga and Páll, was related to the interest of the surviving relatives. It was because of their claims many of those cases began. This does not, however, mean that those texts only represent fiction in the meaning of text constructed according to the legal knowledge of those taken part in the case. As in the case of Páll and Helga, other sources indicate that there was a real problem related to their marriage life.

Conclusion

To sum up:

- 1) The story of Páll and Helga indicate that affection and love became one of the key criteria for successful marriage.
- 2) Other documents attest that even if love between husband and wife became such a strong norm, many lived in adultery. This double standard in morality can explain why at the end of the 16th century many oaths exist concerning wives' fidelity to their

³² Jón Þorkelsson, *Om diktingen på Island i det 15. og 16. århundrede*, København 1888, 381-382

³³ Jón Þorkelsson, *Om diktingen på Island*, (note 32) 383-384.

³⁴ Jón Þorkelsson, *Om diktingen på Island* (note 32) 383

³⁵ *Alþingisbækur Íslands* (note 11), 428. Many cases from the end of the sixteenth century show that it was not seen as formally correct to judge in such cases after only hearing evidence presented by men

husbands.³⁶ This should not be seen as an indication that women were always virtuous and faithful. What they do indicate is that the possibility of a woman being unfaithful was beginning to be perceived negatively by society. Previously, such unacceptable sexual relationships had been dangerous to the honor of a woman's family. Shame had not been connected to the loss of virginity, rather to the family's loss of guardianship over her. At the end of 16th century chastity had got another more personal meaning.

- 3) The change in the definition of legal marriage altered the couple's own identity. Within the ecclesiastical model of marriage, God's presence was central to the ritual, and these actions were no longer concerned only with the regulation of relationships between the couple and their families. The couple themselves, who had become the main focus of marriage rituals, should also love each other as well as God. The meaning of marriage thus became a more personal and religious matter.

This change did not come about only as a dictate from above, but was also part of change in the local community. As a result of this new gender contract subjects of the court were no longer men only but also women.

³⁶ AM: Den Arnamagnæanske Håndskriftsamling. Det Arnamagnæanske Institut, Copenhagen. Stofnun Árna Magnússonar á Íslandi, Reykjavík. AM, dipl. isl. fasc. LIX, 14. "um tryggð þeirra við menn sína"

Zusammenfassung

Veränderungen im Verhältnis der Geschlechter im mittelalterlichen und neuzeitlichen Island: Die Rolle des kanonischen Rechts auf der Grundlage von erzählenden Elementen in Gerichtsverfahren

Im hohen und späten Mittelalter war das kanonische Recht in Island bekannt und wurde ebenfalls angewendet. In den Bibliotheken an den Bischofssitzen von Hólar und Skálholt gab es, bewahrten Registern zufolge, viele Bücher über das kanonische Recht, und aus rechtlichen Prozessen vor den kirchlichen Gerichtshöfen kann man sehen, dass die Kenntnisse vom kanonischen Recht sowohl die Argumente als auch die erzählenden Elemente in den Zeugnissen geformt haben. Das gilt insbesondere in Ehesachen.

Der Vortrag behandelt, wie das kanonische Recht von den streitenden Parteien in Ehesachen vor den lokalen kirchlichen Gerichtshöfen in Island gebraucht wurde. Es werden Beispiele aus den verschiedenen "Erzählungen" genommen, denen man in gerichtlichen Verfahren begegnet. Eine wichtige Frage betrifft die Repräsentativität dieser gerichtlichen Erzählungen: Können sie als tatsächliche Zeugnisse verwendet werden, oder sollen wir die erzählenden Elemente in gerichtlichen Zusammenhängen eher als eine Art Fiktion verstehen? - eine Fiktion, produziert von den streitenden Parteien in den konkreten Prozessfällen in Übereinstimmung mit den kanonisch-rechtlichen Kenntnissen.

Eine andere wichtige Frage dreht sich um das Verhältnis der Geschlechter - und insbesondere um die *Veränderungen* im Verhältnis der Geschlechter - die man in den gerichtlichen "Erzählungen" sehen kann. Hier wird gezeigt, dass im Übergang vom Mittelalter zur Neuzeit sehr wichtige Veränderungen zu sehen sind. Zur gleichen Zeit als eine stärkere rechtliche Kontrolle des sexuellen Verhaltens auftauchte, gab es eine Stärkung der romantischen Begriffe von einer reinen und unschuldigen Liebe zwischen einer Jungfrau und ihrem Bräutigam. Dieses resultierte in einem neuen Verhalten der Geschlechter: Hingebung und Liebe wurden eine der wichtigsten Kriterien für eine erfolgreiche Ehe. Keuschheit wurde mit mehr religiöser und persönlicher Bedeutung versehen, und als ein Erfolg dieses neuen Verhältnisses zwischen den Geschlechtern wurden nicht nur Männer, sondern auch Frauen selbständig agierende Subjekte in Gerichtsverfahren. Auch Frauen wussten, wie sie ihren Fall am besten darstellen konnten, und wie das kanonische Recht in diesem Zusammenhang gebraucht werden musste.