

THE THIRTEENTH-CENTURY CODIFICATION OF THE *FUEROS DE ARAGÓN*

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This essay examines sources related to the creation and promulgation of the first codification of Aragonese territorial law in the mid-thirteenth century. The Fuegos de Aragón have proven to be one of Europe's most durable bodies of laws, having persisted in some form or another for more than a millennium. In exploring the process by which Aragonese law was first codified, this essay expands our understanding of the evolution of medieval law. At the same time, it offers an occasion for questioning the origins of a written legal tradition that has defined historical and contemporary conceptions of Aragonese political identity within Spain. Of particular interest here is the tension that exists between longstanding assumptions about the origins of the first code of Aragonese law and the medieval sources that have something to say about it. In order to discern the process by which the fueros were codified, this essay scrutinizes the narrative prologues to multiple Latin and romance texts of the Fuegos de Aragón as they are found in medieval manuscripts and early printed texts. The essay also considers the implications that these findings have for ongoing scholarship on the institutionalization of the Fuegos de Aragón in Aragonese history.

INTRODUCTION

Around 1475, an enterprising German printer named Paul Huras, from Constance, set up business operations in Zaragoza, Spain. For the next twenty years, Huras and various partners produced a steady stream of literary and religious texts, including newly commissioned Latin translations of Hebrew bibles from Castile.¹ One of the first books to emerge from his press, though, was an

¹ Laura Delbrugge, *A Scholarly Edition of Andrés de Li's Thesoro de la passion (1494)* (Leiden, 2011), at 3–6, offers a fuller description of Huras's printing activity.

The following abbreviations denote manuscripts utilized in this essay. The signatures reflect the conventions used by each repository so as to facilitate further consultation. All manuscripts designated "Madrid" are held by Spain's BN. I note that the grammar and spelling found in the Latin and romance medieval texts listed below are highly irregular. Similarly, there are minor variations in use of diacritical marks in both medieval and contemporary materials. Bibliographic details and citations found in this essay faithfully reproduce the peculiarities or errors of each source.

Barcelona₁ = Barcelona, Biblioteca de Catalunya, MS 483

Escorial₁ = San Lorenzo de El Escorial, Real Biblioteca del Monasterio de San Lorenzo de El Escorial, RBME P-II-3

Escorial₂ = Ibid., RBME L-III-17

Getty₁ = Los Angeles, J. Paul Getty Museum, MS Ludwig XIV 6

edition of Aragon's entire code of public and civil law. On 22 October 1476, Huras and his partner, Heinrich Botel of Saxony, signed a notarized contract to produce, within six months, a printed edition of the *Fueros de Aragón*.² The volume that Huras ultimately produced contains 300 folios and includes *fueros* that were approved and promulgated by various monarchs in conjunction with Aragonese parliamentary assemblies from the thirteenth through the fifteenth centuries. The first eight books of the volume comprise *fueros* that were first codified by King Jaime I around 1247. Known as the *Código de Huesca* (hereafter, *Código*), this body of *fueros* would become the nucleus of the *Fueros de Aragón* as they were expanded and reissued through the early eighteenth century. Included at the end of the Huras edition is a thematically organized collection of *observancias*, or judicial interpretations, that were in wide use by judges and other officials who were empowered to issue rulings.³ For the most part, we do not have explanations of the ways in which groupings of laws were formally considered, adopted, and promulgated in major Aragonese assemblies throughout the Middle Ages. An

Girona₁ = Girona, Palacio de Perelada, MS 32202

London₁ = London, British Library, MS Add. 36618

Madrid₁ = INC/234

Madrid₂ = MSS/7391

Madrid₃ = MSS/458

Madrid₄ = MSS/13408

Madrid₅ = MSS/6197

Madrid₆ = MSS/1919

Miravete₁ = Miravete de la Sierra (Teruel), Archivo Municipal [no signature]

Paris₁ = Paris, Archives Nationales, Ser. Trésor de chartes, MS JJOO

Sevilla₁ = Sevilla, Biblioteca Colombina de Sevilla, MS 5-4-22

Sevilla₂ = Sevilla, Universidad de Sevilla, MS A330/119

Zaragoza₁ = Zaragoza, Biblioteca Universitaria de Zaragoza, MS 7

Zaragoza₂ = Ibid., MS 95

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² The contract is preserved in a notarial record book called a *protocolo*, and is cited in Manuel Serrano y Sanz, "La Imprenta de Zaragoza es la más antigua de España," *Revista de archivos, bibliotecas y museos* 36 (1916): 243–71, at 254–55. The contract, which specifies the title of the work as *Foros novos Auttos et Observancias dicti Regni Aragonum*, can best be described as a subscription, whereby interested parties would pay the agreed-upon price of one Aragonese gold florin. If the buyer did not receive the book within six months of payment, the fee would be returned.

³ The number of copies that Huras printed is unknown. A total of four copies have survived, mostly intact, along with one substantial fragment, all of which are held by libraries or archives in Madrid. None has retained an original cover or frontispiece, and none bears the date or place of printing, but the date of 1476 is now widely accepted because of the contract details.

exception is the detailed prologue from King Jaime's *Código* that offers a narrative for the process of codification. This essay is concerned with that narrative.

The prologue of the Huras edition explains how Jaime set out to regularize the law and the administration of justice and how he did so in collaboration with a general assembly held at Huesca in early 1247. During Jaime's lifetime, the norms for meetings of the estates of the kingdom (i.e., the barons, prelates, knights, and town representatives) were not yet fixed as the *Cortes*, and this would not happen until well after his lifetime. King Jaime frequently summoned assemblies in Aragon, Catalonia, and Valencia as an outgrowth of the royal curia or court, thus sources from his lifetime use terms such as general court, plenary court, or general curia to describe large meetings. They were convened by the king to give counsel and consent for matters of great importance, such as extraordinary taxation or the issuing of territorial legislation. Even though Jaime suffered a number of Aragonese rebellions, the historical record suggests that, save during a turbulent period in 1264 and 1265, Jaime's major assemblies in Aragon tended to unfold in his favor.⁴ Specifically, Jaime bolstered his authority to govern, penalized those who defied him, and imposed taxes or revalued the coinage. Moreover, he centralized a number of local government functions and sharply curtailed the practice of law by *foristas*, who acted as legal experts and judges but had no formal training in the law. The end result was gradually to weaken local administration and expand royal oversight. The prologue to the Huras edition reflects the mostly harmonious dynamic between Jaime and his Aragonese subjects in the context of general assemblies and their willingness to tolerate his expanding authority, but it obscures a more complex picture of what certainly happened when the *fueros* were codified. Later political developments have shaped interpretations of Aragon's constitutional beginnings in Huesca in 1247, and the Huras text has played an important role in those interpretations.

Historically, the *Fueros de Aragón* have been regarded as far more than a collection of indigenous legal norms. They are also understood to be an entire juridical system rooted in a pact that balances power between a ruler and subjects, or a government and its citizens.⁵ This concept, known as *pactismo* (pactism), frames

⁴ There were more than twenty major assemblies held in Aragon during Jaime's lifetime (though he was a child during the earliest ones). Certainly there were others for which no record has survived. Included in that number are three from Lérida, on the border of Aragon and Catalonia, in which the Catalan estates also took part. For a brief overview of many of these assemblies, see *Colección de Cortes de los Antiguos Reinos de España: Catálogo*, Real Academia de Historia (Madrid, 1833), at 97–100.

⁵ An analysis of a persistent and powerful myth related to the origins of the Aragonese *fueros* may be found in Ralph E. Giesey, *If Not, Not: The Oath of the Aragonese and the Legendary Laws of Sobrarbe* (Princeton, 1968). In particular, at 69n6, Giesey points out a seventeenth-century author's sleight of hand that blatantly misused Bishop Vidal's commentary.

law not as an imposition but as a negotiated construct, and it is an enduring characteristic of Aragonese political and cultural identity.⁶ The Huras prologue affirms the manifestation of pactism in the codification of the *Fueros de Aragón* because the narrative confines all of the work of debating and producing a text to a brief meeting in which the king's pretensions could be checked by his subjects. However, the explanation that it offers is implausible. By limiting the complex work of codification to the span of an assembly, the prologue masks King Jaime's exercise of his prerogative in radically transforming both written law and the administration of justice to his advantage with a code largely of his own making and that he promulgated.⁷ This essay proposes to scrutinize the broader textual tradition that has more to tell us about King Jaime's effort to codify the *fueros*, including his agency throughout the process, the involvement of the assembly in approving the contents of the code, and time to completion. Given the outsized influence of the Huras edition, though, I begin with a brief discussion of its limitations.

NARROWING THE TRADITION

The Huras edition is important for having preserved and transmitted the medieval *Fueros de Aragón*. However, both the prologue and the incipit to King Jaime's *Código* as found in the Huras edition offer up some influential misdirection regarding the origins of Aragón's constitutional tradition. Huras's printed text is based on a single source: a paper manuscript of the *Fueros de Aragón* that was completed less than a decade before he and Botel signed their contract to print in 1476.⁸ However, given that Huras used a single exemplar for his edition, none of the variants from a number of other manuscript traditions, Latin or romance, were

⁶ The ideal of Aragonese pactism is often held up as the antithesis of authoritarianism, especially as manifested by Castile. For two such examples, see Enric Guinot Rodríguez, "Sobre la genesis del modelo político de la Corona de Aragón en el siglo XIII: Pactismo, Corona y Municipios," *Res publica* 17 (2007): 151–74; and Gregorio Colás Latorre, "Una explicación que me parece necesaria," in *Fueros e instituciones de Aragón*, ed. Gregoria Colás Latorre (Zaragoza, 2013), 9–17, at 9.

⁷ This essay uses the word code instead of compilation to describe King Jaime's legal confection because he and his counselors selected old, revised, and new *fueros* for inclusion in a single written text. That volume was promulgated and put into use as the kingdom's territorial law. The difference between a code and a compilation is explained in Kenneth Pennington, "Law Codes: 1000–1500," in *Dictionary of the Middle Ages*, 13 vols. (New York, 1982–89), 7:425–31.

⁸ The *terminus post quem* for the manuscript is 1467, owing to its inclusion of *fueros* approved that year. The manuscript is such a close match to the printed edition that scholars long suspected that the manuscript had been copied from the printed text. For an essay describing several manuscripts of the *Fueros de Aragón*, including Girona, see Gunnar Tilander, ed., *Los Fueros de Aragón: Según el manuscrito 458 de la Biblioteca Nacional de Madrid* (Lund, 1937), vii–xxxii.

captured in the printed text. The manuscript that Huras reproduced offered only one iteration of the evolution of the *Fueros de Aragón* over centuries, and that one iteration became the officially sanctioned version of the kingdom's entire corpus of *derecho foral*. Even though Huras's work was the result of a private contract that had no imprimatur from the Aragonese *Cortes*, the contents of the 1476 incunabulum subsequently became the basis for official versions of the *Fueros de Aragón* that would be expanded, rearranged, and reprinted many times up through 1667.

The substance of the *fueros* themselves is not at issue, for the Huras edition, its exemplar, and medieval manuscripts of the *Código* reveal a collection of about 350 individual *fueros* from King Jaime's lifetime that are relatively consistent from one text to another.⁹ What is not consistent at all among the texts, though, are the prologues, and it is the prologues that explain King Jaime's efforts to codify the law. The various prologues offer multiple explanations for his legislative impetus and the process by which he and others considered old *fueros* or made new ones for Aragon's first code. Although thousands of individual documents and letters survive from King Jaime's reign, as yet no other source has emerged to shed light on the emergence of the *Código*: no summons to the meeting, no letters of promulgation to accompany a text of the *fueros*, and no correspondence among the king, his chancellor Bishop Vidal de Canellas, and any local experts in *derecho foral*, known as *foristas*, concerning their labors. In fact, outside of the evidence offered by the prologues themselves, we cannot otherwise confirm the king's whereabouts for a five-week period from 23 December 1246 to 1 February 1247.¹⁰

Beyond printing the *fueros* that had been adopted from the thirteenth through fifteenth centuries, Huras also reproduced, and thereby codified, a minor editorial

⁹ An edition of the Latin manuscripts was completed only recently. See Antonio Pérez Martín, ed., *Los Fueros de Aragón: La Compilación de Huesca; Edición crítica del texto oficial latino* (Zaragoza, 2010). Therein, Pérez Martín takes into account approximately 14,000 textual variations, most of which are spelling irregularities, scribal errors, or word substitutions. His study of the surviving Latin texts reveals that only a few dozen *fueros*, from a total of around 330 to 350 that were probably codified by King Jaime, were altered significantly, eliminated, or moved to different places in the various manuscripts and printed texts from between 1247 and 1542. It is important to note that in producing an edition of the *fueros* that were in circulation prior to 1300, Pérez Martín did not purport to recreate a lost original. See also idem, ed., *Los Fueros de Aragón: La Compilación de Huesca; Edición crítica de sus versiones romances* (Zaragoza, 1999), which reproduces four largely complete romance texts and one substantial fragment. In setting the edited texts alongside one another in parallel columns, Pérez Martín did not try to resolve their differences, but he did move some *fueros* around within the columns so that versions from different texts could be compared more readily.

¹⁰ For the former date, see Ángel Canellas López, ed., *Los Cartularios de San Salvador de Zaragoza*, 4 vols. (Zaragoza, 1989–90), 2:719. For the latter date, see Joaquim Miret i Sans, *Itinerari de Jaume I "El Conqueridor"* (Barcelona, 1918), 186–87. Many other documents from Jaime's lifetime have come to light since Miret i Sans published Jaime's *Itinerari*, but sources are still silent about activities connected with the assembly at Huesca in 1246/47.

element that had made its way into a handful of manuscripts including his exemplar. He printed the formulaic incipits that were devised to provide a very brief context for each monarch's contribution to the *Fueros de Aragón*. The oldest manuscript known to have contained a detailed incipit for King Jaime I is Madrid₄, from circa 1335, but the incipit to that prologue is now lost; the others are from the fourteenth and fifteenth centuries.¹¹ The incipits name the ruler who was responsible for promulgating each grouping of *fueros*, along with the place and date of the meeting of the *Cortes* that issued them. As such, the incipits are very helpful for demarcating sections within texts of the *Fueros de Aragón*, but I argue that they paved the way for a persistent misinterpretation of what likely happened when the *fueros* were codified in 1247 because they came to stand in for the longer explanation found in the prologues. The Huras incipit reads as follows: "Here begin the *fueros* edited by Lord Jaime, king of Aragon etc., in the Aragonese curia celebrated in the city of Huesca, which were made public 6 January 1247."¹² This incipit only offers 6 January as the day on which the *Fueros de Aragón* were made public, but it effectively — and incorrectly — collapses the story of the broader effort that must have led to the "bringing forth" of the *fueros*.

Although the incipits appear to have been intended only as editorial devices, they came to serve as abbreviated explanations of the genesis of each grouping of *fueros*. In King Jaime's case, the Huras incipit would be borrowed by generations of future writers without apparent reference to the prologue itself. That borrowing perpetuated a mistaken assumption about what happened at the assembly: namely, that all of the activity of considering and approving the *fueros*, crafting a complete written volume, and promulgating the text as Aragon's fundamental law, was condensed into a few weeks at most or even a single day. This scenario is simply not plausible, but it was nevertheless taken at face value. In the mid-sixteenth century, the Aragonese historian Jerónimo Zurita repeated and recast the Huras incipit in two highly influential works.¹³

¹¹ They are: Girona₁, Madrid₄, Madrid₆, and Zaragoza₁. Madrid₄, the oldest manuscript among this group, lacks the original incipit for Jaime's *Código*. Part of the folio on which it was written was damaged. Someone who clearly did not understand the text simply copied onto that folio another incipit from later in the manuscript. Zaragoza₁ also contains incipits that give the name of a monarch and the location of the *Cortes* where his or her group of *fueros* was approved, but the one for King Jaime, along with his prologue and the first part of Book 1, is missing. Madrid₆, at fol. 57r, has a different incipit that did not seem to circulate beyond the manuscript.

¹² "Incipiunt fori editi per dominum Jacobum Regem Aragonum etc in curiis Aragonensibus celebratis in civitate Osce qui fuerunt publicati viii idus ianuarii. Era millesima CCLXXXV et anno a nativitate domini millesimo CC quadragesimo septimo." Madrid₁, fol. 1r. The exact same incipit appears in Sevilla₁, fol. 50r and Sevilla₂, fol. 49r.

¹³ Jerónimo Zurita y Castro, *Los cinco libros primeros de los anales de la Corona de Aragon compuestos por Geronymo Çurita chronista del Reyno* (Zaragoza, 1562), 160; and idem, *Indices rerum ad Aragoniae regibus gestarum* (Zaragoza, 1578), 124.

Less than two decades later, Jerónimo Blancas y Tomás, Zurita's successor as official Crown historian, followed in his footsteps.¹⁴ Scholars from that time forward have continued to repeat or rephrase the incipit that Huras first printed and that Zurita and Blancas disseminated, most often when they were simply trying to summarize King Jaime's efforts to codify the *fueros*. Turning back to the complete prologues that reflect the broader manuscript tradition can offer a way forward for understanding the nuances of codification.

THE PROLOGUES

This essay analyzes a total of seventeen prologues of King Jaime's *Código* that are found in a heterogeneous collection of medieval manuscripts and two printed texts. Very few manuscripts have survived relative to the number that must have been in circulation throughout the medieval and early modern periods, given that working copies or handbooks would have been in use by judges and other officials all across Aragon from 1247 onward.¹⁵ The goal is to consider the range of evidence offered by all of the prologues that speak to the creation of the *Código*. The prologues to the Latin and Aragonese versions of Bishop Vidal's commentary on the *Fueros de Aragón* are included because the Latin original, known by its incipit *In excelsis Dei thesauris*, was created in tandem with the *Código*.¹⁶ The only manuscripts that were omitted from consideration for this essay are those known to be exact copies of others or that are of such poor quality as not to be useful.¹⁷

Antonio Pérez Martín's edition of the *Fueros de Aragón* uses the first printed version of 1476 as the reference text for Latin versions of the *Código* and compares it to medieval manuscripts and early printed texts in order to identify the most

¹⁴ Jerónimo Blancas y Tomás, *Aragonensium rerum comentarii* (Zaragoza, 1588), 166–67.

¹⁵ There are specific circumstances that resulted in the loss of so many medieval texts of Aragonese law. First, in 1592, King Philip II ordered the destruction of texts of Aragonese laws and privileges. Second, during the Napoleonic Wars, Zaragoza's archives were burned, and the city was reduced nearly to rubble. And third, during the Spanish Civil War, an untold number of archival sources were destroyed in Aragon, both accidentally and intentionally.

¹⁶ For reasons that are unclear, the Latin and Aragonese versions of Vidal's commentary each have two different prologues, one immediately following the other. Thus, we have four prologues from two texts. Neither manuscript has an incipit, and in neither manuscript does one prologue fill in lacunae from the other prologue in that same text. Thus, each of the four versions of the prologue is treated as a separate text below.

¹⁷ For example, Madrid₂ contains an exact copy of the Aragonese-language prologue found in Getty₁, and so only Getty₁ is cited for that version. Tortosa, Catedral de Tortosa, MS 248 (fourteenth century) is widely understood to have an excessive number of errors. Zaragoza₁ (part of which is from the fourteenth century) includes most of King Jaime's *Código*, but lacks his prologue and the first part of Book 1.

likely body of *fueros* as they existed prior to 1301.¹⁸ This essay, however, privileges a romance codex, Miravete₁, and utilizes it as the reference text for analyzing the prologues, primarily because it is the oldest-known complete manuscript of King Jaime's code. The prologue to Miravete₁ is also the most comprehensive in terms of describing the process by which the volume was conceived and created, and it includes important details that are not found elsewhere. The appendix contains a translation of that complete prologue.

Unlike most other medieval codices that include versions of the *Fueros de Aragón*, Miravete₁ is a self-contained manuscript of King Jaime's *Código*. No additional materials, such as legal commentaries or charters, are bound in the manuscript, and nothing has been appended to the text of the code as it likely first appeared, around 1247. The text comprises a prologue, a list of all the rubrics or titles, and a total of 363 *fueros* themselves. Not among the laws found in Miravete₁, though, are the *fueros* that King Jaime promulgated at Ejea in 1265 and that were included at the end of all later versions of the *Código*. This suggests a likely composition date for the text, if not the creation of the manuscript itself, between 1247 and early 1265. The script, which appears to be the work of a single hand, is consistent with other Aragonese sources from the same period.¹⁹ The *terminus ad quem* for the text is 1301, when King Jaime II approved new *fueros*. Jaime II collapsed Jaime I's original volume of nine books into eight (combining Books 2 and 3), and then made the ninth book his own. Miravete₁, however, retains Jaime I's original structure of nine books. By its date of composition alone, then, Miravete₁ is probably the oldest source to capture what actually transpired at King Jaime's plenary assembly in 1247 or, perhaps importantly, what was accepted as having transpired at that gathering.²⁰ As to the *fueros* that

¹⁸ Pérez Martín, ed., *Los Fueros de Aragón* (Latin version), at 17–55.

¹⁹ Antonio Gargallo Moya, "Una tradición desconocido de los 'Fueros de Aragón': El código foral del Archivo Municipal de Miravete de la Sierra (Teruel)," *Turia: Revista cultural* (1989): 177–95. Gargallo Moya discovered Miravete₁ among some long-forgotten materials belonging to a municipal archive in southern Aragon. For an overview of the prologue, images of some of the manuscript leaves, and an index to key words in the text, see Jesús Delgado Echeverría, ed., *Un prólogo romance de los Fueros de Aragón: El manuscrito de Miravete de la Sierra* (Zaragoza, 1991).

²⁰ In recent decades, there has been speculation that *Código* was issued first in Aragonese, in part because all the surviving Latin versions date to the early fourteenth century and later. However, it should be noted that King Jaime issued major territorial and municipal legislation of all kinds for more than six decades, and nearly all of it was promulgated in Latin. Until 1404 new Aragonese *fueros* were always issued first in Latin by the king and *Cortes*. The discovery in 2012 of a single parchment leaf that contains ten Aragonese-language *fueros*, ostensibly dated precisely to the year 1250, has been interpreted as irrefutable evidence that the *Código* must have been promulgated in Aragonese. See Miguel Carabias Orgaz, "¿Por qué unos fueros escritos en lengua romance? La redacción primigenia de los *Fueros de Aragón*," *Archivo de filología aragonesa* 70 (2014): 15–34.

make up the body of the text, Miravete₁ is the only manuscript of the *Código* to capture the novelty of King Jaime I's legislative creation, which, again, argues for a completion date relatively soon after the Huesca assembly. The text designates some *fueros* as new and others as old, a distinction that does not appear in manuscripts from the fourteenth century and later. Close to the time of King Jaime's assembly, though, we should assume that those distinctions mattered very much. Their presence in Miravete₁ is important.

The prologue to Miravete₁, and all the other texts of the *Código*, follow a diplomatic formula — albeit an abbreviated one — that indicates that the prefatory material had an important rhetorical function and was not a simple recitation of events.²¹ The use of a formula, however, does not mean that the historical details should be discounted.²² Similar formats and diplomatic formulae that are found in the prologues to the *Código* are also found in many other documents from Jaime's reign, including his numerous Peace and Truce constitutions. A consistent format for territorial legislation allowed the king to describe the outcomes of major assemblies in a uniform way, almost always with an emphasis on deliberation and consent.²³

Not all of the key diplomatic elements are found in each prologue, but the general schema is as follows. Some of the prologues bear an incipit that precedes the true opening words of the text, followed by an *arenga* that explains King Jaime's impetus for codifying the *fueros*. The *narratio* describes the work of codification, including the composition of the assembly that took part, consideration of

²¹ None of the extant prologues contains a protocol or eschatocol. The repetition of some details and the absence of the expected prefatory and concluding diplomatic elements suggest to Antonio Pérez Martín that the original prologue was much longer. I am not convinced because those same elements are missing from similar documents that King Jaime issued. See Antonio Pérez Martín, "El estudio de la recepción del Derecho Común in España," in *I Seminario de historia del derecho y derecho privado*, ed. Pablo Salvador Coderch and Joaquín Cerdá y Ruiz-Funes (Bellaterra, 1985), 241–326; and idem, "La primera codificación oficial de los fueros aragonesas: Las dos compilaciones de Vidal de Canellas," *Glossae: Revista de historia del derecho europeo* 2 (1989–90): 9–80, at 11–12.

²² Arthur Giry, *Manuel de diplomatique: Diplômes et chartes, chronologie technique, éléments critiques, et parties constitutives de la teneur des chartes, les chancelleries, les actes privés*, new ed. (Paris, 1925), 543. See also Leonard E. Boyle, "Diplomatics," in *Medieval Studies: An Introduction*, ed. James M. Powell, 2nd ed. (Syracuse, 1992), 82–113.

²³ Thomas N. Bisson, "Celebration and Persuasion: Reflections on the Cultural Evolution of Medieval Consultation," *Legislative Studies Quarterly* 7 (1982): 181–204. For the Peace constitutions issued by King Jaime for Catalonia from 1214 to 1257, see Gener Gonzalo i Bou, ed., *Les constitucions de Pau i Treva de Catalunya (segles XI–XIII)*, Textos jurídics catalans: Lleis i costums 2/3 (Barcelona, 1994), 132–204. Two Peace and Truce constitutions for Aragon, one from 1227 and another from 1235, were copied into the *Código* at the beginning of Book 8 (Book 7 in manuscripts after 1301). Jaime's only known Peace constitution for Valencia, promulgated on 26 February 1274, is found in *Aureum opus regalium privilegiorum civitatis et regni Valencie* (Valencia, 1515).

the *fueros* (e.g., reading them aloud, eliminating duplicates, or correcting errors), and the creation of a single volume or book of *fueros*. The *dispositio* acts as the promulgation decree, whereby King Jaime declares the new book of *fueros* to be the law for the entire kingdom of Aragon. A *clausula* offers a qualifier as to how cases were to be decided in the event that the *Código* should be found to lack a solution for a particular case. Finally, some versions contain a *sanctio* in which the king warns of punishment for anyone who fails to use the new book of laws. This essay considers all of the diplomatic elements in each iteration of the prologue to the *Código* but focuses on the details most closely related to the king's agency, the involvement of the members of the assembly, and the time to completion of the code itself.

*Miravete*₁

As noted above, *Miravete*₁ is an Aragonese-language manuscript that was probably completed within two decades of the assembly at Huesca in 1247. Its prologue favors the king's agency throughout the entire process of codifying and promulgating the *fueros*. It also emphasizes that there was ample opportunity for consultation and approval by representatives from the kingdom at different stages of the codification but does not collapse all the action into an impossibly short time. The text opens with a brief incipit: "Here begins the prologue of the *Fueros de Aragón*."²⁴ The *arenga* immediately follows with three complaints that lament the poor state of justice in Aragon. First, there is "neither a certain nor authentic text of the *Fueros de Aragón* [to] be found in the entire kingdom."²⁵ Second, many people are deceived by *foristas* who pretend to know the law but really do not. And third, "many poor people lose their rights" at the hands of *foristas* who are swayed by love, money, or pleading.²⁶ With the conclusion of the *arenga*, the king assumes the role of narrator for the remainder of the prologue. Significantly, Jaime's retelling of events looks back from a time at least two months after the meeting at Huesca.²⁷

The *narratio* offers Jaime's description of his plenary court held in Huesca in January of 1247. Therein the king details the composition of the assembly, offering the names of many prelates, officials, and magnates of Aragon. Other

²⁴ "Aquí comienza el prólogo de los fueros Daragon." *Miravete*₁, fol. 1r.

²⁵ "Por ço qual de los fueros d'Aragon ninguna escriptura cierta ni auténtica non puede seer trobada en todo el regno." *Ibid.*

²⁶ "Porque muytos omnes se fazían foristas e deçían que avian libro de fueros e teníanlo escondido por dreyta invidia e muytas de vezes dezían que era fuero ço que non era fuero por ont muytos de mesquinos en perdían lur dreyto e los foristas se desviavan muyto del dreyto por amor o por precio o por pregarías de muytos." *Ibid.*

²⁷ *Miravete*₁, *fuego* 223, at fol. 66r–v, contains a charter issued in another "plenary court" ("corth plenera") by King Jaime on 13 July 1247, thus the manuscript must be from after that date.

participants are identified by their group affiliation, such as “many other knights and infanzones of Aragon” or “citizens of Tarazona,” or simply by a title, such as the *justicia* of Zaragoza or Calatayud. Twelve towns or cities are named as having sent representatives, as did many other villas and castles in Aragon. By far, Miravete₁ provides the most extensive participant list of any manuscript.

Although there are no sources that corroborate any of the pre-assembly activities that took place ahead of the meeting at Huesca, the *narratio* in Miravete₁ speaks to a special directive that the royal chancery may have sent out ahead of the meeting. Jaime says that he had had all the old books of *fueros* brought to Huesca, “as many as We could possess and find in the entire kingdom.” All of those books were read and discussed, and then, with the “counsel and will” of the entire assembly, all of the *fueros* contained in those books were considered.²⁸ The good *fueros* were retained, those that seemed neither good nor reasonable were eliminated, and many new ones were made. All the good *fueros*, old and new, were subsequently handed over to the king’s chancellor, who was ordered to make a book from that collection of *fueros*. But the king did not expect Vidal to work alone. Instead, he was to collaborate with some of Aragon’s respected *foristas*. When Vidal’s task was finished, the entire book was presented in public once again so that it could be “inspected and amended in front of everyone in Ejea, in a plenary court.” At that assembly, the king reports, the book was found “to be good and authentic.”²⁹ The *narratio* then shifts from a retelling of past events to present concerns about the administration of justice. In the *dispositio*, Jaime mandates that the new book of *fueros* alone must be used for the administration of justice by all royal officials. In two separate *clausulae*, Jaime permits limited deviations from the normal course of justice as offered by a local justice using the new book of *fueros*. In the first *clausula*, Jaime declares that “if by chance” the new book of *fueros* should lack a particular solution to a case, the case may be judged “with the counsel and natural reason of good men.”³⁰ In the second *clausula*, the king describes the process by which a plaintiff can appeal a judgment. Miravete₁ is the only manuscript in which a procedure for a series of appeals is described. Finally, unlike most of the other manuscripts of the *Código*, Miravete₁ has no concluding *sanctio*.

Overall, Miravete₁ offers a plausible explanation for the timing and scope of the activities connected to the crafting of King Jaime’s code, with one caveat: there is

²⁸ “En el qual logar fiziemos venir e aportar delant nos e delant toda la corth todos los libros biellos de los fueros quantos qu’en pudiemos aver e trobar en todo el regno... . Aquí fueron todos leydos e esputados con consello e con voluntat de todos.” Ibid., fol. 1v. “Voluntat” is rendered here as “will.”

²⁹ “Fiziemoslo provar e emendar todo de cabo delant nos en Exeya en cort plenera e trobamos de consello e de voluntat de todos que el libro era bueno e verdadero.” Ibid., fol. 2r.

³⁰ “E si por aventura ... con consello e con seso natural de buenos omnes.” Ibid.

no way to know how many “old books of *fueros*” were in circulation, and thus it is unclear how long it would have taken to read aloud or even take stock of all of those old books, compilations, and charters.³¹ We can speculate, however, that if someone were to solicit feedback after such an extended meeting, participants certainly would rate the activity as falling on the spectrum between miserable and mind-numbing. Surely most of the participants would have fled before the public reading of the kingdom’s entire body of *fueros* was complete. But the bigger problem is this. Given that Jaime was only in Huesca for a few weeks at most, the meeting necessarily would have been brief. There simply would not have been enough time to consider all of the written *fueros* and collections that had accumulated over at least two centuries. As a matter of practicality, Bishop Vidal and other jurists or *foristas* probably culled the *fueros* ahead of time. This is important, for it serves as a reminder that much of the work of codification must have happened outside of the bounds of the assembly.

The rhetorical point of this part of the prologue seems to be twofold. First, by suggesting that every old book of *fueros* was consulted, Miravete₁ underscores the notion that the king’s new compilation was rooted in old, well-established, written legal norms. Jaime’s code was the continuation of a sanctioned legal tradition, not entirely an innovation.³² And second, the narrative emphasizes harmonious consultation and approval. It stresses the involvement of a very large and representative group of subjects, who debated both old and new *fueros*. For example, the citizens of Zaragoza are described as being present “for the entire city.”³³ All of the assembly’s participants were there for the very purpose of taking part in a legislative initiative. According to the text, with the consent of those participants, the approved *fueros* were all given over to Bishop Vidal at the end of the meeting to allow him to produce a book. Vidal was then set to work carrying out the king’s orders to produce the code.

The complete timeline for crafting the new book of *fueros* is not contained in the prologue, but other documents can serve to refine it if we are willing to accept the prologue’s mention of January of 1247 as the general period during

³¹ Few legal texts or collections survive from before the mid-thirteenth century, but evidence points to vigorous juridical traditions, with Jaca serving as a renowned legal center from the late twelfth century onwards. For a selection of studies on Aragonese law prior to 1247, see Adolfo Bonilla y San Martín, *El derecho aragonés en el siglo XII: Apuntes y documentos* (Huesca, 1920); José María Ramos y Loscertales, “Textos para el estudio del derecho aragonés en la Edad Media,” *Anuario de historia del derecho español* 1 (1924): 397–416; Jesús Lalinde Abadía, *Los Fueros de Aragón* (Zaragoza, 1976), 17–41; Mauricio Molho, *El Fuero de Jaca: Edición crítica* (Zaragoza, 1964); and Ana María Barrero García and María Luz Alonso Martín, eds., *Textos de derecho local español en la Edad Media* (Madrid, 1989).

³² On the political significance of legal continuity, see Adam J. Kostó, *Making Agreements in Medieval Catalonia: Power, Order, and the Written Word, 1000–1200* (Cambridge, 2001), 279.

³³ “Muytos cipdadanos de Çaragoça por toda la ciptat.” Miravete₁, fol. 1v.

which the assembly met. At end of the prologue, Jaime refers to a subsequent “plenary court” (“cort plenera”) at Ejea, but the only known plenary assembly that Jaime held at Ejea was in 1265, almost two decades after the meeting at Huesca in 1247.³⁴ Other sources, however, attest to Jaime’s presence in Ejea in March of 1247.³⁵ Some of the same men from the king’s retinue who were listed as participants in the assembly at Huesca in January also witnessed charters that the king issued in Ejea in mid-March. In one of those documents, Bishop Vidal acted as a judge. It is very likely that a meeting of some kind was held to reconsider the *fueros*, even if we have no formal record of a plenary assembly in a document outside of Miravete₁. Two months’ time was probably sufficient for Vidal to direct production of a preliminary text from the *fueros* that had been winnowed down at Huesca in January of 1247, especially if preparatory work had begun in 1246 or even earlier. Most importantly, the prologue declares that the book that Vidal produced was “inspected and amended in front of everyone” and was found “to be good and authentic.”³⁶ Such a final approval thus allowed the king to promulgate the *Código*: “On account of which, We firmly mandate to all justices of the realm [and all other officials] that all shall judge from here forward by this book and not by any other.”³⁷ This timeline, though, demands a promulgation date of March of 1247 instead of the long-accepted date of January of 1247.

*Madrid*₃

*Madrid*₃ is an Aragonese-language parchment manuscript that dates from the first third of the fourteenth century.³⁸ The text is unusual in that it combines

³⁴ The discovery of Miravete₁ in 1988 and its mention of a plenary court at Ejea has led some scholars to conflate events connected to the promulgation of King Jaime’s *Código* in 1247 and a revolt by the Aragonese nobles in 1264/65. The latter event forced the king to issue a complement of new *fueros* at Ejea in 1265. Such interpretations, including the following two studies, ignore the king’s activities in Ejea in March of 1247: Jesús Morales Arrizabalaga, *Fueros y libertades del Reino de Aragón: De su formación medieval a la crisis preconstitucional, 1076–1800* (Zaragoza, 2007), 39–42; and Jesús Delgado Echeverría, “El ‘Vidal Mayor’: Don Vidal de Canellas y los Fueros de Aragón,” *Revista de derecho civil aragonés* 15 (2009): 11–21. Relatively few documents survive for King Jaime’s reign from the years between 1213 and 1256. Beginning in 1257, documents leaving the royal chancery were copied into registers with greater regularity, and thousands of those enregistered documents have survived. The lack of additional evidence of an assembly in Ejea in 1247 is not the same as evidence of absence.

³⁵ Miret i Sans, *Itinerari de Jaume I* (n. 4 above), 186–87.

³⁶ See n. 29 above.

³⁷ “Por la qual cosa nos mandamos firmemiente a todas las iusticias del regno e a çalmedinas e a merinos e balles que todos iutguen des aquí adelant por est libro e non por otro.” Miravete₁, fol. 2r.

³⁸ For an edited version of the manuscript, along with an introduction and glossary, see Tilander, ed., *Los Fueros de Aragón* (n. 8 above). The manuscript was probably completed between 1301 and 1342. Its place of origin is unknown, but by 1431 the manuscript was in

elements from both the *Código* and Vidal's commentary, indicating that its author had Aragonese versions of both texts at hand when Madrid₃ was crafted. As with Miravete₁, this version of the prologue stresses the king's central role in initiating the process of codification, but it differs in giving Bishop Vidal much greater prominence in the process of crafting the text and articulating expectations for its use. The effect of this change of emphasis is to curtail the assembly's involvement as a check on royal authority.

Its brief incipit ("This is the prologue of the book of the *Fueros de Aragón*") gives way to a narrative that is told from two perspectives.³⁹ The first is that of an unknown third-person narrator speaking about events in the past; the second is that of Bishop Vidal, who speaks in the present. Like Miravete₁, Madrid₃ opens with an *arenga* that calls out the poor state of jurisprudence in Aragon. It lays the blame on two groups: *foristas*, for hiding law books and offering judgments "outside of the book," and judges, for offering justice according to "love or price."⁴⁰ To rectify this, the narrator says that King Jaime "made and established this book [of *fueros*], by which book, from today forward, all justices shall judge, as the *fuero* mandates."⁴¹ This statement, which comes early in the prologue, can be seen as a weak *dispositio*, but the precise timing of the promulgation is not clear. The *narratio* briefly refers to the book's creation, saying only that it was "made and organized" in the city of Huesca where the king celebrated his entire court in January of 1247.⁴² Neither the start nor the end date for the meeting is provided, and details about the crafting of a volume of *fueros* are left unspoken. Not one of the participants is singled out by name as in Miravete₁ and other manuscripts; there is only the blanket statement that all of the following groups took part: bishops, magnates, knights, members of religious orders, citizens of towns, residents of villages, and many other barons. There is also no mention whatsoever of the process by which the *fueros* were considered or debated by the assembly, only that, with the "counsel and will of all [assembled]," the king ordered and asked Vidal to make a just compilation of the *fueros*.⁴³

Tarazona, where a notary copied the prologue and a portion of the body of the text into a notarial record book.

³⁹ "Est es el prologo del libro dels Fueros de Aragon." Madrid₃, fol. 1r.

⁴⁰ "Menos de libro ... los iudicios" and "por amor or precio." Ibid.

⁴¹ "Fizo et establió aquest libro por el qual libro des de ueey de más todas las iusticias judguen." Ibid.

⁴² "El qual libro fo feito et ordenado en la çitutat de Uuescha o el Rey fizo plegar toda sa cort ... en el anno de la era de MCCLXXXV en el mes de janero." Ibid. Note: The Spanish era is thirty-eight years ahead of *anno domini*.

⁴³ "E mandó e rogó con consello e con voluntat de todos al vispe de Vuesca que fiziesses dreyturero aplegamiento de los fueros." Ibid. The word *aplegamiento* signifies something that is folded together.

The next passage of the *narratio* contains Vidal's explanation of his own labors. He says that he organized the book "according to God and with a good conscience" and declares that he is not responsible for any punishments involving bodily harm.⁴⁴ Vidal indicates that his volume of the *fueros* is organized into books and titles so as to improve jurisprudence in two ways. As to the first, Vidal suggests that regularized legal procedures would aid the poor, "who tend to lose their rights when judgment is delayed."⁴⁵ As to the second, Vidal anticipates that a well-ordered text would lead to more consistent judgments. Using a uniform book of laws, a literate justice could find and understand the correct *fuego* that pertains to any claim. The text reads as Vidal's expectation that judges and others will use his new, carefully organized book, but his language does not carry the weight of a formal *dispositio* or promulgation decree. Although Madrid₃ mentions that the book of *fueros* was "made and organized" in January of 1247, it does not reveal anything about the process by which the king and the assembly considered the *fueros* that would be included in that book. In this prologue, the assembly is described as having offered its counsel on a single matter: Vidal's task of making a legal compilation. The assembly appears to have approved the plan to create a book of *fueros* for the kingdom and nothing more. As a result, any evidence of pactism nearly disappears from view.

The details offered by the prologue in Madrid₃ do little to clarify the timeline for the crafting of a single volume of the *fueros*. Madrid₃ seems to limit the making of the volume to the meeting in January 1247, which was surely not enough time for such an involved undertaking. Moreover, it suggests that Vidal would have carried out his work under the supervision of the members of the assembly if he worked while they deliberated. Even so, this text is not very desirable politically, for it makes Vidal the protagonist of the *Código*. The members of the assembly, and even the king, are only background actors. In the end, Madrid₃ does not offer a date for the promulgation of the code.

*Barcelona*₁, *Escorial*₂, *Getty*₁, *Girona*₁, *Madrid*_{1,4,5,6}, *Paris*₁, *Sevilla*₁

A version of the prologue that is common to many romance and Latin manuscripts of the *Código*, as well as to all of the printed editions through the early nineteenth century, is most supportive of the idea of pactism. It limits all of Jaime's actions in codifying the *fueros* to the span of the meeting where he was under

⁴⁴ "Ordenamos los fueros segunt Dios con Buena consciencia." Ibid. The declaration about bodily punishments reflects the legal innovations of Lateran IV some three decades prior. The *Código* does contain a handful of corporal and capital punishments but sharply limits their use to great crimes such as treason. Further, only the king or his court could hand down such judgments.

⁴⁵ "Por esto qual muitas vezes los mesquinos omnes pierden lur dreito por alongamiento de iudicio." Ibid.

the watchful eye of the assembly and firmly links the act of considering, correcting, and supplementing the *fueros* with the “counsel and consent” provided by members of the assembly. Presumably, the members of the assembly would have had every opportunity to limit any pretensions on the part of a king who labored for decades, though not always successfully, to assert greater control over legislation and the administration of justice.⁴⁶ This rendition appears with few substantive variations, thus the manuscripts that contain it are treated here together.⁴⁷ It is often referred to by its incipit: *Nos Iacobus* in Latin or *Nos Don Jaime* in romance. Hereafter *Nos Iacobus* is used as shorthand to refer to the prologues in this family of Latin and romance texts. The oldest text is Aragonese, found in Getty₁, which dates from the late thirteenth century. The second oldest is Provençal, found in Paris₁, which is from the first third of the fourteenth century.⁴⁸ All of the Latin manuscripts containing *Nos Iacobus* date from the early fourteenth through the late fifteenth centuries; see below for specific details.⁴⁹

⁴⁶ One example of this is that a process of consolidating royal authority over local affairs had begun decades earlier when Jaime either created or expanded a class of low-level officials who reported directly to the king: the *pazeros* in Catalonia and the *adelantados* in Aragon. Another is that Jaime successfully came to exercise greater control over the membership and activities of municipal councils throughout his realms.

⁴⁷ Quotations in this section are intended to be representative of several texts, but each quotation is taken directly from the manuscript cited in the notes below. The only manuscript that I have been unable to consult is Barcelona₁. However, its contents are reflected in meticulous detail in the edited version of *Nos Iacobus* as found in Pérez Martín, ed., *Los Fueros de Aragón* [Latin version] (n. 9 above), 61–64.

⁴⁸ Getty₁ is thought to have been produced circa 1275–1300, based on the style of the script and the illuminations, although the Latin original is older. The language is predominantly Aragonese but strongly influenced by Navarrese. Paris₁ probably dates to 1328 or earlier. Its language is considered to be predominantly Provençal, with heavy borrowing from the spoken Aragonese that was in use in valleys on both sides of the Pyrenees. For a more complete analysis of the manuscript, see Mauricio Molho, *El Fuero de Jaca* (n. 31 above), xvii–xviii.

⁴⁹ The dates for the Latin manuscripts in this group are as follows. Additional details may be found in the introduction to Tilander, ed., *The Fueros de Aragón* (n. 8 above), vii–xx, or Pérez Martín, ed., *Los Fueros de Aragón* [Latin version], 17–55. For the most part, a *terminus post quem* for an entire manuscript can be determined by the inclusion of *fueros* that are known to have been approved by a particular monarch or in a known meeting of the Aragonese *Cortes*. However, some of these *fueros* are clearly additions by secondary hands and may be much newer than the oldest portions of any given manuscript. Barcelona₁ dates to the fourteenth century and includes *fueros* through 1366. Escorial₂ is also from the fourteenth century but is certainly older, for it contains *fueros* only up through 1311. As noted above, Girona₁ dates to 1467–76. Madrid₁ is the printed text of 1476. Madrid₄ dates to circa 1335 based on its glosses of certain *fueros* and *observancias*. Madrid₅ is a paper manuscript that quite likely dates to the early fifteenth century; it includes *fueros* approved in 1390. The text of Madrid₆ dates to the middle of the fifteenth century based on the extensive glosses found therein that are the work of Martín Díez de Aux, who died in 1440. The parchment portion of Sevilla₁ that contains King Jaime’s *Código* dates to the first quarter of the

Nos Iacobus appears to be a highly abbreviated version of the prologue in Miravete₁, although with a different *arenga*. One possibility is that Miravete₁ and all of the manuscripts that include *Nos Iacobus* were made from an older, and now lost, Latin text, with Miravete₁ being a translation into Aragonese. Among these extant manuscripts, Miravete₁ is the only one to retain a more complete explanation of the assembly's activities. A second, but much less likely, possibility is that the abbreviated Latin version and Aragonese versions were made from Miravete₁ or its parent, suggesting that *Nos Iacobus* was first composed in romance, not Latin.⁵⁰ Regardless of its origins, we do know this: the *Nos Iacobus* prologue, in Latin, came to be regarded as the official explanation of the codification of Aragon's *fueros*, in part because it was long considered (incorrectly) to be the only version of the prologue to have been glossed by Aragonese jurists and scholars from the fourteenth through the seventeenth centuries.⁵¹ And, because *Nos Iacobus* is the version of the prologue that was contained in the manuscript that Huras used for the first printed edition and that acquired official status indirectly, it eventually discredited all other versions.⁵²

The *arenga* of *Nos Iacobus* provides the king's explanation of the occasion for his codification. Having completed his conquests as far as the sea and united those lands to his domains "by the mercy of God," and having provided for his people in times of war, Jaime wishes to provide for them in times of peace through the *Fueros de Aragón*.⁵³ It is worth noting that this sentiment, even if utterly true for King Jaime, appears to have been lifted from the prologue to Justinian's *Institutes*. The *arenga* concludes with a bold political claim: it is "the *Fueros de Aragón* by which that kingdom is the head of our highness ["*alteza*"]."⁵⁴ Jaime stresses this connection between Aragonese law and his

fourteenth century as suggested, in part, by the textual gothic script; the paper portion of the manuscript is later.

⁵⁰ Some scholars have come to insist on this, but the evidence of legislation that emerged from King Jaime's chancery, taken *in toto*, makes this very unlikely. For an overview of more than six decades of legislation produced by Jaime, see Vicent García Edo, *La obra legislativa de Jaime I de Aragón, 1208–1276* (Valencia, 2009).

⁵¹ In fact, in the 1440s, Antich de Bages, a prominent jurist and secretary to several Aragonese monarchs, glossed the prologue to *In excelsis*, as found in Zaragoza₂, fols. 310v–311r. A collection of glosses on the Latin prologues that begins with "*Nos Iacobus*" may be found in Pérez Martín, "La primera codificación oficial de los *fueros* aragonesas" (n. 21 above), 60–80.

⁵² For scholarship that argues that *Nos Iacobus* is the official version of the prologue and should be considered as the promulgation decree, see Jesús Delgado Echeverría, "El 'Vidal Mayor'" (n. 34 above), 42; and Gonzalvo Martínez Díez, "En torno a los *Fueros de Aragón* de las Cortes de Huesca de 1247," *Anuario de historia del derecho español* 50 (1980): 69–92, at 74–75.

⁵³ "Miseracione divina." Madrid₅, fol. 1r.

⁵⁴ "Sollicitudinem nostram ad foros Aragonum per quos ipsum regnum regatur primo porreximus eo quod regnum caput sit nostre celsitudinis principale." *Ibid.* The Aragonese

own status by saying that he launched his endeavor concerning the *fueros* before an assembly so that he himself could act more wisely. To that end, the *narratio* explains, the *Fueros de Aragón* were “acquired and brought and explained and profitably freed from fault” in a plenary assembly at Huesca.⁵⁵ After describing the composition of the assembly, Jaime says that he ordered the many texts of the *Fueros de Aragón* from his predecessors to be read aloud, in his presence.⁵⁶

After describing the public reading of the *fueros*, Jaime repeats and slightly expands the means by which the *fueros* were considered and organized into a “volume and titles,” namely, that the superfluous were eliminated, those not useful were eliminated, and those that were unclear were improved by explanation.⁵⁷ All of this was done with the “counsel and agreement” of the members of the assembly.⁵⁸ Regarding other *fueros*, the king says, “We moved, corrected, supplemented, and elucidated those that were obscure.”⁵⁹ The *narratio* concludes with the king’s second explanation of the reason for his grand legal renovation, one that is also found in other texts of the prologue: the grave miscarriage of justice by those who were charged with carrying it out. The *dispositio* declares that all officials throughout the kingdom must use only these *fueros* for pleas and the deciding thereof. The *sanctio* specifies that those who do otherwise dishonor the king’s “royal majesty” and will be made to suffer the appropriate penalty.⁶⁰

Even though *Nos Iacobus* has come to be accepted as the official narrative of the genesis of the codified *Fueros de Aragón*, it has no internal reference whatsoever to the date of King Jaime’s plenary assembly at Huesca and no indication of the promulgation date. Moreover, it suggests that all of the activity of crafting a new book of laws unfolded during the short window of the meeting itself, including the discussion of all preexisting *fueros* and the organization of a new book. Thus,

text in Getty₁, fol. 1r, reads: “Los fueros d’Aragon por los quoaes el ditto regno sea gouernado primeramente damos por esto quar el sobredito regno es cabo de la nuestra alteza.”

⁵⁵ “Els Fueros d’Aragon anadem e trahen e exponent e profitosament emendantz.” Paris₁, fol. 8r. The Latin text is slightly different, as in Escorial₂, fol. 1r: “et fori Aragonum detrahendo addendo supplendo exponendo necessario vel utiliter corrigantur.”

⁵⁶ “Per moltz escrivitz de nostres antecessors los trobams en nonstra presencia fazemos legir.” Paris₁, fol. 8r. The Latin texts, such as Madrid₁, fol. 1r, all read: “foros Aragonum prout ex variis predecessorum nostrorum scriptis collegimus: et in nostro fecimus auditorio recitari.”

⁵⁷ “Sotz volume e certans títols dels anticx fueros.” Paris₁, fol. 8r; “sub volumine et certis titulis antiquorum fororum.” Madrid₁, fol. 1r.

⁵⁸ “Omnium dictarum personarum consilio et convenientia penitus annuente.” Ibid.

⁵⁹ All of the Latin texts are consistent and read: “ammovimus correximus supplevimus ac eorum obscuritatem elucidavimus.” Paris₁ leaves out the king’s mention of adding or supplementing the *fueros* in this section of the *narratio*. Like the Latin versions, though, the idea of newly created *fueros* appears elsewhere in the prologue.

⁶⁰ “Nostra maiestat.” Paris₁, fol. 8r; “lese magestatis nostre.” Madrid₅, fol. 1r.

Nos Iacobus, the putative official prologue, offers an explanation of events that is both unrealistic in general and unhelpful in particular for clarifying the timeline for the creation of the *Código*.

Escorial₁, Getty₁, London₁, Madrid₂

A group of four texts, three of which are Latin and one of which is Aragonese, share yet another version of the prologue. Among the Latin texts, Madrid₂ is the longest and oldest, dating to circa 1247–52, and the order of its contents is somewhat different from the others.⁶¹ London₁ dates to the first quarter of the fourteenth century. Escorial₁ is much later than the others, dating to the mid-fifteenth century. Getty₁ was composed in Aragonese and dates to the second half of the thirteenth century. Only one of these manuscripts, London₁, has an incipit of any kind that precedes the prologue: “Here begin the *Fueros de Aragón*. Rubric.”⁶²

The prologue opens with an *arenga* that concerns the lack of an “authentic or certain” text of the *fueros*, either *Cum de foris* in Latin or *Como de los fueros* in romance.⁶³ Hereafter *Cum de foris* is used as a shorthand to refer to the version found in any of the Latin or romance manuscripts in this group. The *arenga* also details the problem of *foristas* who hid “notebooks and decrees” and declined to dispense justice.⁶⁴ For that reason, King Jaime celebrated a general curia comprising the Aragonese bishops, magnates, knights, citizens, and burgesses.⁶⁵ The

⁶¹ Madrid₂ comprises an assortment of handwritten and printed papers, including copied texts and original commentaries that belonged to Juan Luis López, Marqués del Risco (ca. 1644–1703). Those papers are now bound into a single codex. López was a prominent official in Aragon and in the Americas who also achieved renown as a historian of Aragonese law and administration. He was especially interested in medieval law in Aragon and the origins of the Justicia and published two books on those subjects. Madrid₂ includes a copy of the prologues of Bishop Vidal’s commentary *In excelsis* in both Latin and Aragonese. The former is a corrected printer’s proof, all that survives of the Latin original, and the latter is hand-copied and an exact copy of the text found in Getty₁. Although this printed text is likely from the early seventeenth century, scholars have been content to treat it as a faithful representation of the thirteenth-century original, which would have been composed no later than 1252, the year of Bishop Vidal’s death. This essay follows that convention.

⁶² “Incipiunt fori aragonie. Rubrica.” London₁, fol. 2r. Getty₁ and Madrid₂ both have a double prologue. The other part of the prologue from Getty₁ is described above in the section on *Nos Iacobus*, and the other part of the prologue from Madrid₂ is described below.

⁶³ The *arengae* of London₁ and Escorial₁ begin with “Cum de foris nulla scriptura certa vel authentica haberetur.” Madrid₂ begins with “Cum de foris Aragonum nulla scriptura certa vel Authentica haberetur.” Getty₁, fol. 1v–2r, reads: “Como de los Fueros de Aragón ninguna escritura cierta ni auténtica fuesse trobada.”

⁶⁴ “Foristas ... escondiendo ambidiosament algunos libros de los fueros.” Getty₁, fol. 2r; “[cua]ternos et cedula in quibus de ipsis foris aliqui habebantur occultando.” London₁, fol. 2r.

⁶⁵ Madrid₂, fol. 54v, and Escorial₁, fol. 6v, both use the term “generalem curiam”; Getty₁, fol. 1r, reads “cort plenerament.”

significance of the date provided by the *Cum de foris* texts differs slightly, which merits some emphasis. The *narratio* of the Latin texts (London₁, Madrid₅, and Escorial₁) all describe the month of January as the time when the curia met and when they created the book.⁶⁶ The *narratio* of Getty₁, however, names 6 January 1247 as the day on which, with the counsel and assent of the assembly, the king ordered Bishop Vidal to make a book.⁶⁷ Thus Getty₁, the thirteenth-century Aragonese translation of Bishop Vidal's commentary *In excelsis*, is the only version of any extant prologue to offer a single date for any aspect of the assembly, and that date only marks the beginning of Vidal's labors.⁶⁸

In that book, the *narratio* continues, the old *fueros* were corrected, amended, and clarified, and the superfluous ones were eliminated. Some *fueros* were added and others were replaced. The "completed work [was] thereby established so that by this book all may judge."⁶⁹ The first part of the prologue thus confines all of the action of considering the *fueros* and creating the book to the meeting itself. From that point forward, however, the *narratio* continues from Vidal's perspective, describing how he created the volume of *fueros*. Vidal says that he received his mandate and the approved *fueros* from the king. As in other versions of the prologue, Vidal was charged with giving the *fueros* a coherent organization and with producing an actual book ("hunc librum"). Unlike all other versions of the prologue, though, *Cum de foris* offers two novel details about Vidal's work methods. First, in the oldest Latin text, Vidal explains that he applied "rhetorical flourish" to *fueros* he had been given by the king.⁷⁰ And, second, in all of the Latin texts considered here, Vidal is explicit in naming his model for the structure of the text: Justinian's *Codex* and *Digest* or *Pandects*.⁷¹ Vidal not only organized the

⁶⁶ "Mense ianuario apud Oscam ... generalem curiam congregavit ubi hunc librum de consilio et assensu praedictorum omnium compilavit." Escorial₁, fol. 6v.

⁶⁷ "[In 1247] VIII idus del mes de genero con consejo et con voluntad de todos manda et priega al seynnor obispo de Huesqua que fiziesse dreiturera compilation de los fueros." Getty₁, fol. 2r.

⁶⁸ A handful of scholars and jurists over the years have rejected any consideration of Vidal's role in codifying the *fueros*, despite considerable evidence to the contrary. Gonzalvo Martínez Díez, for example, sees a "unanimous silence among the prologues" regarding Vidal's influence. See his "En torno a los Fueros de Aragón" (n. 52 above), 77. Jesús Morales Arrizabalaga attributes to Vidal a nefarious role in trying to undermine Aragon's pactist legal culture as it existed in the mid-thirteenth century by putting forward a blatantly Romanist, pro-royal legal collection. See his *Fueros y libertades del Reino de Aragón* (n. 34 above), 41–48; and idem, "La edición y constitución de normas en la historia del Derecho de Aragón," *Anuario de historia del derecho español* 80 (2010): 11–56, at 20.

⁶⁹ "Ut per hunc librum iudicent omnes infra fines Aragonum constituti." Getty₁, fol. 2v; "por el quoaal libro des huey más todas las iusticias iudgan." Madrid₂, 54v.

⁷⁰ "Iudicando foros iuxta parvitatem nostrae scientiae floribus rethoricis debili conamine inhaerentes." Madrid₂, fols. 54v–55r.

⁷¹ "Et titulorum ordinationem Codicis et Pandectarum quantum potuimus" (repeated, but revised, in the same text). Madrid₂, fol. 54v; Madrid₂, fol. 54v, London₁, fol. 2v, and

fueros into nine books in imitation of the *Codex*, but also he utilized the rubrics themselves from Justinian's legal texts, borrowing some verbatim and modifying others.⁷² Vidal notes that, at times, there was "dissonance between law and *fuero*."⁷³ As in other texts, Vidal offers the caveat that he is not responsible for any penalties involving bodily punishment, but his caution offers yet another hint about the way in which the final text of the *Fueros de Aragón* was crafted. Vidal declares that he neither dictated nor permitted any such penalties. If they appeared, they were inserted by the king's notaries, who were surely unsophisticated in the eyes of Bishop Vidal. He implores "the discrete reader" not to attribute their crudeness to him.⁷⁴ This suggests that even as Vidal directed the composition of the work, others were involved in either the first iteration of the text or subsequent copies that he neither reviewed nor approved. This last detail is important, for it serves as a reminder that an assembly could not possibly have been on hand to review and approve every text of the *Fueros de Aragón* that was to go out from the king's chancery. However, we have no reason to think that members of the assembly had any such expectation.

Without a doubt, there is a flaw in the internal logic of the text. The Latin texts indicate that the book of *fueros* was created within the confines of the assembly with Vidal stepping in at the end to organize the text. Getty₁, the Aragonese text, reveals that the approved *fueros* were handed over to Vidal for interpretation and organization, which surely took place outside the meeting. The former description from the Latin texts is implausible, given the impossibility of debating the contents of and finalizing an entire legal code within the short time frame of the assembly at Huesca. The Aragonese text's description of 6 January as the day on which Vidal received his orders from the king makes sense, but it is less palatable politically, for it removes the work of crafting the book from the oversight of the assembly.

Escorial₁, fol. 6v, all read: "sub quibus libris quosdam titulos ordinavimus en modum Pandectarum sequentes quosdam secundum quod in Codice ordinatur."

⁷² The structure of Getty₁ is the same but offers only general descriptions of how Vidal organized the text. See Getty₁, fol. 2r–v: "ordenámos los fueros segunt Díus con bona et dreiturera et sana conscientia" and "nos avemos ordenados aquestos fueros en IX libros et por sendos títulos." A thorough study has yet to be undertaken to compare the rubrics from Justinian's legal compilations to the rubrics of the *fueros* as they are found in many Latin and romance manuscripts. However, for a table of rubrics in Getty₁ that correspond to those found in the *Codex* or *Digest*, see Jesús Delgado Echeverría, "'Vidal Mayor': Un libro de fueros del siglo XIII," in *Vidal Mayor: Estudios*, ed. Antonio Ubieto Arteta et al. (Huesca, 1989), 43–81, at 59–61.

⁷³ "Propter disonanciam iuris et fori." Madrid₂, fol. 55r, London₁, fol. 1r, and Escorial₁, fol. 6v; "desacordamiento del dreito et del fuero." Getty₁, fol. 3r.

⁷⁴ Madrid₂, London₁, and Escorial₁ all contain Vidal's observation that the king's notaries were to be blamed for the inclusion of such penalties. Only Madrid₅, fol. 55r, reveals Vidal's concern about the notaries' lack of erudition and how it could mistakenly be attributed to him: "discretus lector non imputet ruditari."

There is no way that the assembly could have fully considered a book of *fueros* that had not yet been completed. Moreover, Vidal's caution about the possible addition of text that he neither composed nor authorized argues for a longer process of composition that extended beyond even his reach, given that additional material was probably added by way of notaries who worked under the king's orders.

*Madrid*₂

Only remnants survive of Bishop Vidal's original Latin commentary, including many passages and fragments cited by other jurists and scholars between the fourteenth and seventeenth centuries. The Latin prologue of *In excelsis*, however, is found in a single manuscript: Madrid₂. Told entirely from the king's viewpoint, the narrative of *In excelsis* is the most distinctive of any version of the prologue, in part because it offers a glimpse of King Jaime's philosophy of law. The *arenga* is largely a meditation in praise of God and his beneficence. Therein Jaime affirms the significance of human participation in the divine order and confesses his utter reliance on God's mercy to undertake the duties of his office. It is Jaime's God-given responsibility to lead his kingdom that compels the king to rectify the miscarriage of justice now administered at the hands of *foristas*.⁷⁵ By framing the narrative in this way, the prologue not only favors the king's agency in asserting greater control over the administration of justice but also asserts his authority from God. Such an emphasis on the king's prerogative is the reason why some contemporary scholars have rejected *In excelsis* as having any legal validity, even though jurists in the medieval and early modern period treated it as an authoritative source of legal interpretation.⁷⁶

Following the *arenga* is a brief *narratio* that collapses all of the action of the meeting and the creation of the book into a few lines. Lacking a text or certain knowledge of the *fueros*, Jaime convened at Huesca an assembly of the bishops,

⁷⁵ "Videntes foros Aragonum in foristarum manibus sicut gladium ancipitem in manibus furiosi." Madrid₂, fol. 54r.

⁷⁶ In the words of Jesús Morales Arrizabalaga, it is a "precious falsification" that was never anything more than a commentary intended for the king's private use. See Morales Arrizabalaga, *Fueros y libertades del Reino de Aragón* (n. 34 above), 39–42. Medieval jurists clearly thought otherwise. The oldest references to the *Liber in excelsis*, as Vidal's commentary was often called, are found in Juan Pérez de Patos's gloss on the Fueros de Aragón (Madrid₄), circa 1335. Roughly contemporary with this manuscript is another by the jurist Jaime de Hospital (Madrid, BN, MSS/9166, fol. 2r) that mentions Vidal's compilation. The most recent are from circa 1692, by Juan Luis López, Marqués del Risco, as found in Sevilla₂, fol. 50r–v. There are two writers who cited the *Liber in excelsis* extensively. They are the fifteenth-century jurist Martín Díez de Aux, whose glosses are found in Madrid₆, and the sixteenth-century historian Jerónimo Blancas. Antonio Pérez Martín hopes to use these surviving fragments to partly reconstruct the missing Latin text. For reasons unknown, the Latin text of the prologue that begins with *In excelsis dei thesauris* was not translated for the thirteenth-century Aragonese prologue that appears in Getty₁.

magnates, knights, and townsmen to consider the *fueros*. No date for meeting is offered. As in most other texts of the prologue, Jaime says that he and the participants curtailed the superfluous *fueros*, recovered those that had fallen into disuse, and joined together those that were useful. There is no reference to new *fueros* as is found in some of the prologues. Unlike any other text, Madrid₃ offers this line about the imperative for consultation, though it is not clear whence that imperative came: the assembly undertook its labors “with the counsel of all unanimously called for.”⁷⁷ Outside of *In excelsis*, this expectation of consultation, as opposed to simply a habit of consultation, first makes its appearance in Juan Pérez de Patos’s gloss on *Nos Iacobus* in the 1330s. Its presence here is somewhat of a surprise.⁷⁸

The collected *fueros* were given over to Bishop Vidal for organization in such a way that the substance of the *fueros* would be conserved. In the *dispositio*, King Jaime mandates that the “book and all that it is written in it,” having been “praiseworthy compiled and happily completed” by Bishop Vidal, shall henceforward be used for administering justice throughout the kingdom.⁷⁹ Whereas this version of the prologue stresses the imperative for consultation in debating the *fueros*, it appears that the consultation ended when the approved *fueros* were handed over to Vidal. In lieu of a final consultation and approval of the book, as Miravete₁ offers, Madrid₂ instead stresses Vidal’s high moral character and erudition as a kind of imprimatur. There was clearly some latitude needed in crafting the final text, for King Jaime specifies that Vidal took up his work with knowledge of the *fueros* but was called upon to pass judgment using “the discretion given to him by God.”⁸⁰ *In excelsis* gives no indication of the time that it took for Vidal to complete the book, nor does it offer an explanation of the timing or circumstances of promulgation. What is clear, however, is that the crafting of the compilation did not take place within the confines of the meeting. Furthermore, the text does not suggest in any way that the new codification of the *Fueros de Aragón* was promulgated in connection with a major assembly.

CONCLUSION

A close examination of numerous manuscript versions of King Jaime’s prologue does not eliminate all of the uncertainties associated with Jaime’s efforts to codify

⁷⁷ “Omnium unanimiter concilio requisito.” *Ibid.*, fol. 54r.

⁷⁸ “Ideo hic vocate fuerunt quod eos omnes tangebatur et omnes quos regnum vocandi sunt et ab omnibus debent approbari.” *Ibid.*, fol. 3r. The gloss by Patos is found in Madrid₄.

⁷⁹ “Praedictum librum et omnia quae in eo scripta” and “libro ergo ab ipso laudabiliter compilato et foeliciter consummato omnibus nostri subditis infra fines Aragonum constitutos tam praesentibus quam futuris praecipimus iniungimus et mandamus et tam in iuditiis quam extra iuditia praedictum librum.” *Ibid.*, fol. 54v.

⁸⁰ “Discretionem sibi a Deo datam.” *Ibid.*

Aragon's *fueros* as they likely existed around 1247. Madrid₃ and each of the manuscripts that contain the *Nos Iacobus/Nos Don Jaime* prologue condense all of the action of codifying the *fueros* into the span of the meeting. We do not know how long the assembly lasted, but a large gathering of more than a week or two is not very likely. Per the prologues, the participants jointly considered all written *fueros* that existed at the time and that were brought to the meeting in various books. Further, the meeting is described as having produced a manuscript volume containing approximately 350 individual legal norms, which was promulgated then and there as Aragon's fundamental law. This explanation has persisted for centuries as the official narrative of the codification of the *Fueros de Aragón*, unlikely as it is. The Latin *Cum de foris* prologues also condense the action to the span of the meeting, but they open the door to a more extended process by detailing Bishop Vidal's labors in crafting an ordered volume of *fueros*. Only Getty₁ and Miravete₁ allow for a longer period for preparing a text. The timeline for Getty₁ is open-ended, for Vidal's work only begins at the meeting, whereas Miravete₁ describes a period of two months (January to March 1247) for producing a volume that was publicly debated and approved.

Setting aside the incipits, the only source to offer a date for any aspect of Jaime's codification is Getty₁, the thirteenth-century Aragonese translation of Vidal's commentary *In excelsis*. Getty₁ denotes 6 January 1247 as the day on which Vidal was given his charge to create a book, but that date somehow became the putative promulgation date. If Getty₁ is wrong about this and 6 January was indeed the promulgation date for the *Código*, as has long been accepted, then one of two things must have been true: either a manuscript version of the newly codified *Fueros de Aragón* had already been completed prior to the meeting, and the assembly's participants were asked to approve a text that they could not have considered in any detail (and most certainly could not have read), or the assembly gave its assent to the promulgation of a code that had not yet been written. Neither scenario is politically palatable, for both make the king the agent of the codification to the complete exclusion of representatives of the realm. Only two texts, Miravete₁ and Getty₁, contain any suggestion within the body of the texts themselves, that is, beyond the prologue, that the production of the text went well beyond the confines of the meeting itself, but such a scenario ultimately makes the most sense.⁸¹

The details found in *Nos Iacobus* and all of the other prologues need to be taken seriously, but we should not expect any particular rhetorical or diplomatic summation to fully explain what certainly would have been a long and complex

⁸¹ Getty₁, fol. 132v–133r; Miravete₁, fol. 46r. The particulars of each text are related and concern the validity of written documents. They both refer back to the meeting at Huesca. Also, the entirety of *fuero* 223 in Miravete₁, fol. 66r–v, is a charter that Jaime issued in Valencia on 13 July 1247, some seven months after the Huesca assembly.

legislative process. For example, in April of 1702, the Aragonese *Cortes* approved only eight new *fueros*, but the prologue to the printed text reveals a delay of more nearly three months before the approved text was publicly issued.⁸² We should not expect that King Jaime's code would have materialized at the conclusion of the assembly. For centuries, the *Nos Iacobus* prologue and its associated incipit have endured as the official explanation of the process and timeline by which the *Fueros de Aragón* were codified, but they do not hold up under scrutiny. It is simply not feasible for all of the kingdom's written *fueros*, which had accumulated in writing over at least two hundred years, to have been discussed, debated, agreed upon, organized, and written down over the course of a single meeting. If we eliminate such an implausible constraint as imposed by the prologues, then we must also reconsider one of their recurring elements: the full participation of the assembly in the process of codification.

Therein lies the historiographical problem. A political assembly of Aragonese representatives has long been understood as the most important limit on monarchs or even elected officials, but the securing of the consent of the governed was neither regularized nor required during King Jaime I's lifetime. In fact, early norms for constitutional procedures, as well as legal theories about pactism, continued to develop well into the sixteenth century, and they did so alongside outright myths about the origins of pactism.⁸³ Nonetheless, scholars, jurists, and political leaders have retroactively read full-fledged pactism into the process of King Jaime's codification. Moreover, they have often used the Huras edition, or texts that emanated from it during the sixteenth through twentieth centuries, as the earliest written proof of such pactism. This essay does not challenge the institutionalization of "consilio et convenientia" and how it became the formal basis for pactism throughout the medieval and early modern periods, but it does suggest that the role of pactism in the codification of the *Fueros de Aragón* is likely much less significant than has long been imagined. King Jaime is often viewed as a great military conqueror but a weak, or even inept, king whose grand ambitions were often checked by the Aragonese nobles. To credit him with reshaping Aragon's entire legal tradition and imposing a new code of his own making on the kingdom is to challenge deeply held ideas about the emergence of representative government in Aragon. To further acknowledge that the crafting

⁸² *Fueros y actos de Corte del Reyno de Aragon* (Zaragoza, 1702), frontispiece and 1.

⁸³ The fourteenth- and fifteenth-century glosses on the phrase "consilio et convenientia" show the development of this idea. See Antonio Pérez Martín, "La primera codificación oficial de los fueros aragoneses" (n. 21 above), at 68–71. For a later commentary on this idea, see Ibando de Bardaxí (or Bardají), *Summa de los fueros e observancias del Reyno de Aragón y de las determinaciones y practicas referidas por Micer Miguel del Molino en su Repertorio* (Zaragoza, 1587). For the Renaissance-era expansion of myths about pactism, see Giese, *If Not, Not* (n. 5 above).

of the code and its promulgation were not bounded by a well-developed mechanism for pactism may be even more troubling to some.⁸⁴

As noted above, the *Fueros de Aragón*, as first codified by King Jaime I, became the basis for law in Aragon until the *Decretos de Nueva Planta* of the eighteenth century formally dismantled Aragonese legal and political institutions.⁸⁵ Limited elements of Aragonese *derecho foral* (*fuero* law) remained in force following the *Nueva Planta* decrees, especially in the area of family law. However, the absence of the Aragonese *Cortes* meant that there was no new source for Aragonese law. With the derogation of the *Cortes* and the *Fueros de Aragón* came the influence of Castilian jurisprudence that lasted until the end of the Franco era. Finally permitted greater freedoms by Spain's first post-Franco constitution of 1978, Aragon asserted its right to self-governance through a Statute of Autonomy. As independent institutions of governance were developed in Aragon and work eventually began on a new civil code, the Aragonese *Cortes* refined and reissued the Statute. Whereas *derecho foral* was only mentioned in passing in the original Statute of 1982, it took center stage in subsequent iterations and was gradually reclaimed as the symbol of Aragon's historical identity. In the preamble to the revised Statute that was approved in 2007, King Jaime's *Código* is named as one of three manifestations of Aragon's values of "the pact, loyalty, and liberty."⁸⁶ King Jaime's legal accomplishment was singled out as both a symbol and a historical event: the king and the *Cortes*, acting in concert, issued Aragon's first territorial code of *derecho foral*, thereby laying the foundation for Aragon's enduring constitutional and *pactista* identity.

Even as King Jaime's *Código* enjoyed new attention in Aragon beginning in the 1980s as a result of Spain's changing political landscape, the context for its origins in the thirteenth century largely escaped scrutiny.⁸⁷ When scholars, jurists, and

⁸⁴ See Morales Arrizabalaga, "La edición y constitución de normas" (n. 68 above), 17–22. Carlos Laliena Corbera, conversely, interprets Jaime's legal triumph in 1247 as the natural consequence of the growth of royal power. See his "La metamorphosis del estado feudal: Las estructuras institucionales de la Corona de Aragón en el periodo de expansion," in *La Corona de Aragón en el centro de su historia: La Monarquía aragonesa y los reinos de la Corona*, ed. Ángel Sesma Muñoz (Zaragoza, 2009), 65–96.

⁸⁵ As punishment for Aragonese sedition in the War of Spanish Succession, Philip V abolished the *Fueros de Aragón* on 27 June 1707. A month later, Philip largely absolved the Aragonese of their alleged sedition but declined to fully reinstate the *fueros*.

⁸⁶ "Fiel reflejo de los valores aragoneses de pacto, lealtad y libertad." Ley Orgánica 5/2007, de 20 de abril, de reforma del Estatuto de Autonomía de Aragón, Preámbulo [no pagination].

⁸⁷ Jesús Lalinde Abadía, Aragon's most distinguished legal historian for decades, was the first person to write a scholarly overview of the *Fueros de Aragón*. However, even his book, which might be best characterized as an extended essay without any critical apparatus, did not examine the timeline for the creation of King Jaime's *Código*. Jesús Lalinde Abadía, *Los Fueros de Aragón* (Zaragoza, 1976), 54–55.

political leaders finally turned their attention in earnest to the circumstances of codification, they tended to interpret the emergence of the *Código* through the lens of three contemporary political needs: to distinguish Aragonese pactism from Castilian authoritarianism; to insist on the purity of Aragonese *foralidad*, untainted by external legal influence — especially Roman law — over the centuries; and to press for greater independence for Aragon within Spain.⁸⁸ As just one example of the last, I offer remarks from the preface to a brief study of Miravete₁. The preface was written by Emilio Gastón in his capacity, at that time, as Justicia, Aragon's chief legal authority and third-highest-ranking public official. Therein he celebrates the discovery and publication of Miravete₁ as a new occasion “for the recovery of our *fueros* and a motive for the historical vindication of Aragon's full autonomy.”⁸⁹ As important as the discovery of Miravete₁ was in 1988 for Aragon's efforts to reassert self-determination within Spain, we are called upon as scholars to challenge such ahistorical readings of medieval legal sources. The emphasis, for centuries, on the role of pactism in the codification of the *Fueros de Aragón* has almost entirely obscured what King Jaime clearly set out to do: regularize written law; ensure that his subjects, especially the poor, would not be deprived of their rights; hold officials accountable for administering justice properly; and deliberately displace *foristas* who informally and incorrectly acted as legal experts. By reengaging the full manuscript tradition for the medieval *Fueros de Aragón*, we are more likely to gain a more complex understanding of the efforts of King Jaime in transforming written law and the practice of jurisprudence in thirteenth-century Aragon.

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Keywords: Law, *fueros*, Aragon, King Jaime I, manuscript studies

⁸⁸ As to the first concern, see Gregorio Colás Latorre, “Una explicación que me parece necesaria,” in *Fueros e instituciones de Aragón*, ed. idem (Zaragoza, 2013), 9–17; and Enric Guinot Rodríguez, “Sobre la génesis del modelo político de la Corona de Aragón en el siglo XIII: Pactismo, corona y municipios,” *Res Publica: Revista de filosofía política* 17 (2007): 151–74. As to the second, see Jesús Lalinde Abadía, “‘Equitas,’ ‘Dreito,’ y ‘Drecho’ en el reino de Aragón,” in *Actas de las jornadas de estudio: Los fueros de Teruel y Albarracín (Terol-Albarracín, 17–19 de diciembre de 1998)*, ed. José Manuel Latorre (Teruel, 2000), 7–16. For a detailed critique of the way in which these concerns have resulted in misinterpretations of medieval legal sources, including those from King Jaime's era (1213–1276), see José Luis Moreu Ballonga, *Mito y realidad en el standum est chartae* (Pamplona, 2009).

⁸⁹ Delgado Echeverría, ed., *Un prólogo romance* (n. 19 above), preface [no pagination].

APPENDIX

The text that follows is a translation from a mid-thirteenth century Aragonese language text as found in the manuscript Miravate₁, fol. 2r–v. It seeks to preserve, as closely as possible, the language and phrasing of the original text in order to capture its original style. Brackets [] are used sparingly to supply missing words that improve the readability of the translation.

Here begins the prologue of the *Fueros de Aragón*.

On account of which there was no certain text of the *Fueros de Aragón*, and no authentic text could be found in all the kingdom, and because many men made themselves *foristas* and said that they had a book of *fueros* and had it hidden out of jealousy, and [because] many times they said that something was a *fuero* that was not a *fuero*, and because of this many lowly people lost their rights, and the *foristas* diverted many people from the law for reasons of love or money or for supplications from many people.⁹⁰

Explicit prologus

We, Don Jaime, by the grace of God King of Aragon and of Majorca and of Valencia, Count of Urgel and of Barcelona, and lord of Montpellier, wishing to correct this great error, for the profit of all of the kingdom and for the respite of bodies and the health of souls, in the year that was the Incarnation of 1246 and of the era 1285, in the month of January, we held our plenary court in Huesca.⁹¹

In which court were with us the honored Don Rodrigo, Bishop of Zaragoza, and Don Vidal, Bishop of Huesca, and the honored Don Fernan our uncle, procurator of Aragon and abbot of Montearagón, and Don Pedro Cornel and Don Guillem Romeu and Don Artal de Luna and Don Eximén de Foçes and Don Rodrigo Liçana and Don Garcia de Entença and Don Eximen Pérez, the steward, and Don Fertún de Bergua and Don Pedro de las Celas and Don Guillem de Atrosillo and Don Beltrán de Anaya, and many of the other knights and *infanzones* of Aragon.⁹² And were there Don Guillem de Cardona, master of the Temple and Don Hug de Forcalquier, master of the Hospital. And were there the *justicia* and the *jurados* and many citizens of Zaragoza, for all of the city, and all of the council of Huesca and the *justicia* with all of the citizens of Tarazona, and the *justicia* with all of the *jurados* and all of the good men of the towns of Calatayud and

⁹⁰ “Mesquinos” is rendered as “lowly people.”

⁹¹ The Spanish era is thirty-eight years ahead of *anno domini*. The year of the Incarnation begins on March 25; thus January 1246 in the manuscript should be read as January 1247 (new style).

⁹² The important office of the royal household known as the “reboster” is rendered as “steward.”

Daroca and of Teruel and of Alcaniz and of Borja and of Ejea and of Uncastello and of Jaca and of Barbastro and of many other villages and castles of Aragon.

And in which place we ordered to come and to bring before us, and before the entire court, all the old books of the *fueros*, which We could have and find in the entire kingdom, that those books were finished. Here they were read and debated with the counsel and the will of all, and confirmed were all those *fueros* that seemed good to everyone, and we cut out and we excluded those that did not seem good to us or were not reasonable, and we made many new [*fueros*], those that were needed. Whence, [using] all of the good *fueros*, new and old, we beseeched and ordered Don Vidal, bishop of Huesca, to make from all of them a good and well-ordered book, and, with the counsel and with the will and with the help of good and ancient *foristas*, he made that book [to be] good and well ordered and true.

And afterwards, when it had been made and finished, we had it presented and amended before us in Ejea, in a plenary court, and we found, with the counsel and will of everyone, that the book was good and true.

On account of that, we firmly order all of the *justicias* of the kingdom and the *zalmedinas* and *merinos* and town bailiffs, that, from here forward, all may judge by this book and not by giving credit to any other *fuego*. And if by chance some doubtful cases come to be judged for which there is not a *fuego* that explicitly relates to the case, we order that [those officials] shall judge with the counsel and the prudence of good men.⁹³

And, if that person who receives the first judgment from his or her *justicia*, if it does not seem good, it can be remitted to Zaragoza or Huesca or Tarazona, according to the place closest to the established jurisdictional limits of the city. Here the person may receive another judgment before the *justicia* of that city where he or she may be a resident. And if that judgment does not please the person, afterwards it is possible to rise up to our presence or to our *justicia mayor* of Aragon for passing a third [judgment]. From there forward, [the plea] may not be raised up to any other.

⁹³ The phrase “seso natural” is rendered here as the single word “prudence,” but it has the broader connotation of common sense rooted in reason, prudence, and discretion.