Recceswinth’s *Liber Iudiciorum*: History, Narrative and Meaning

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ABSTRACT

The *Liber Iudiciorum*, the renowned law-code of the seventh-century Visigothic Kingdom, has provided a foundation for legal books, historical narratives, nationalist rhetoric and religious fervor in and beyond Greater Iberia repeatedly throughout the centuries since its construction. Despite its subsequent impact, there is still no consensus on the contemporary meaning of the code and its functionality. Even the true authorship and precise dating of the code’s construction still elicit debate, with two recent doctoral theses, for example, taking contrasting points of view.¹ Some of the uncertainty lay in the fact that the code was revised twice, but other problems relate to ongoing arguments on the general role of Visigothic monarchs and their relations with ecclesiastical and noble figures, the social practices of the law, the potential ‘levels’ of literacy of the period, the relation between representation and reality, center and periphery…in short, many of the core concerns for archaeologists and historians of early medieval Iberia. To grasp the meaning of code as it was when promulgated in the 650s by King Recceswinth (649-672) scholars need, this essay argues, to read it as a

fine example of Visigothic literature produced in a vibrant ‘moment’ of historical-writing.

Essay

In this essay, I show how, with the Liber Iudiciorum (LI), Recceswinth used the laws of the past and present to construct a spiritually imbued legal-historical narrative that directed memory, invented religious associations, and promoted his dynasty. More than that, I suggest that it is by this rubric of localized historical production that the LI should be read to have meaning or significance, functionality and purpose, in the Visigothic Kingdom of Iberia and Gaul. To reach the core of the argument, it is framed by an introduction to the code, by another historical narrative (mine: depositing for the historical archaeologist layers of representation on top of others) about the emergence of the conditions for (the dialectical materialism one might [but I won’t here again] say) and then the appearance of the LI.

The Liber Iudiciorum is a twelve-book law-code issued by the Visigothic King Recceswinth (r. 649/653-672) in AD 653. It was promulgated by the king at his first council, the Eighth Council of Toledo (VIII Toledo), in the Praetorian Church of Sts. Peter and Paul. The LI was edited or added to in various ways by subsequent kings,

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2 A new critical edition of the Liber Iudiciorum is currently in preparation. The international project, co-directed by Michael J. Kelly (SUNY Binghamton) and Isabel Velázquez (UC Madrid), will be published in OA digital and print form by Networks and Neighbours. In the meantime, this essay refers to the editions of Zeumer: Lex Visigothorum in Leges Visigothorum antiquiores, MGH Legum, ed. Karl Zeumer (Hanover and Leipzig, 1894 and 1902), 21-313 and 33-456. For the Spanish councils, this essay uses: La Colección Canónica Hispana, ed. Gonzalo Martínez Diez and (from 1982 forward as co-editor) Félix Rodríguez, 6 vols (Madrid, 1966-2002), referred to hereafter as CCH, with respective volume noted. On the site of the council see Chron. 754, 35, and the opening of the council: Anno quinto orthodoxi atque gloriosi et vera Clementiae dignitiae praesaptic Receswinti regis, cum nos omnes divinae ordinatiae voluntatis euisdem principis serenissimo iussu in basilicam sanctorum apostolorum ad sacrum synodi coegisset aggregari conventum [...]. This church would become the site where kings were anointed and blessed before going off to war, and was raised by Wamba to the status of being its own see. For an edition of the Chronicle of 754 see José Eduardo López Pereira, Crónica mozárabe de 754: edición
creating three distinct Visigothic versions: that of Recceswinth (653), that of Ervig (681), and that of Egica (694). Each king added laws and adapted the sentiment of the code according to their own wishes and historical situations. This essay examines only the meaning of the *LI* of Recceswinth.

Recceswinth’s *LI* is composed of legal constitutions ordered by topics across twelve self-contained books. The laws derive from a variety of sources, Visigothic and otherwise. The Visigothic sources include the *Codex Euricianus*, *Breviarium Alarici* (or, *Lex Romana Visigothorum*), Visigothic Formularies, Isidore (Bishop of Seville from c. 600 to 636), the Second Council of Seville, the councils of Toledo and unreferenced laws of King Swinthila (r. 621-631). One can also find apparent vestiges of Gothic language and imagined traditions, as well as pieces of non-Visigothic legal texts such as Justinian’s *Corpus Iuris Civilis* and Burgundian laws. Curiously enough, there are no laws of the Ostrogoths. *LI* XII, the twelfth book of the *LI*, relies on Biblical passages.

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1 The Egica version has been known as the *Vulgata* since Zeumer’s edition. Roger Collins agrees with Zeumer that the final recension is a vulgate one, not an official recension issued by Egica, based on the diversity in the manuscript and because it contains only three laws of Egica. See Roger Collins, *Visigothic Spain: 409-711* (Malden, MA: Blackwell Publishing, 2004), 233-36, and Yolanda García López, *Estudios Críticos y Literarios de la ‘Lex Wisigothorum’* (Alcalá: Universidad de Alcalá, 1996), 36-37.


3 Codex Euricianus: *LI* 2.1.14, 5.4.13; LRV: *LI* 2.1.10, 2.1.18, 2.1.24, 2.2.7, 2.3.7, 5.2.6, 6.4.2, 7.6.1-2, 10.1.5; Visigothic Formularies: *LI* 2.1.23, 3.1.5, 5.7.1, 10.1.18; Isidore: *LI* 1.1.4-5 (unnamed), 2.1.3 (attributed to Recceswinth); II Seville: *LI* 10.3.4, ascribed to Recceswinth, and 10.3.5 titled *antiqua*; IV Toledo: *LI* 5.7.9, referred to as *antiqua*; V Toledo: *LI* 2.1.7; VII Toledo: *LI* 2.1.6; VIII Toledo: *LI* 2.1.5: Swinthila: *LI* 2.1.5, attributed to Chindaswinth.

4 *LI* 2.1.14.

5 Justinian’s *Corpus: LI* 3.1.5, 6.1.7, 8.4.2, 9.1.10, and 10.1.17 (attributed to Chindaswinth); Burg.: *LI* 2.1.11, 3.2.8, 3.4.4, 5.6.6, 8.3.10, 8.4.1, 9.1.3, 9.1.5-6, and 9.1.13.

6 This could suggest a Visigothic authorship of the *Edictum Theoderici*. The prevailing opinion is that the *Edictum Theoderici* is the work of the Ostrogothic King Theoderic, not the Visigothic Theoderic I or II. The evidence (to my mind) is inconclusive, but for a discussion of it see Sean D. W. Lafferty, *Law and Society in the Age of Theoderic the Great: A Study of the Edictum Theoderici* (Cambridge: Cambridge University Press, 2013), and the review of Lafferty’s book by Otávio Luiz Vieira Pinto, in...
LI I is referred to as the ‘Visigothic constitution’ because it elicits the instruments of law (de instrumentis legalibus)⁹ – its purposes, reasons and roles – and prescribes the regulations for princeps and legislatores (the jurists of the royal court).¹⁰ LI II expands upon these prescriptions, explaining why the king (princeps) should firstly be just and then bound by the law.¹¹ The prescriptions in the LI laying out the role and proper activities of the king are mirrored in the canons of VIII Toledo. Judges, courts, contracts, property, mercantilist activities, criminal laws, degrees of relationship, fugitives, and land boundaries otherwise constitute the bulk of code. The LI is dedicated, it would seem, to secular affairs, referring to religion in passing throughout the text and only dealing with religious matters to any overt extent in LI XII, which contains the legislation relating to Jewish life in the kingdom. This focus on secular content appended by a dedicated religious volume is a crucial aspect of the LI’s structure and meaning, as elaborated on below.

According to the narrative composition of the LI, around forty percent of Visigothic laws, by the 650s, were recent legislation. In total, the LI contains over three hundred ‘ancient laws’ (antiqua), about one hundred laws from King Chindaswinth (r. 642-649/653) and around ninety from his son and successor Recceswinth. The code refers to antiqua what it suggests were laws promulgated before the Visigothic kings

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⁹ See Marie R. Madden, Political Theory and Law in Medieval Spain, 2nd edn. (Clark, NJ: Lawbook Exchange, 2007), 30, who saw LI I firmly as a constitution. Dietrich Claude defended and expanded this position, arguing that the constitutional elements apparent in the LI are comparable to modern constitutional frameworks (Claude, “The Oath of the Allegiance and the Oath of the King in the Visigothic kingdom,” Classical Folia, 30, no. 1 [1976]: 6).

¹⁰ Associating the Visigothic king with the authority of the Roman emperor, the king is referred to in the LI as princeps.

¹¹ See LI 2.1.2 and 5.
converted to Catholicism.\textsuperscript{12} The \textit{LI} was meant for diverse audiences and specifically dictates rules for translated versions, making one wonder if Recceswinth was only one of a number of persons in the kingdom who could speak Gothic.\textsuperscript{13}

The \textit{LI} survived the Middle Ages well, thanks, in part, to its continued influence on Iberian history and law. In the thirteenth century, the Toledan Alfonso X, King of Castile (r. 1252-1284), mined the \textit{LI} for his law-code, \textit{Las Siete Partidas}. His predecessor, Don Fernando III (r. 1217-1252) confirmed the code’s legality. He had also decreed that it be translated into Castilian and used for the \textit{fuero} of Cordoba.\textsuperscript{14} In various forms, more than forty manuscripts of the \textit{LI} remain, the oldest of which is a Recceswinth version: Vat. Reg. Lat. 1024.\textsuperscript{15} Closing it (138v) is the seventh-century list (\textit{laterculum}) of Visigothic kings known as the \textit{Chronica Regum Visigothorum}.\textsuperscript{16} This suggests a fundamental relationship between legal codification and historical memory in the \textit{LI}, but also more broadly in the earlier Middle Ages. Recceswinth’s \textit{LI} may have been the first instance of this, but hardly the only. Several manuscripts of Lombard laws include the king’s list of Rothari, and an origins story of the Lombards.\textsuperscript{17}

\textsuperscript{12} For example, \textit{LI} 5.7.9 and 10.3.5 which are associated, respectively, with IV Toledo and II Seville, although the latter is represented also in the \textit{Codex Euricianus} 276, at the beginning of the Paris Lat. 12161 fragment.

\textsuperscript{13} \textit{LI} 2.1.9. Alberto Ferreiro suggests that Recceswinth spoke Gothic, as was related by the \textit{Chronicon} of Pseudo-Isidore. See Ferreiro, “Sanit Martin of Braga and the Germanic Languages,” \textit{Perita}, 6 (1987), 298-306. In the 610s, apparent ‘Germanic’ custom was present in functioning law in Iberia, but it is uncertain if this was the situation in the 650s or whether it implies any knowledge of Gothic language by the parties involved (see the \textit{Libellus Dotalis Morgingeba}, in \textit{Miscellanea Wisigotica}, ed. Juan Gil (Seville, 1972), no. 20, and \textit{Diplomatica Hispano-Visigoda}, ed. Angel Canellas Lopez (Saragossa: Instiutucion Fernando el Catalico, 1979), no. 100, 181-82.

\textsuperscript{14} For discussion on the transmission and influence of the \textit{LI} before the twelfth century see García López, \textit{Lex Visigothorum}, pp. 41-151, and for after the twelfth century, Madden, \textit{Political Theory and Law in Medieval Spain}, 43-98.

\textsuperscript{15} I would like to thank the staff at the Vatican Library for their assistance with examining this and other manuscripts.

\textsuperscript{16} The oldest manuscripts of the Ervig version are MS Paris Lat. 4418 and MS Paris 4667, from the ninth and tenth centuries, respectively. On the manuscripts see García López, \textit{Lex Visigothorum}, pp. 35-69. For the edition of the \textit{Chronica Regum Visigothorum (CRV)} see the \textit{Laterculus regum Visigothorum}, in \textit{Chron. min., MGH, AA}, 13, ed. Theodor Mommsen (Berlin, 1898), 461-68.

examples too amongst Frankish laws and histories, and the earliest manuscript of Alfred’s law book has been connected to the *Anglo-Saxon Chronicle* and then later with Bede’s *Ecclesiastical History*. The Scandinavian law book of Gotland was also complemented by a historical narrative, the *Historia Gotlandiae*. This collective evidence suggests, Patrick Wormald argued, an extra-practical reason for the law-codes. They often made, first and foremost, literary sense, and served ‘ideological’, or literary, purposes. Building on but traversing Wormald, what this all suggests, I maintain, is the fundamental relationship between legal collections and historical discourse. This significance is evident in the *LI*, in which the historical narrative, constructed as it was, spoke specifically to those used to similar literature and similar literary methods in seventh-century Iberia. The capstone of Isidore’s book on law in the *Origines (Etymologies)*, *de legibus et temporibus*, is his lesser *Chronicles*. In 654, when the *LI* was promulgated, this Isidorian integration of law and history was rededicated to Recceswinth. Law served a spiritual function for Isidore, entangling historical and spiritual knowledge. The advent of the Son, Jesus, brought

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18 On the historiographical dialectics that interprets the law-code as functional or symbolic see Edward A. Thompson (Thompson, *Goths in Spain* [Oxford: Oxford University Press, 1969], 210ff.) against Michael Wallace-Hadrill (Wallace-Hadrill, *Long-Haired Kings* [Toronto: University of Toronto Press, 1982 (orig. 1962)], 179-81), and for a mediating position Patrick Wormald (see Wormald, “Lex Scripta and Verbum Regis: Legislation and Germanic Kingship from Euric to Cnut,” in *Legal Culture in the Early Medieval West: Text, Image and Experience*, by Patrick Wormald [London: The Hambledon Press, 1999], 1-41). Wormald and Jacques Fontaine were part of the 1960’s-1980’s ‘anti-functionalist’ group of scholars who developed a firm reaction against historians, of the previous generations, who had interpreted early medieval texts as ‘functional’. Fontaine and others claimed that these texts were aesthetic, which influenced also the development of the theory of the Isidorian Renaissance. Our perceptions of law and history in relation to aesthetics have been made more dynamic, less reactionary, since the Deleuzian-turn in aesthetics. Rosamond McKitterick, in dialogue with Wormald, argues that written early medieval legislation can only have had symbolic value if audiences understood and appreciated the practical function of law, therefore a law-code could only have meaning if its practicality as legislation was expected (see Rosamond McKitterick, *The Carolingians and the Written Word* [Cambridge: Cambridge University Press, 1989], 23-66).


21 Isid., Sent., 1.19.6: *Vel quod lex non tantum historicе, sed etiam spiritaliter sentienda sit.* For a theoretical discussion of history as an epistemological and eschatological project see Paul Ricoeur,
understanding of the mystical or spiritual sense of the law, and so humanity’s ability to know, love and follow it correctly.\textsuperscript{22} History, law and spirituality were quilted together in the form, presentation, meaning and intention of the \emph{LI}.

The \emph{LI} of Recceswinth, although certainly his, may have been a project devised by his father and predecessor, and active legislator, Chindaswinth.\textsuperscript{23} In violation of the canons of the Fourth (633) and Sixth (638) Councils of Toledo,\textsuperscript{24} Chindaswinth gained the throne by usurpation, overthrowing King Tulga (r. 640-642) with the assistance of certain nobles. He was crowned in the far north of the peninsula,\textsuperscript{25} and immediately sought to prevent rebellions. Instead of working through conciliar legislation as past usurpers had done (e.g., King Sisenand [r. 631-636]), he killed those whom he perceived to be potential threats to his authority: two hundred Gothic nobles (\emph{primatis Gotorum}) and five hundred members of the ‘middle class’ (\emph{mediogrebus}).\textsuperscript{26}


\textsuperscript{23} For example, P.D. King, \textit{Law and Society in the Visigothic kingdom} (Cambridge: University of Cambridge Press, 1972), 18, and ibid., ‘King Chindasvind’.

\textsuperscript{24} IV Toledo 3. The Sixth Council of Toledo, canon seventeen, declared that nobody should prepare a new king while the current one was alive, let alone usurp the living monarch. In the next canon it is said that the murder of a usurped king should be avenged, a prescription Chindaswinth avoided, whether he cared to or not, by tonsuring Tulga. This depends, in part on how we read, and believe, the sources. According to Fredegar (\textit{Chron.} 4.82), Chindaswinth took power with the approval of certain Visigothic nobles and others, in northern Spain, and subsequently had Tulga tonsured. According to the \textit{Chronicle of 754}, Chindaswinth’s usurpation was done by means of an outright revolt. For an edition of the \textit{Chronicles} of Fredegar see \textit{Fredegarii et aliorum chronica, MGH Script. rer. Merov.} II, ed. Bruno Krusch (Hannover, 1888), 1-193. For a translation of book four of the \textit{Chronicles} see Michael Wallace-Hadrill, \textit{The Fourth Book of the Chronicle of Fredegar} (Ann Arbor: University of Michigan Press, 1960).

\textsuperscript{25} See the discussion in Luis A. Garcia Moreno, \textit{Prosopografía del Reino Visigoda de Toledo} (Salamanca, 1974), no. 33, n. 1.

\textsuperscript{26} Fred., \textit{Chron.} 4.82.
Chindaswinth, at first glance, was, one might with hindsight say, an ideal Machiavellian-type prince, slaughtering detractors at the start of his reign to build love and virtue from initial terror. In contrast, a prince who murdered people individually yet consistently would be feared and hated, not loved. This seems to have been Chindaswinth’s continued course of action and the former the emotions that he fostered. The contemporary writer Fredegar relates that Chindaswinth killed seven hundred nobles of various classes, individually (sigillatem), and continued to kill people at will throughout his reign. The secular and ecclesiastical nobles, and anyone within the reach of Chindaswinth, seem not to have forgotten or forgiven his actions.

Chindaswinth was not only feared for his violent actions, but was also, as seen in Recceswinth’s promulgation of the LI closing VIII Toledo, loathed for using the money and resources stolen from the people he killed to endow his own estates. His regulations on moveable property (res mobiles) were a way to increase his authority. For example, he decreed that slaves could no longer be put to death without a public trial, thus removing the owner’s right of impunity and decreasing his ‘manorial’ power. Re-locating such punishments into the public forum allowed Chindaswinth to display his power. He also gave the wives and daughters of the deceased to his supporters, and, in a move to limit the power of other nobles, forbade the transfer of patrimony between...

27 He only effectively reigned until 649 when he raised Recceswinth to the throne as co-king. From then, Chindaswinth spent his time in penance while Recceswinth managed the kingdom, including issuing laws, as seen in the LI, and consecrating churches, such as the new church of St. John the Baptist in Toledo (Baños de Cerrato). On the latter see Diplomática, ed. Canellas Lopez, no. 129. On Machiavelli’s ideas see his Il Principe, chapters eight and seventeen.

28 Fred., Chron. 4.82.
30 Thompson, Goths in Spain, 269.
noble families, unless they had his explicit consent. Furthermore, he increased royal authority in the ecclesiastical sphere, reducing episcopal autonomy even further and ending the practice of sanctuary for fugitives. A recent analysis of Braulio’s (Bishop of Zaragoza, 631-651) letter collection helps to further grasp the problems that Braulio and his provincial network, and probably ecclesiastics more widely, had with Chindasvinth. The structure of the collection, and its chosen contents, shows the severe problems Braulio faced concerning Chindasvinth and his increased interference with episcopal jurisdiction. The purpose of the letter collection, Ruth Miguel Franco has argued, was meant to subtly reveal the story of royal interference. The letters with Eugenius II (the reluctant Bishop of Toledo, from 646 to 657), for example, and their potentially inverted chronological order, show Braulio’s and Eugenius’s shared opposition to the king.

The mood of terror, fear, distrust and general malaise, left behind by his father, was what Reccesvinth inherited when he was raised as co-king in 649 and which he had to reconcile once he became sole king in 653, upon his father’s death. In 646, Chindasvinth said that “fear of God is the beginning of wisdom” (principium sapientiae timor Domini) and that “fear of God is the beginning of religion” (timor Domini principium religiositatis). Chindasvinth embraced a model of authority that sought to scare the elite of his kingdom into obedience. He attempted to centralize

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32 Fugitives were to be handed over for blinding, if not death (LI 6.5.16).
33 Braulio manipulated the history of the letters in order to create a historical logic that presented his vision of the truth. On this, see Ruth Miguel Franco, “Braulio de Zaragoza, el rey Chindasvinto y Eugenio de Toledo: imagen y opinión en el Epistularium de Braulio de Zaragoza,” Emerita, Revista de Lingüística y Filología Clásica, 79 (2011): esp. 173ff.
34 In the Cartula Donationis Quindasuinth Regis of 18 October. For the edited text see Diplomática, ed. by Canellas Lopez, no. 115.
power and knowledge in Toledo, with the activities mentioned, but also, for example, in ordering Eugenius II to redraft Dracontius, and in sending abbot Taio, later Braulio’s successor as Bishop of Zaragoza, from 651 to c. 681, off on a book-collecting mission to Rome.\(^{35}\) In contrast, Recceswinth’s LI does not use fear of God or divine sanction for its authority, only subtly inscribed spiritual power.\(^{36}\)

Although Recceswinth was joint king from 649, upon his father’s death in 653 he faced a serious revolt in the Ebro valley, by one Froia.\(^{37}\) The antipathies against his father meant that Recceswinth had to pay a price for the support needed to defeat Froia. This price was, in part, the apparent concessions in the LI and at VIII Toledo, in which Recceswinth promised to act in *bonae voluntatis*. Closing the council, Recceswinth gave a lengthy address in which he promulgated the new law-code. The purpose of the code, Recceswinth explained, was to restrain the powers of the king, ensure domestic tranquility, prevent abuses of power, preserve the property rights of individuals, and separate the king’s private property and the property of the royal treasury.\(^{38}\) The right of sanctuary was also restored.\(^{39}\) Despite such gestures, Recceswinth did not ease up on his father’s drive to consolidate power into the hands of the monarchy in Toledo.

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\(^{36}\) For example, see *LI* 1.2.5, the logic of which is consistent throughout the code.


\(^{38}\) *CCH*, 5 (1992), pp. 460-86.

\(^{39}\) *LI* 9.3.1. The inclusion of this law enhances the perspective of Recceswinth as designer of the code. On the *LI* as an act of opposition see Martín, “*Liber Iudiciarum*.”
Although he moderated this authority, Recceswinth did not abandon it: in fact, royal authority increased as his reign continued. The creation of the LI provided Recceswinth with a perfect opportunity to make formal concessions, while establishing a framework that would allow him to increase the consolidation of dominion in Toledo.\footnote{For recent research on the realities of central power see Santiago Castellanos and Iñaki Martín Viso, “The local articulation of central power in the north of the Iberian Peninsula (500-1000),” \textit{Early Medieval Europe}, 13 (2005): 1-42.} How?

King Chintila’s (r. 636-639) council (VI Toledo), held in 638, speaks of protecting and promoting the welfare and piety of the people as a shared social practice of universal fidelity.\footnote{VI Toledo 13 and 16.} In October of 646, several years after his slaughter of nobles, Chindaswinth opened his council (VII Toledo) by denouncing traitors and deserters (running from his persecution). By sidestepping any proclamations of faith, Chindaswinth ignored the standard performance of ritualistic submission to faith. Recceswinth also dealt with these matters early in VIII Toledo, but did so \textit{after} a lengthy proclamation of faith.\footnote{Recceswinth included a law in the LI based on VII Toledo 1 (LI 2.1.6).}

Moreover, at VII Toledo, as opposed to at VI Toledo, fidelity was established for the sake of the king’s benefit, not for the path of salvation. An overt purpose of the \textit{LI}, as laid out in VIII Toledo, was to return to the salvific path, after the terrorizing reign of the father, which established a fatal pattern of noble emigration out of the kingdom. To entice emigrés to return and those remaining to remain, Recceswinth needed to appear to reduce the king’s powers, ensure justice, protect property and return to the holy path. He chose to do this not by continuing to pass individual legislation or canons, as previous kings had done. Instead, he promulgated a smartly designed, well-constructed
law-code, and this point alone is worthy of reflection: it was the first time that any Catholic Visigothic king issued a law-code.43

Recceswinth chose a different method for authority formation and centralization than previous Catholic Visigothic kings.44 He promulgated a law-code, and infused it with significance by way of historical narration, a dynamic and popular mode of asserting sovereignty and influence during the ‘Isidore-moment’ (c. 600-660s) of the Visigothic Kingdom.45 In that situation, history was a narrative constellation constituted by layers of interpretation: the literal, the tropological, and the spiritual (mystical), or: body, language, and truth.46 The (spiritual and so actual) truth, the meaning of the LI, was revealed by structure, the bodies and languages, or, by the historical ‘facts’. Spirituality was the (subjective) condition, the facualité ([historical] contingency), explaining the coming-into-being of the (objective) ‘facts’ of the LI.47 Thus, the LI could only mean

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43 Reccared may have issued one as well, but it is not extant. If he did, it is likely that Recceswinth and other contemporaries were aware of it and built from this legacy.


45 The relationship between history and multi-layered figurative narrative entangled with spiritual rhetoric were embedded in popular conceptions of history in Iberia and Visigothic Gaul during the Isidore-moment. This was evident from Seville to Narbonne, Toledo to Cartagena. For example, in 615, King Sisebut sent a letter from Toledo to the patrician Caesarius in the later, in which he discusses the uses of history in the shared spirituale bellum in Byzantine Spania and Visigothic Hispania (Ep. Wis. 4: Aliquae sane vestris tenentur affatibus, ubi pars figuraliter, pars historialiter intimatur, nonnulla tropicae narrationis obitum locum). In a letter between a monk Mauricius and the metropolitan Bishop of Narbonne, in the 610s, history is equated with narration (Ep. Wis. 18: Hos namque et alios quam plurimos Dei notatos electione multum sacra narrat historia, quos nec tempori nec loci coarctat necessitas per ordinem replicare). On the Isidore-moment as a historical category see: Michael J. Kelly, Writing History, Narrating Fulfillment: the ‘Isidore-moment’ and the Struggle for the ‘Before Now’ in Late Antique and Early Medieval Hispania (Ph.D. Thesis: University of Leeds, 2014), Ch. 1.

46 In Sent. 1.18.12 Isidore claims that “Lex divina triplici sentienda est modo: primo ut historice, secundo ut tropologice, tertio ut mystice intellegatur. Historice namque iuxta litteram, tropologice iuxta moralem scientiam, mystice iuxta spiritalem intellegentiam.” In preserving the tripartite structure of classical narrativity – figuration, history, and tropic narration – Isidore maintained the latter two – history and tropic narration – while replacing the Roman ‘figuration’, figurative or allegorical interpretation, with an explicitly spiritual (mystical) one, a mystice intellegatur that imbues allegory with spirituality.

anything by way of a historical mode that was a constellation of contingency fueled by a factualizing truth process in which facts (laws, person, etc.) were conditioned by spiritual intelligence. In other words, it is as a history of Visigothic law composed of functioning tropes and ‘facts’ conditioned by the present, not as a transhistorical (chronicle-type) continuation of a legal past or one-dimensional judicial instrument that the LI was instilled with (actual and potential) contemporary meaning.

Recceswinth issued laws after 653, but did not reissue the LI. If he had seen the code primarily as a book of laws meant for the courts, he would have updated it with new laws that emerged throughout the subsequent eighteen years of his reign. Instead, Recceswinth fit the LI’s constitutions into an historical structure that promoted his dynasty as the ‘illustrious men’, and heirs to, if not authors of, the Catholic conversion of Spain at a moment when it was necessary. Using literary tropes and historical rhetoric common at the time, he wove together the past and present into a narrative about the law that reconfirmed his authority.

What, then, is the historical narration of the LI? As noted, the LI contains over five hundred laws. Most of them have had the names of their promulgators erased from the record and are instead attributed to being ancient laws. The attribution antiqua was supposed to indicate that a law was derived from Arian kings, from the kings up to and including Liuvigild (r. 568-586), a collective, un-nominated mass, unworthy of naming. That the so-called antiqua occasionally included, or in fact were, canons and laws from the Catholic kingdom helps to demonstrate their tropical function. Except for a
handful of laws in the final book, which at times travelled separately, the only names of legislators mentioned in the *LI* are Chindaswinth and Recceswinth.51 This was done not because kings in between them and Liuvigild did not legislate, but rather, the inclusion of them was meant as a rhetorical device serving to collectivize the unnamed as past, as outside of the (significance of the) present.

The entire first book of the *LI* is anonymous: none of the laws are attributed to any authors, neither Chindaswinth nor Recceswinth, and they are not even described as *antiqua*.52 This was a different type of universalization and removal from time than that of the *antiqua*, which were anonymous parts of totalized time, but not of the nominated and imagined present. The universal laws of the so-called Visigothic constitution, the first book of the *LI*, were to be self-evident. Recceswinth smartly removed them from the underlying historical narrative of the text and, in so doing, did not tie his historically and spiritually constructed legitimacy to the prescriptions of this constitution. Any violation of them would neither tarnish his legitimacy nor represent a contradiction of his word as law. The second book of the *LI*, which specifically lays out the rights and duties of the kings and judges, is almost completely constituted by laws of Chindaswinth and Recceswinth, in higher proportion than the laws of the other books. It also begins with Recceswinth, which presents the king as the author of the code.

This structure directs memory and so opinion of the laws in such a way that Chindaswinth and Recceswinth were the Catholic legislators, the bringers of Catholic-

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51 The two laws by Sisebut are *LI* 12.2.13 and 14, and the three of Reccared are *LI* 3.5.2, 12.1.2, and 12.2.12. Three of these five are listed together (*LI* 12.2.12-14), with another very nearby. Outside of the twelfth book, the only law attributed to a king other than Chindaswinth and Recceswinth is *LI* 3.5.2 of Reccared, re-attributed to Recceswinth in later manuscripts.

52 On the anonymity of the pre-Reccared laws in the *LI* as *damnationes memoriae* of the Arian Visigothic kings see Martin, ‘*Liber Iudiciorum*’.
approved law to the kingdom. This method of connecting Catholic justice to the historical present of Visigothic law, embodied in the family of Recceswinth, promoted his authority in front of religious leaders and their local populaces. It also served to restore the image of his father, who had lived the last years of his life in penitence, by presenting both kings as those who brought Christian-inspired justice. Chindaswinth and Recceswinth were the direct line of authority from the conversion. Further to the point, Recceswinth included slightly more laws by his father. This was a literal and metaphorical subordination of the son to the father which elevated the memory of Chindaswinth and suggested the two kings as temporal versions of the holy father and son lawgivers. The *LI* re-confirmed the king’s rightful place as head of the kingdom, but also its church.\(^{53}\) The structure mirrors Isidore’s (Seville’s) early 630s canonical collection, the *Hispana*, which proliferates a story of the kingdom’s conversion through Seville, from Bishop Leander (Isidore’s brother and predecessor) at III Toledo to Isidore at IV Toledo. The text excludes all councils from the record that did not support this narrative of Sevillan spiritual authority in the kingdom and over (and as holy guide to) Toledo.\(^{54}\)

The *LI*, a crucial piece of Recceswinth’s first council, was designed to be associated with Reccared’s conversion council of 589 (III Toledo), and so with spiritual authority. The proceedings and canons of VIII Toledo promote the spiritually endowed historical narrative of the *LI*. One of the ways in which it does this is with the employment of the number twelve. The *LI* has twelve books and the council has twelve canons. This structure, without precedent in Visigothic Iberian history,\(^{55}\) links the *LI* with the Twelve

\(^{53}\) An authority formalized by Gundemar at his council in Toledo in 610.

\(^{54}\) For details of this see Kelly, *Writing History, Narrating Fulfillment*, Ch. 4.

\(^{55}\) Only one other council in Spanish conciliar history would have twelve canons, XIV Toledo, led by Julian of Toledo in 684.
Apostles and the Twelve Tables, a type of legalist mysticism Isidore would have appreciated. For Isidore, mysticism is what elicited truth from ‘bodies and languages’. Isidore also lays out the theological and Christological importance of the number twelve in his book on numbers. Twelve was, more widely, a significant number in seventh-century Iberia, as seen in the reference to the four passions, eight deadly sins, and six works of charity of Desiderius in Sisebut’s \textit{Vita Desiderii}, reflecting the Gospel of Matthew 25:35. Also, there are two anonymous poems on the ‘twelve winds’. The structure of the \textit{LI}, internally and in relation to the council in which it was promulgated afforded Recceswinth the chance to advance reconciliatory acts, while maintaining the king’s ultimate authority over ecclesiastical affairs. By creating a narrative of historical legitimacy of the Catholic kings, of which Recceswinth was the ultimate embodiment, the \textit{LI} gave legitimacy to the laws of his dynasty and reconfirmed the king’s position as the head of the kingdom and the church.

In conclusion, the \textit{LI} was the first Visigothic law-code issued by a Catholic king, in a Catholic kingdom, at a Catholic council. These features alone indicate the uniqueness of the event of the \textit{LI} from that of the other Visigothic law-codes. However, historians have tended to lump them together as if there was an essentiality to Visigothic (or any)

56 Isid., \textit{Orig.} 5.1.3; Isid., \textit{Sent.} 1.18.12.
57 “Sed per tres Trinitatis mysterium, per quatuor virtutum actio illustratur; ac per hoc in his partibus, ut per Trinitatis speciem actio virtutum perficitur, et per repraesentationem virtutum usque ad Trinitatis notitiam pervenitur. Rursus autem cum ad duodenarium surgit, et duodecim apostolos septiformis gratiae Spiritus perfectos ostendit, quorum praedicatio [forte praedicatione] per quatuor virtutum genera Trinitatis fides in toto orbe crescit.” Isidore, \textit{De Numeris}, ch. 8, \textit{PL} 83.
59 The \textit{LI} is also the only Visigothic law-code in which old and new laws were explicitly collected together into a single text. For his \textit{Breviary}, or \textit{LRV}, Alaric II had jurists write new interpretations for the old laws, as a way to update and clarify their meaning. The interpretations are not ascribed to Alaric II or his father Euric, who also produced a law-code, the \textit{Codex Euricianus}. 

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legal codification. The (Edictum Theodorici?), Codex Euricianus, Breviarium Alarici, Codex Revisus, and Liber Iudiciorum do not represent a linear history of writing and meaning. Some were immediate responses to situations on the ground, others well-planned formalizations of authority, and others deeply entangled within the competitive discourses and narrative frameworks of the moment. The LI should be evaluated within the literary ethos of its time, not as a separate, floating signifier in a chain of legal history.\textsuperscript{60} Iberian canons functioned perfectly well without being codified into collections.\textsuperscript{61} When they were brought together into smartly designed historical collections, as in the Hispana, they were imbued with additional, if not alternative, meaning. This act of re-signifying the laws and their pasts is what Recceswinth did: he historicized them and made them perform as literature. A general historical dialectics of functionality vs symbolism, in this case, is a false one: the LI as historical narrative offering a poetics of the law independent of its past was operative law performing in literary ways endemic to authority formation and memory in the Isidore-moment.\textsuperscript{62}

\textsuperscript{60} For further discussion see Carlos Petit, Iustitia Gothica: Historia social y teología del proceso en la Lex Visigothorum (Huelva: Universidad de Huelva Press, 2001).

\textsuperscript{61} For example, the proceedings of the Council of Huesca in 598 were first put into writing in 614, by those at the Council of Egara, yet Huesca’s canons presumably functioned during the intervening sixteen years. Moreover, in the edited version of the Hispana, there are two councils listed as the Second Council of Zaragoza. This is because the council in Zaragoza in 592 was not recorded in the Hispana. The council of 592 is listed only in the codex Aemelianensis.

Primary


Secondary


