

Cambridge University Press

978-0-521-03128-8 - Law and Society in the Visigothic Kingdom

P. D. King

Frontmatter

[More information](#)

Cambridge studies in medieval life and thought

Edited by WALTER ULLMANN, LITT.D., F.B.A.

Professor of Medieval Ecclesiastical History

in the University of Cambridge

Third series vol. 5

LAW AND SOCIETY
IN THE VISIGOTHIC KINGDOM

Cambridge University Press

978-0-521-03128-8 - Law and Society in the Visigothic Kingdom

P. D. King

Frontmatter

[More information](#)

CAMBRIDGE STUDIES IN
MEDIEVAL LIFE AND THOUGHT
THIRD SERIES

- 1 *The King's Hall within the University of Cambridge in the Later Middle Ages*. Alan B. Cobban
- 2 *Monarchy and Community: Political Ideas in the Later Conciliar Controversy, 1430–1450*. A. J. Black
- 3 *The Church and the Two Nations in Medieval Ireland*. J. A. Watt
- 4 *The Spanish Church and the Papacy in the Thirteenth Century*. Peter Linehan
- 5 *Law and Society in the Visigothic Kingdom*. P. D. King

Cambridge University Press

978-0-521-03128-8 - Law and Society in the Visigothic Kingdom

P. D. King

Frontmatter

[More information](#)

LAW AND SOCIETY IN THE VISIGOTHIC KINGDOM

P. D. KING

*Lecturer in Medieval History
in the University of Lancaster*



CAMBRIDGE
AT THE UNIVERSITY PRESS

1972

Cambridge University Press
978-0-521-03128-8 - Law and Society in the Visigothic Kingdom
P. D. King
Frontmatter
[More information](#)

CAMBRIDGE UNIVERSITY PRESS
Cambridge, New York, Melbourne, Madrid, Cape Town, Singapore, São Paulo

Cambridge University Press
The Edinburgh Building, Cambridge CB2 2RU, UK

Published in the United States of America by Cambridge University Press, New York

www.cambridge.org
Information on this title: www.cambridge.org/9780521084215

© Cambridge University Press 1972

This publication is in copyright. Subject to statutory exception
and to the provisions of relevant collective licensing agreements,
no reproduction of any part may take place without
the written permission of Cambridge University Press.

First published 1972
This digitally printed first paperback version 2006

A catalogue record for this publication is available from the British Library

Library of Congress Catalogue Card Number: 77-179163

ISBN-13 978-0-521-08421-5 hardback
ISBN-10 0-521-08421-0 hardback

ISBN-13 978-0-521-03128-8 paperback
ISBN-10 0-521-03128-1 paperback

CONTENTS

<i>Preface</i>	<i>page vii</i>
<i>Abbreviations</i>	xiii
1 Introduction	I
2 The king and the law	23
3 Royal government, 1	52
4 Royal government, 2	85
5 The Church and the faith	122
6 Slaves, freedmen and nobles	159
7 The economy	190
8 The family	222
Appendix I: Theft and robbery	251
Appendix II: Killing and misuse of the person	259
<i>Bibliography of works cited</i>	265
<i>Index to citations of the laws</i>	287
<i>Index</i>	297

Cambridge University Press

978-0-521-03128-8 - Law and Society in the Visigothic Kingdom

P. D. King

Frontmatter

[More information](#)

TO MY MOTHER

Cambridge University Press

978-0-521-03128-8 - Law and Society in the Visigothic Kingdom

P. D. King

Frontmatter

[More information](#)

PREFACE

The Visigothic kingdom was born from the moribund body of the Western Roman Empire: it met its death nearly two and a half centuries later by the sword of Islam. Its lifespan extended therefore over an epoch of consuming fascination: a twilight age, sub-antique, from one point of view; a gestation period, early medieval, from another. One would confidently expect to find in the history of Visigothic Spain and Septimania during this time material which would help to furnish answers to some of the basic questions asked by classicists and medievalists. To what extent did the Roman world live on in the West after its political demise? What were the fundamentals of the Western civilisation which emerged from the commixture of Roman experience and sophistication, Germanic immaturity and vigour and the new teachings of Christianity? In what degree were the characteristics of the later medieval world foreshadowed in those of the late Empire? It is the more difficult, in view of the quite crucial significance of these matters, to account for the remarkable historiographical aversion from study of the Visigothic kingdom. It may be that the transitional character of the age in which it flourished has in fact served as a deterrent to some classicists and medievalists, unable to feel themselves at home in a world abundant with unfamiliar features. But Merovingian Gaul has had its fair share of historians. More important, no doubt, has been the absence of the powerful impetus to investigation which has been provided for the historians of other countries by keen interest in national evolutionary developments. While the early kingdom of the Franks metamorphosed into the France and Germany of the Middle Ages proper, the Visigothic power knew only sudden extinction in 711: in any case, the lack of concern with later Spanish medieval history – a phenomenon largely explicable in terms of linguistic difficulties and cultural prejudices – is itself striking. The Arab conquest has also been responsible for what is perhaps the most considerable factor making for neglect, the assumption that Visigothic history is remote, cut off from the later European Middle Ages as

Cambridge University Press

978-0-521-03128-8 - Law and Society in the Visigothic Kingdom

P. D. King

Frontmatter

[More information](#)*Preface*

a whole. In fact, one has only to think of Pseudo-Isidore's employment of the Visigothic conciliar sources and of the invocation of Visigothic monarchical practices by the anti-papal writers of the eleventh century to recognise the influence exercised upon the succeeding ages. This influence will unquestionably appear the greater once historians of the later period operate with a more intimate knowledge of the Visigothic kingdom.

That such a knowledge is not easily attainable itself constitutes a barrier to study. Whatever the reasons for neglect in the past, the result has been a scarcity of those earlier learned papers and monographs which, however much they may now be scorned, provide the essential foundations upon which modern researchers into the histories of other areas and peoples can build. There is a case for simple antiquarianism with respect to the Visigoths. Most of what has been written is by Spanish scholars and not only sometimes difficult to obtain but sadly often of little value or even accuracy when access is finally achieved. Historians like Sánchez-Albornoz in South America, Orlandis Rovira in Spain and E. A. Thompson in this country have done much to rectify the deficiencies, but it remains the fact that the inquirer into some or other aspect of early medieval history is more often than not obliged to tackle the Visigothic sources direct without even an effective guide to these, let alone a significant body of auxiliary literature. The apparent aridity of these sources, overwhelmingly legal and conciliar, presents itself as a further deterrent to examination, as Professor Thompson has justly observed.

The aim of this book is to provide an account of what the most important single block of source material, the great legal compilation issued by King Ervig in 681, has to tell us about the structure and ethos of Visigothic society as the kingdom drew near to its end. I have not attempted to write a general history of the kingdom about the year 681, a task which would have meant – to take two instances – the payment of much greater attention to political events and the devotion of a lengthy section to the Church and its organisation. But I have gone backwards – and occasionally forwards – in time when it seemed useful or appropriate to do so, and have frequently introduced material from other sources, particularly the acts of the councils, in order to illustrate, to explain or to expand certain points.

Cambridge University Press

978-0-521-03128-8 - Law and Society in the Visigothic Kingdom

P. D. King

Frontmatter

[More information](#)*Preface*

Limitations of space have forbidden the regular citation of Roman, Germanic and Romano-barbarian legal and juristic texts or of biblical and patristic sources which stand in close relation with the Visigothic laws, but references have been made when they seemed especially valuable. Those interested will find parallels and precedents in the footnotes to Zeumer's edition of the Visigothic codes, in his articles in the *Neues Archiv* for 1899 and 1901, and throughout the work of Alvaro d'Ors on the earlier Eurician code. Moreover, I am no lawyer: when I have found it necessary to examine the law itself rather than the society which it reflects I have done so with trepidation and, I hope, humility. It seemed essential, for example, to include a chapter on the administration of justice, but my account is a frankly tentative step into a field where legal historians have feared – or at any rate neglected – to tread. Here as elsewhere the dearth of secondary literature has obliged me to lengthier justifications of the positions I have adopted than would be ideal. Nevertheless, the notes have been savagely pruned – on occasions, I fear, over-pruned.

The dangers in the historical use of legal material, especially when there is no sizeable body of non-legal sources yielding direct information upon the reality of the situation, are notorious: it is insidiously easy to translate legal precept into social practice, to slip from the fact of a measure's existence to the assumption of its enforcement, to attribute relevance to provisions illustrating long-past conditions, and it would no doubt be wishful thinking to believe that I have always successfully escaped these snares. But the rewards are peculiarly valuable. No other source has the evidential merit possessed by law as the mirror of the aspirations and ideals of the society which produces it – or, at least, of the governing circles of that society. It is precisely for this reason that one cannot but concur with Gibbon's *dictum* that the laws of a nation form the most instructive portion of its history. But the laws of Ervig's code permit far more than our recognition of the direction in which he and kings before him attempted to steer Visigothic society. They offer also a wealth of information bearing upon the institutions of the kingdom and upon the day-to-day life enjoyed or endured by its inhabitants, for the raw stuff of the laws was necessarily the features of society as it existed, even if the legislative goal was sometimes to emend these. The

Cambridge University Press

978-0-521-03128-8 - Law and Society in the Visigothic Kingdom

P. D. King

Frontmatter

[More information](#)*Preface*

subject-matter of the laws is so diverse that practically no aspect of life is left untouched. The laws shed light upon the financial and administrative systems, upon the execution of justice, upon the military organisation, upon the economy; they deal with marriage and guardianship, slavery and manumission, the aristocracy and the Church; they illustrate the relationship of king and people, of Roman and Goth, of patron and client, of landlord and tenant; they regulate sales and donations, loans and testaments. Topics range from murder to the castration of animals, from treason to grave-robbing, from rape to prostitution. In short, the laws reflect in the most comprehensive fashion the internal organisation and social conditions of the Visigothic kingdom; they constitute a vast storehouse of information, a repository which cannot be overestimated in importance.

The editions used of original sources are not indicated in the footnotes but will be found in the bibliography. References to the conciliar sources are given thus: XII Tol. *Tomus*, 3 (Twelfth Council of Toledo, Royal Address and canon three), Mer. 17 (Council of Merida, canon seventeen) and so on. The edition in volume eighty-four of J. P. Migne, *Patrologia latina*, is consistently used, and I sometimes add the column number in parentheses to make location easier. The Visigothic laws are cited thus: VI. 2. 1, 3, 3. 4 (VI. 2. 1, VI. 2. 3, VI. 3. 4), and in all cases according to the overall numbering in bold type in Zeumer's edition. I have used the shorter forms of the names of Spanish authors in the footnotes (for example, R. d'Abadal), but have indicated the full forms in the bibliography (for example, R. d'Abadal i de Vinyals) when they are known to me.

With the exception of one chapter, virtually the whole of this book has been written during the first sixteen months of my tenure of a Research Fellowship at the University of Leicester. I am profoundly grateful to the Research Board of the University, both for the opportunity this Fellowship has permitted me and for the financial assistance which has allowed me to travel to libraries around the country. I have further to express my thanks to the Managers of the Frederick William Maitland Memorial Fund for the generous grant which I received while still a schoolmaster at Dulwich College in 1969. My debt to Professor Walter Ullmann, whose enthusiasm and learning have been an inspiration to me since I was an under-

Cambridge University Press

978-0-521-03128-8 - Law and Society in the Visigothic Kingdom

P. D. King

Frontmatter

[More information](#)

Preface

graduate, is immense and irredeemable. But the last word must be reserved for my wife, who has responded to my neglect with a forbearing stoicism and to my crises of confidence with an encouraging cheerfulness. *Dux femina facti.*

Market Harborough

P.D.K.

May 1971

It is now the most agreeable of obligations further to thank the Managers of the Frederick William Maitland Memorial Fund, who have made a most handsome contribution towards the cost of publication.

Yealand Conyers

P.D.K.

February 1972

ABBREVIATIONS

<i>AEA</i>	<i>Archivo español de arqueología</i>
<i>AHDE</i>	<i>Anuario de historia del derecho español</i>
<i>AST</i>	<i>Analecta Sacra Tarraconensia</i>
Barc.	Council of Barcelona
<i>BFD</i>	<i>Boletim da Faculdade de Direito</i> (Universidade de Coimbra)
<i>BRAH</i>	<i>Boletín de la Real Academia de la Historia</i>
<i>Carm.</i>	<i>Carmen</i>
<i>CE</i>	<i>Codex Euricianus</i>
<i>CEB</i>	<i>Codicis Euriciani leges ex Lege Baiuvariorum restitutae</i>
<i>CEH</i>	<i>The Cambridge economic history of Europe</i> , 2nd edn
<i>CH</i>	<i>Continuatio Hispana</i>
<i>CHE</i>	<i>Cuadernos de historia de España</i>
<i>CR</i>	<i>Codex revisus</i> (of Leovigild)
<i>CT</i>	<i>Codex Theodosianus</i>
<i>CUA</i>	Catholic University of America
<i>DEO</i>	Isidore, <i>De ecclesiasticis officiis</i>
<i>DVI</i>	<i>De viris illustribus</i>
<i>EHR</i>	<i>The English historical review</i>
<i>Ep.</i>	<i>Epistola</i>
Esp.; esp.	España, Espagne; español, espagnol
<i>ET</i>	<i>Edictum Theoderici</i>
<i>Etym.</i>	Isidore, <i>Etymologiae</i>
<i>EV</i>	Estudios visigóticos
<i>EW</i>	<i>Epistolae Wisigoticae</i>
<i>FV</i>	<i>Formulae Visigothicae</i>
Gesch.	Geschichte
<i>HF</i>	Gregory of Tours, <i>Historia Francorum</i>
<i>HG</i>	Isidore, <i>Historia Gothorum</i>
hist.	history, histoire, historia, história, historical, historique, histórico, historisch
<i>HJ</i>	<i>Historisches Jahrbuch</i>
<i>HS</i>	<i>Hispania Sacra</i>
<i>HW</i>	Julian of Toledo, <i>Historia Wambae regis</i>
<i>IRMAE</i>	Ius romanum mediæ aevi
<i>LB</i>	<i>Lex Burgundionum</i>

Cambridge University Press

978-0-521-03128-8 - Law and Society in the Visigothic Kingdom

P. D. King

Frontmatter

[More information](#)*Abbreviations*

LO	<i>Liber Ordinum</i>
LRB	<i>Lex Romana Burgundionum</i>
LRV	<i>Lex Romana Visigothorum</i>
LRV.CT	<i>Lex Romana Visigothorum, Codex Theodosianus</i>
LRV.PS	<i>Lex Romana Visigothorum, Pauli Sententiae</i>
MA	Middle Ages, Moyen Âge, Mittelalter
Mer.	Council of Merida
MGH	<i>Monumenta Germaniae Historica</i>
MGH.AA	<i>Monumenta Germaniae Historica, Auctores Antiquissimi</i>
MGH.Epp.	<i>Monumenta Germaniae Historica, Epistolae</i>
MGH.LL	<i>Monumenta Germaniae Historica, Leges</i>
MGH.SSM	<i>Monumenta Germaniae Historica, Scriptores Rerum Merovingicarum</i>
MIÖG	Mitteilungen des Instituts für österreichische Geschichtsforschung
NA	<i>Neues Archiv der Gesellschaft für ältere deutsche Geschichtskunde</i>
Narb.	Council of Narbonne
PL	J. P. Migne, <i>Patrologia latina</i>
Reg.	Pope Gregory I, <i>Registrum epistolarum</i>
REL	<i>Revue des études latines</i>
RET	<i>Revista española de teología</i>
RPH	<i>Revista portuguesa de história</i>
RSDI	<i>Rivista di storia del diritto italiano</i>
Sar.	Council of Saragossa
SDHI	<i>Studia et documenta historiae et iuris</i>
Sent.	Isidore, <i>Sententiae</i>
Sett.	<i>Settimane di studio del centro italiano di studi sull'alto medioevo</i>
Tol.	Council of Toledo
VPE	<i>Vitae sanctorum patrum Emeretensium</i>
VSF	<i>Vita sancti Fructuosi</i>
Zeumer, xxiii, xxiv, xxvi	References thus are to Zeumer's various articles in the indicated volumes of the NA: see bibliography for details
Zeumer, LV	
ZRG.GA/ KA/RA	<i>Zeitschrift der Savigny-Stiftung für Rechtsgeschichte, Germanistische Abteilung/Kanonistische Abt./Romanistische Abt.</i>