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Decline and Fall? The Institutional History of Post-Imperial Western Europe, AD 400-800

Ryan David McDaniel

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‘Decline and Fall’? The Institutional History of Post-Imperial Western Europe, AD 400–800

by

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B.S., Engineering & Applied Sciences and History, California
Institute of Technology, 2003

THESIS

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Abstract

Over the course of the fifth to ninth centuries, the Roman Empire gave way in western Europe to several kingdoms initially founded by so-called ‘barbarian’ tribes. This thesis is a thematic assessment of the evolutionary trends that shaped this period. It respects and integrates the highly interconnected nature of these themes (politics and social structures, for instance). It is driven by a desire for synthesis, and in particular a desire to reconcile the economic arguments of Chris Wickham and Walter Goffart with the more political histories of Peter Heather and Guy Halsall. The institutions that define the early medieval era—localized, more feudal societies, power systems, and economies—will be seen to be the direct outcome of trends begun under the Empire. In fact, these trends began with the Romans’ method for accommodating the arrival of the barbarian peoples in the fifth century.

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Glossary & Abbreviations

<i>AA</i>	<i>Auctores antiquissimi</i>
allod	Land held absolutely, i.e., independently of any overlord, and not subject to tax, rent, or legal constraints. Distinguished from so-called feudal land tenure.
<i>annona</i>	Supplies, principally food (and especially grain), moved within the Empire to sustain the bureaucracy and most especially the army.
barbarian	Non-Roman, non-Celtic inhabitant of western Europe. Frequently if inaccurately referred to as Germanic, particularly in older literature.
<i>CE</i>	<i>Constitutiones Extravagantes</i>
<i>CG452</i>	<i>Chronica Gallica</i> 452
<i>foederati</i>	Barbarians deliberately settled by treaty (a <i>foedus</i>) within the Empire, usually with the intent that they provide local military and/or governmental services.
<i>LC</i>	<i>Liber Constitutionum sive Lex Gundobada</i>
<i>LSK</i>	<i>Lex Salica Karolina</i>
<i>MGH</i>	<i>Monumenta Germaniae Historica</i>
<i>PLS</i>	<i>Pactus Legis Salicae</i>

Chapter 1

Introduction

1.1 Motivation and Research

The subject period of this thesis, spanning roughly the years 400 to 800, was a time of major turbulence within western Europe. To properly understand the context, however, requires backing up a little farther in time. Over 50 years (235–84) there were 20 legitimate emperors and dozens of pretenders; 17 of these emperors were assassinated, and two more died in war. In the most extreme case, four pretenders managed to rule a breakaway “Gallic Empire” for 15 years.¹ This so-called crisis of the third century was balanced by a long period of restoration during the fourth century, during which the Empire was governed by capable emperors from Diocletian to Theodosius I (284–395). It was during the troubled third century that the Franks, Alemanni, and Goths were all first attested.² There are also allusions during

¹Peter Heather, *The Fall of the Roman Empire: A New History of Rome and the Barbarians* (New York: Oxford University Press, 2006), 66; Guy Halsall, *Barbarian Migrations and the Roman West 376–568* (Cambridge: Cambridge University Press, 2007), 73–74; Patrick J. Geary, *Before France and Germany: The Creation and Transformation of the Merovingian World* (New York: Oxford University Press, 1988), 10–11.

²Halsall, *Barbarian Migrations*, 73–74; Geary, *Before France and Germany*, 10–11. See Herwig Wolfram, *History of the Goths*, revised from the German second edition of 1972, ed. and trans. Thomas J. Dunlap (Berkeley: University of California Press, 1988), 43–52,

this period to other peoples—the Saxons, Burgundians, and Vandals—living beyond those tribes that most closely bordered the Empire.³ All of these peoples later made their way inside the Empire.

The origin of the Franks is uncertain, but they were almost certainly from the area east of the Rhine. They first crossed the frontier in the third century on a “raid” which took them all the way through Gaul to the Pyrenees before they were repulsed; from that time they were in what Katherine Fischer Drew called “constant contact” with the Empire.⁴ The Goths formed in the area north of the Black Sea and gradually worked westward along the Danube in the late third century; they were initially defeated by Claudius II Gothicus (268–70) but remained in the Danube corridor.⁵ For a time thereafter, the Empire was able to prevent any further incursions. But after the defeat at Adrianople in 378, the Empire could no longer hold out the Goths. More famously, on 31 December 406, a mass of Alans, Vandals, and Sueves crossed the frozen Rhine to wander in the interior of the Empire; the Burgundians may have joined this migration. The majority of these peoples ravaged Gaul for the next three years before eventually settling in Spain.⁶

Although the Empire made extensive efforts to accommodate these peoples—settling them, hiring them, delegating to them, and in various other ways integrating them into the fabric of Roman society—the fourth and fifth centuries were nonetheless a time of significant change. The barbarians steadily increased in in-

for a more detailed discussion of the Goths in particular.

³Patrick J. Geary, *The Myth of Nations: The Medieval Origins of Europe* (Princeton: Princeton University Press, 2002), 81.

⁴Katherine Fischer Drew, introduction to Katherine Fischer Drew, ed., *The Laws of the Salian Franks* (Philadelphia: University of Pennsylvania Press, 1991), 3–5; Geary, *Myth of Nations*, 80.

⁵Thomas S. Burns, *A History of the Ostrogoths* (Bloomington, IN: Indiana University Press, 1984), 19–25.

⁶Bernard S. Bachrach, “The Alans in Gaul,” *Traditio* 23 (1967): 477; Geary, *Myth of Nations*, 101. Burgundians: Paulus Orosius, *Historiarum Adversos Paganos Libri Septem*, in Alexander Callander Murray, ed., *From Roman to Merovingian Gaul*, Readings in Medieval Civilizations and Cultures 5 (Peterborough, Ont.: Broadview Press, 2000), VII.38.

fluence throughout this time, both as individuals and as national/political groups. Simultaneously this period saw the apparent weakening of long-standing imperial institutions, culminating with the deposition of the last formal emperor of the West, Romulus Augustulus, in 476. Historically this has been viewed, through the lens of Edward Gibbon's famous 'decline and fall' paradigm, as the dissolution of the Empire and the end of Roman civilization in the West.

Although superficially the Empire was replaced by barbarian kingdoms in the early medieval period, these kingdoms retained much of late Roman culture and institutions. Roman continuity was of course not unending. There comes a point when—whether we characterize it as arising from barbarian culture, a Roman fusion, or as something altogether new—we must begin to speak instead of Europe. In one sense, therefore, Gibbon was right: as the kingdoms began to carry this Roman heritage in different directions, the monolithic Empire dissolved into a handful of related but distinct localities. By the time of Charlemagne, it is fair to say that, in Henri Pirenne's words, "The Middle Ages had arrived."⁷

* * *

My fundamental area of interest is the boundary in space, time, and conceptualization between the Roman Empire and the early medieval kingdoms. This places me squarely in the field first comprehensively surveyed by Gibbon, and subsequently re-plotted by Pirenne and then Peter Brown. In more recent years Bernard Bachrach, Cameron, Collins, Patrick Geary, Walter Goffart, Halsall, Chris Wickham, and Ian Wood—all of whom will be referenced extensively in this thesis—have all made significant contributions. My emphasis in current research is on the institutional transition between late antiquity and the early medieval period, especially in western and

⁷Henri Pirenne, *Mohammed and Charlemagne*, reprint of 1954 edition by George Allen & Unwin Ltd., London, ed. and trans. Bernard Miall (Minneola, NY: Dover, 2001), 265. See also the position taken in G. W. Bowersock, Peter Brown, and Oleg Grabar, eds., *Late Antiquity: A Guide to the Postclassical World* (Cambridge, MA: Belknap Press, 1999), vii. However, compare the titles of cited works by Guy Halsall, Averil Cameron, and Roger Collins, who stop at 568, 600, and 1000, respectively.

southern continental Europe. Of particular interest to me is the idea of institutional permanence or continuity of various ideas and trends.

My approach, both in this thesis and elsewhere, is driven by a desire for synthesis. In sentiment I am perhaps closest to the French *Annales* school and its concept of total history, at least in terms of the inclusiveness of sources and the interest in problems and long-term studies. I would like to follow Georges Duby's lead in "relegat[ing] the sensational to the sidelines" and "striv[ing] on the contrary to pose and solve problems and, neglecting surface disturbances, to observe the long and medium-term evolution of economy, society and civilisation."⁸ Fernand Braudel likewise made the point that "we can no longer believe in the explanation of history in terms of this or that dominant factor. There is no unilateral history. No one thing is exclusively dominant: neither the conflict between races ... nor powerful economic rhythms ... nor constant social tensions..." The list goes on.⁹

At the same time, I disapprove of the rejection of historical narrative. Indeed, I very much agree with Peter Heather that "it is vitally important not to lose sight of narrative in the midst of the current emphasis on ideology and perception."¹⁰ All matter of sentiment aside, reconstructing narrative—and I carefully say reconstructing, because I reject E. H. Carr's notion that historians may pick and choose their past to suit their interpretations—is the primary goal of history.¹¹ While Leopold von Ranke's desire to describe the past *wie es eigentlich gewesen ist* ("how it really was") may be forever beyond our grasp, that does not mean we should not strive to do so.

⁸Georges Duby, *The Legend of Bouvines: War, Religion, and Culture in the Middle Ages* (Berkeley: University of California Press, 1990), foreword.

⁹Fernand Braudel, *On History*, trans. from the French 1969 edition by Sarah Matthews (Chicago: University of Chicago Press, 1980), 10.

¹⁰Heather, *Fall of the Roman Empire*, xiv.

¹¹Edward Hallett Carr, *What is History?* (New York: Vintage, 1961), 5–11.

1.2 Framing the Argument

In 1984, Wickham lamented that “Much analysis of the congeries of changes that is generally known as the ‘end of the ancient world in the west’—or some similar name—has been harmed by considerable lack of clarity as to what is actually meant by the phrase.” Wickham goes on to list a series of things commonly considered part of ‘antiquity’, while noting that their histories are neither the same nor necessarily related: “Graeco-Roman paganism (and/or state Christianity), secular Latin literature, temples, the emperor, the senate, slavery, [and] togas.” Since Wickham wrote that nearly thirty years ago, there have been a number of more or less comprehensive attempts to describe the “congeries of changes” by, among others, Collins, Cameron, Halsall, and Wickham himself.¹²

Unfortunately, the discourse has not necessarily come any closer to Wickham’s goal of clarity. His point was that we have lumped too many extraneous features of late antiquity together and missed the essential elements (a charge he would presumably also level at the works cited above), and his article was therefore an explicit attempt to frame the “end of the ancient world” in economic terms, rather than cultural history or political history *per se*. In my view, however, he gives economic history too privileged a position, even if he does treat “the fall of the state” as a necessary component of an economic explanation.¹³ This thesis will undertake to do almost exactly what Wickham was decrying, and deliver a broad, synthesizing survey of institutional changes in the post-imperial period.

The elements we now see as medieval were largely present (if latent) within the

¹²Chris Wickham, “The Other Transition: From the Ancient World to Feudalism,” *Past and Present* 103 (1984): 3. Survey books include: Roger Collins, *Early Medieval Europe, 300–1000*, 2nd ed., History of Europe (Houndmills, UK: Palgrave, 1999), originally published 1991; Averil Cameron, *The Mediterranean World in Late Antiquity, AD 395–600* (London: Routledge, 1993); Halsall, *Barbarian Migrations*; and Chris Wickham, *The Inheritance of Rome: A History of Europe from 400 to 1000* (New York: Viking, 2009).

¹³Wickham, “The Other Transition,” 4.

later Roman Empire—the barbarian invasions and subsequent political realignment merely provided an opportunity for social and economic structures to realign as well. To cast this in Braudelian terms: a series of events in the fourth and fifth centuries enabled existing imperial structures/conjunctures, built within the framework of the Mediterranean (and particularly Roman) *longue durée*, to re-assemble in new ways. Within this context, barbarians and their Roman “collaborators” actually made much use of imperial institutions, adapting and working within them—and when necessary, replacing them. These changes affected the political, social, economic, legal, and religious domains. They are characterized by an essential continuity, though with particular areas of disruption or discontinuous change, and throughout a trend towards localization of institutions. In particular I will argue that the traditional narrative of feudalism is still a useful—perhaps the most useful—framework for understanding this transformation.

Stated more directly: The barbarian kingdoms of post-imperial western Europe, commonly held to be the destroyers or at least supplanters of the Roman Empire, were in fact built on and out of the late imperial structural framework. The very institutions that define the early medieval era—more localized power systems and economies and the beginnings of what may be called feudalism—are all the direct result of evolutionary trends begun under the Empire.

* * *

There are a number of definitional issues raised by framing the thesis this way. By ‘institution’ or ‘structure’ I mean what Braudel called “an organization, a coherent and fairly fixed series of relationships between realities and social masses.”¹⁴ In the context of this thesis, that includes political structure, class and ethnic divisions, economic patterns, law, and religion. In future work it could be expanded to include a number of other topics. In treating the subject this way I reject the traditionally

¹⁴Braudel, *On History*, 31. The passage continues, “For us historians, a structure is of course a construct, an architecture, but over and above that it is a reality which time uses and abuses over long periods.” I cannot say I disagree with this definition.

perceived division between political and social history.¹⁵

The Roman Empire, of course, was a Mediterranean-wide entity that lasted in some form (including the earlier monarchy and republic) for at least 1,200 years in the West, and nearly 2,000 in the East. By ‘*the* Empire’ or ‘imperial’ I am referring either to the single integrated entity (fourth century and earlier) or to the western and eastern halves operating as a single conceptual unit and sharing broad similarities. When I need to specify the Western or Eastern Empires, I will try to be clear about which one I mean.

In modern times, ‘Europe’ has many meanings, some of them quite far-ranging. Geary highlights some of the difficulties surrounding any attempt to grapple with the definition of ‘Europe’, particularly when linking its history to the barbarian peoples and the post-imperial kingdoms.¹⁶ For the purpose of this thesis, however, I will identify Europe with its continental portion. Primarily this will mean the regions bordering the northwestern Mediterranean—roughly the Iberian and Italian peninsulas and what is now France—and on occasion some of their immediate neighbors (e.g. what is now Switzerland). This narrowing of scope is justified by the historical events described in the previous section. Whereas the northern and western Mediterranean was subject (along with some of northern Africa) to ‘barbarian’ invasions in the third to fifth centuries, the remainder of the Empire was not. Indeed, the eastern Mediterranean remained Roman, at least in name, for nearly another millennium. The Eastern Empire brought western Africa back into its sphere in the sixth century. In the seventh and eighth centuries it lost all of its southern territories to the expanding Islamic empire, which Pirenne saw as pivotal, and which certainly

¹⁵Compare, for example, the characterizations of Braudel’s *Annales* paradigm in his own *On History*, as well as Lynn Hunt, “French History in the Last Twenty Years: The Rise and Fall of the Annales Paradigm,” *Journal of Contemporary History* 21 (1986): 209–24, and Lynn Hunt, “Introduction: History, Culture, and Text,” in *The New Cultural History*, ed. Lynn Hunt (Berkeley: University of California Press, 1989), 3–6.

¹⁶Geary, *Myth of Nations*, 1–14; as another measure of complexity, the Council of Europe currently includes forty-seven nations.

altered its historical trajectory. These disparate regions all have their own unique and interesting institutional histories (and historiographies), but for the moment I will set them aside in favor of the larger meta-narrative of western Europe.

For the most part this thesis will exclude Anglo-Saxon England, for the simple reason that its historical trajectory was fundamentally different from those of the continental kingdoms. Britain, which was always one of the least romanized provinces of the Empire, was nonetheless still nominally Roman when it was deliberately abandoned by Rome. This withdrawal happened decades prior to the arrival of the Anglo-Saxons, meaning that there was no extended period of acculturation or incorporation of the Anglo-Saxons into Roman political/social structures, as there was on the Continent. As an unsurprising consequence, Anglo-Saxon England ended up being the least Roman of the territories of the former Empire. I will still refer to the Anglo-Saxons on occasion as providing examples of barbarian culture or institutions, or as offering counter-examples to trends on the Continent.

Lastly, why the periodization 400 to 800? These dates are not meant to represent hard endpoints: 400 is a convenient approximation for two changes that collectively signaled a new phase for imperial history. The Empire was irrevocably divided into West and East after the death of Theodosius I in 395. Combined with the mass invasion of 406, the Empire's governing strategy, and indeed historical trajectory, was never the same. At the other end of the period, 800 is likewise a convenient date, corresponding with Charlemagne's imperial coronation in Rome. Although this thesis will include some discussion of events under Charlemagne past 800, the Carolingians represented a significant break with the past, and for the most part any discussion of the early medieval period will end with the reign of Charlemagne.

Before turning to the structure of this thesis, I also want to touch briefly on a few matters of terminology, most of which will be discussed in greater detail in Chapter 2. As I have done already, I will continue to use the terms 'late antique' and 'early medieval' somewhat interchangeably throughout this thesis. It is my belief

that there is some separation between the two, with ‘late antique’ referring to the earlier part of the period in question, and ‘early medieval’ to the later. However, although I will not use ‘late antique’ to mean 800, or ‘early medieval’ to mean 400, there is a great deal of overlap in the middle and to avoid any false sense of precision I will not try to distinguish too carefully between the two. Similarly, I have already used the term ‘barbarian’ above; I use it merely as a nondescript, non-pejorative catch-all label for ‘non-Romans’. I will use the terms ‘feudalism’ and ‘feudal society’ somewhat loosely to describe a society characterized by hierarchical relationships of power, jurisdiction, and land-based economies.¹⁷

1.3 Structure of the Thesis

This thesis is divided into eight chapters that will address the evolution of late Roman institutions in light of the historical events identified above. The chapters are largely arranged thematically, although some of them are highly interconnected—political and social structures and economics, for instance. The last two chapters on law and religion are notionally extensions of the chapters on politics and society, respectively, but contain distinct arguments and so are treated separately.

Chapter 2 addresses the historiography of late antiquity, including both significant historical debates and current positions. It looks first at the ways historians have approached the field of late antiquity, focusing in particular on the ‘decline and fall’ paradigm and the development of the ‘late antique’ model itself. It will turn next to the related question of barbarian identity and the debate over whether we must see Roman and ‘barbarian’ identities and continuities as a zero-sum game. It will then change course somewhat to tackle the contentious debate over feudalism; it will conclude that while the traditional understanding of the label may be inappropriate,

¹⁷I will follow Wickham in looking for useful labels, rather than necessarily exact ones: see Wickham, “The Other Transition,” 7.

‘feudalism’ still holds value as a conceptual framework. Finally, the chapter ends with an assessment of the ways in which our understanding of late antiquity is improving.

Chapter 3 is the first of the thematic chapters, and will investigate the evolution of political and governmental structures in late antiquity. It begins with the way the barbarian peoples were accommodated by the Empire and the ways the groups shaped each other. Power structures became increasingly decentralized, a trend that began under the late Empire. This trend allowed the barbarians a political entry point, a way of adapting themselves into Roman institutions. Over the course of late antiquity, the barbarians also began to adapt these institutions to themselves; this chapter will focus in particular on the execution of political power, taxation, and military organization.

Chapter 4 will pivot from politics to society, addressing the class systems and organizations of both late Roman and early medieval societies. Although Roman and early barbarian social structures had some surprising similarities, these (and their differences) became blurred as the two cultures adapted to each other. Like government, culture became more local throughout late antiquity, leading to the regionalization of a formerly common, comparatively monolithic culture and society. The roles of cities and towns also changed during this period, becoming more purely administrative centers. The chapter will end on a discussion of the impact of these changes on the growth of feudalism, or at least feudal-like structures.

Chapter 5 will pivot again to economic structures, beginning with the bases of the economy, primarily agriculture and industry. The chapter will make a brief digression to address the so-called ‘Pirenne Thesis’ on the comparative impacts of the barbarians and Islam upon the Roman economy, and will conclude that while Pirenne raised many good arguments, ultimately his conclusions are unsatisfactory. The chapter will then return to economic trends in the late antique/early medieval period, noting once more the tendency towards localization. This effects of this localization were felt particularly hard in trade, although ‘international’ commerce

did survive in the market fairs and new trading routes.

Having gone through some of the more conceptual aspects of institutional change, Chapter 6 will be a specific case study. The laws of the early medieval kingdoms were founded on Roman law. The chapter will cover the evolution of that law as well as the process by which the new legal codes were established and the ways in which their content reflected or rejected Roman antecedents. Finally, the chapter will discuss the use of the various early medieval laws as an insight into the culture of the barbarian peoples that first issued them.

After discussing the avenues by which western Europe eventually became more or less universally Catholic, Chapter 7 attempts to explore the interconnections between the subjects of the preceding chapters from the perspective of the Catholic Church. The Church gained tremendous power and influence throughout late antiquity and the early middle ages, both political and economic, and had a hand in re-shaping the law and society of the kingdoms that sprang up after the Empire. This chapter will investigate the extent to which these new kingdoms became quasi-theocracies, heavily influenced by and dependent on the institution of the Church.

Finally, Chapter 8 will re-assess the thesis. After a brief recapitulation of the argument, it will offer up conclusions and identify themes that may be drawn from this study. It owes much to both Pirenne and Peter Brown, at least with respect to the first post-imperial period following the barbarian invasions. It will construct an account of this period that, while complex, is able to synthesize political, social, and economic history to see elements both of Roman continuity and of the newly-introduced barbarian culture. This transition between what is thought of as ‘the Roman Empire’ and ‘early medieval Europe’ is thus best seen as beginning well before traditional breaking points (e.g., the fall of Romulus Augustulus), and continuing some core of the Empire, along with a sense of *romanitas*, long afterward.

Chapter 2

The Historiography of Late Antiquity

2.1 A Brief History of the Field

However they may have been perceived at the time, events along the Rhine–Danube frontier in the late fourth and early fifth centuries were to prove epochal in the history of the Roman Empire. In the last quarter of the fourth century, the Empire faced the near-simultaneous threats of the Alemanni and Franks in the West and the Huns and Goths in the East. For almost exactly a century after the Goths defeated and killed the Eastern emperor Valens at Adrianople in 378, the Empire faced conflict both within and outside its borders. Finally, the last emperor of the West was deposed by barbarians in 476.

Prior to the turn of the twentieth century, the prevailing view of these events had been that of Edward Gibbon, whose *History of the Decline and Fall of the Roman Empire* (issued in six volumes between 1776 and 1788) neatly summarized his perspective in its title. To Gibbon, the (morally cataclysmic) end of the Empire

was due first and foremost to the barbarian invasions.¹ Gibbon also blamed the degeneracy of the Empire; see page 181 of the same work.

More recently, some historians have still seen the history of the period through the lens of catastrophe, decline, and ruin. Being somewhat dramatic about it, Luis García Moreno saw an “inundación” of ‘Germanic’ peoples into the Iberian peninsula, and substantial disruption of agricultural systems due to the upheaval of the invasions.² Two books, published in 2005–2006, both announce their perspectives in their titles: Peter Heather’s *The Fall of the Roman Empire: A New History of Rome and the Barbarians* and Bryan Ward-Perkins’ even more pessimistic *The Fall of Rome and the End of Civilization*. These modern historians have seen the Empire’s end in a more complex network of causes than did Gibbon. But their interpretation still pits Rome against the barbarians: Heather, for instance, emphasizes the failed reconquest of Vandal Africa and the barbarian ‘seizures’ of kingdoms in Gaul and Spain.³ And he attributes “the destruction of the Roman west” to an “exogenous shock” caused by “the largely Germanic groups . . . whose invasions fatally holed the west Roman ship of state.”⁴

This is not to deny a fundamental sense of division between Rome and Europe in contemporary historiography. However, while historians have differed on the timing, severity, and causes of the end of the Roman Empire, the modern view is generally less

¹Edward Gibbon, *Gibbon’s Decline and Fall of the Roman Empire* (New York: Fawcett Premier, 1962), 177–80: among other statements, “the barriers, which had so long separated the savage and the civilized nations of the earth.”

²*Inundación*: Luis A. García Moreno, “Las invasiones y la época visigoda: reinos y condados cristianos,” in Juan José Sayas Abengochea and Luis A. García Moreno, eds., *Romanismo y germanismo: el despertar de los pueblos hispánicos (siglos iv–x)*, Historia de España 2 (Calabria: Editorial Labor, 1982), 250; upheaval: 279–80. García, admittedly, was writing twenty to twenty-five years before the other authors cited below.

³Heather, *Fall of the Roman Empire*, 385–430. On ‘seizure’: the word is used (as ‘seize’ and ‘seized’) on pages 416 and 417. Similar concepts are taking—of power (416), of cities (417), and of control (418)—and carving up (or out), used on 418 and 421. See also Bryan Ward-Perkins, *The Fall of Rome and the End of Civilization* (Oxford: Oxford University Press, 2005).

⁴Heather, *Fall of the Roman Empire*, 431–59; quotations are all from 450.

catastrophic. Guy Halsall's work *Barbarian Migrations and the Roman West 376–568* is less provocatively titled—and decidedly less gloomy—than that of Heather or Ward-Perkins. And although there is still the sense that, in Halsall's words, “the barbarian migrations and the fall of Rome are inextricably linked,”⁵ with the few exceptions mentioned above, ‘fall’ is no longer seen as an appropriate interpretation. As Peter Wells puts it, “to judge [this period] in terms of ‘decline,’ or the communities that instigated the changes as ‘barbaric,’ is to adopt the cultural prejudices of the late Roman writers.”⁶

* * *

Most notably, Henri Pirenne contended in the early twentieth century that there was in fact a great deal of continuity following the supposed end of the Empire. The now famous “Pirenne thesis” was first stated in 1922 and developed over the next two decades before being fully laid out in his *Mohammed and Charlemagne* (1939).⁷ Pirenne argued that neither the fall of the Western emperor nor the barbarian invasions were the cause of the paradigmatic break between the Roman Empire and early medieval Europe. His premise was that Rome was fundamentally Mediterranean, that continued Mediterranean ties kept the West essentially Roman for nearly two centuries after the Empire's supposed demise, and that it was only when these ties were severed by Islam in the seventh century that the Empire truly ceased to exist: “The Germanic invasions destroyed neither the Mediterranean unity of the ancient world, nor what may be regarded as the truly essential features of the Roman culture.”⁸ Pirenne emphasized the survival of the legal fiction of the Empire

⁵Halsall, *Barbarian Migrations*, 10; see also 73–74, and Geary, *Before France and Germany*, 10–11 for similar if less emphatic sentiment.

⁶Peter S. Wells, *Barbarians to Angels: The Dark Ages Reconsidered* (New York: W. W. Norton, 2008), 5.

⁷For early statements, Henri Pirenne, *Medieval Cities: Their Origins and the Revival of Trade*, trans. Frank D. Halsey (Princeton: Princeton University Press, 1952), 3–5, and Henri Pirenne, *Economic and Social History of Medieval Europe*, trans. I. E. Clegg (San Diego: Harvest Books, 1936), 1. For the more detailed argument, see Pirenne, *Mohammed and Charlemagne*.

⁸Pirenne, *Mohammed and Charlemagne*; continuity: 75–144; Mediterranean nature: most notably 17–18, 140. His conclusions are stated on 284.

and the actual survival of “Romania”, the idea of “Roman-ness” that had motivated the barbarians in the first place.⁹ With the exception of trade (Pirenne saw continued trans-Mediterranean voyages, trade, and wars throughout this period¹⁰), he was significantly less emphatic on the survival of institutions. (Pirenne’s contention on Islam will be discussed in Chapter 5.)

Pirenne was not the first to offer an alternative view to Gibbon, as Henry St. Lawrence Beaufort Moss was already pointing out in the 1930s.¹¹ Nonetheless, Pirenne’s thesis received significant attention in the decades following his publication, and despite criticism was ultimately successful—together with the work of Alfons Dopsch and Ferdinand Lot—in changing the terms of the debate. Robert Lopez, writing in the 1940s, was even more emphatic. Noting that “It is not my purpose to challenge the core of Pirenne’s conclusions,” Lopez critiqued Pirenne’s particular analysis of economic changes but continued to support a final political realignment under the Arabs.¹² A few years later, Daniel Dennett made an attempt to thoroughly refute Pirenne, but this was unsuccessful.¹³ In the late 1950s, Philip

⁹Pirenne, *Mohammed and Charlemagne*, 22, 36, 63, 118. Pirenne credits this development to some extent to the centuries-long extended interaction and slow cultural accommodation of the northern barbarians. Regarding the legal survival of the Empire: no barbarians in the sixth century claimed the throne, and all recognized the Eastern emperor (32–33). I will return to this idea in Chapter 3, below.

¹⁰See, e.g., Pirenne, *Mohammed and Charlemagne*, 79–96.

¹¹In fact, Moss noted that “By the end of the nineteenth century what may be called the ‘catastrophic’ view had been definitely abandoned. Since then the complexity of the change has become steadily more apparent”: Henry St. Lawrence Beaufort Moss, “Economic Consequences of the Barbarian Invasions,” in Alfred F. Havighurst, ed., *The Pirenne Thesis: Analysis, Criticism, and Revision* (Lexington, MA: D. C. Heath, 1969), 35–38; quotation is from 35.

¹²Robert S. Lopez, “Mohammed and Charlemagne: A Revision,” in Havighurst, *The Pirenne Thesis*, 40, 42–55. Lopez goes on to say that “*Mahomet et Charlemagne* and Dopsch’s *Grundlagen*—however much one may disagree on point of details and on range of implications—have helped historians to realize that their traditional division of ages was wrong: Germanic invasions did not mark the beginning of a new era; Arab invasions did.” Both quotations are from 40.

¹³See, e.g., Daniel C. Dennett, Jr., “Pirenne and Muhammad,” in Havighurst, *The Pirenne Thesis*, 56–71. A thorough “re-rebuttal” of Dennett is neither possible nor appropriate here; suffice it to say that his criticisms were either anticipated by Lopez earlier in

Grierson defended Pirenne's assessment of the collapse of trade in the so-called Dark Ages.¹⁴ By 1960, Bryce Lyon was able to say that "As a result of the studies of Pirenne, Dopsch and Ferdinand Lot, few historians today can still pretend that the Germanic invasions of the fourth and fifth centuries were catastrophic for Western Europe. . . . The majority of historians concede that fragments of ancient civilization outlived these invasions." Lyon argues that while Pirenne may have overstated the extent of Merovingian activity, he correctly identified the continuity of transition (Lyon says "decline") from the later Empire to the medieval period.¹⁵ And in his conception of the Mediterranean *longue durée* (last revised 1966), Fernand Braudel saw a multi-partite but nonetheless singular Mediterranean world, and one that had changed very little between the Roman Empire and the Habsburg empire of Philip II.¹⁶

* * *

In the context of this general agreement on at least some sort of continuity, Brown popularized the idea of a "late antique" period in his *World of Late Antiquity* (1971). Brown saw this period as lasting from 200, when he notes the "shifting and redefinition of the boundaries of the classical world" to 700, the boundary first identified by Pirenne.¹⁷ In understanding this period, "the third century A.D. must lie at the center of any account of the making of Late Antiquity." Disclaiming

the 1940s or addressed by Peter Brown in the 1970s.

¹⁴Philip Grierson, "Commerce in the Dark Ages: A Critique of the Evidence," in Havighurst, *The Pirenne Thesis*, 91, 92 *et seq.* Grierson cited evidence of non-traditional mechanisms for distributing the sorts of coins and high-value items that had been previously relied on as proof of commerce.

¹⁵Bryce Lyon, "The Work of Henri Pirenne after Twenty-five Years," in Havighurst, *The Pirenne Thesis*, 102–108; quotation is from 102.

¹⁶Fernand Braudel, *The Mediterranean and the Mediterranean World in the Age of Philip II*, reprint of the 1972 translation of the 1966 French 2nd ed., trans. Sian Reynolds (Berkeley: University of California Press, 1996). In addition to the all-important ecological continuity, Braudel specifically cites—like Pirenne—the continuity of communication and trade mechanisms (which in his view were crucial to understanding the history): 281–82.

¹⁷Peter Brown, *The World of Late Antiquity: AD 150–750* (New York: W. W. Norton, 1971), 7–19; quotation is from 19.

the traditional view of a “crisis” of the third century, Brown argues that the real issue is “what it is like for a great traditional society to pass over [the] watershed” that evidently existed in the century between Marcus Aurelius and Constantine.¹⁸ And as Brown pointed out, Roman society at large was changing; late antiquity is to be understood, in Brown’s framework, as the beginning of a medieval mode of thought within the construct of the Empire. Partly this is characterized by a more direct understanding of government involvement combined with a sharpening of class distinctions and a privatization of power. Brown also emphasizes the same Christianizing trend as Gibbon, though he does not ascribe it the same destructive power.¹⁹

Historical study of the period was also bolstered by a surge in archaeological interest in the late twentieth century.²⁰ In the 1980s, Richard Hodges and David Whitehouse were finally offering a more equivocal view of Pirenne based on archaeology; their assessment of his continuity thesis is nevertheless that while some of his details are wrong, his broad conclusions still hold.²¹ More recently, Peregrine Horden and Nicholas Purcell have pointed out the enormous impact of archaeology on Mediterranean history more broadly.²²

Today, late antiquity has itself reached the “orthodoxy” of Gibbon’s earlier “catastrophic” view. To Averil Cameron, for example, the final overthrow of Romulus Augustulus is “one of the most famous non-events in history.” She notes that the people in late antiquity saw themselves as very much part of the same tradition

¹⁸Peter Brown, *The Making of Late Antiquity* (Cambridge, MA: Harvard University Press, 1978), 1–5; quotations are from 2. Brown is citing Marcus Aurelius and Constantine as exemplars of first the pagan and later the Christian empire.

¹⁹Brown, *The Making of Late Antiquity*; medievalism: 15; class: 31–33; government: 47–49; Christianization: 5–11.

²⁰Cameron, *The Mediterranean World*, 6–7.

²¹Richard Hodges and David Whitehouse, *Mohammed, Charlemagne and the Origins of Europe* (Ithaca, NY: Cornell University Press, 1983); pages 169–76 contain a good summary of their argument.

²²Peregrine Horden and Nicholas Purcell, *The Corrupting Sea: A Study of Mediterranean History* (Oxford: Blackwell, 2000), 176–77, 288, etc.

as their past, and did not perceive a substantive change in their history.²³ Greece, Vandal Africa, and the Levant showed a continuous classical civilization through the sixth century, and in Italy the Ostrogothic kingdom “maintained many continuities with the Roman past.”²⁴ Like Gibbon, Cameron sees the final break with classical civilization in the religious rejection of the secular Roman past, reinforced when the Church in Italy began aligning itself with the West and Africa against Constantinople, breaking ties with the Empire.²⁵ In all of this, Cameron and Patrick Geary see the “unofficial” changes of slow, incremental movement—the gradual changes in population and adaptations of laws and institutions—as ultimately more important than discrete settlements or conquests.²⁶

* * *

Not all historians see a gradual transition as the appropriate characterization. As Ralph Mathisen notes: “continuity aside, clearly, something happened during the century following 406 CE.” His model for the time thus “leaves the fifth century as [a] period of transition.”²⁷ And while generally agreeing with Brown, Halsall continues to see the key feature of the third century as crisis, containing the seeds of the Empire’s fall. Previously, the disparate regions of the Empire were bound together by a shared elite culture, a common desire for *romanitas* as the upper classes (or upwardly mobile) sought privilege or citizenship. In the third century, two things

²³Cameron, *The Mediterranean World*, 33–34. See also Averil Cameron, “Remaking the Past,” in Bowersock et al., *Late Antiquity*, 1–2; on page 1, Cameron observes that in the 380s Ammianus Marcellinus was “as overcome by Rome’s present majesty as by her great past.”

²⁴Cameron, *The Mediterranean World*, 41 (including quotation), and Cameron, “Remaking the Past,” 6. The inclusion of both Vandal Africa and Ostrogothic Italy should imply at least some rejection of any catastrophic barbarianization.

²⁵Rejection: Cameron, “Remaking the Past,” 11–14; realignment: Cameron, *The Mediterranean World*, 122.

²⁶Cameron, *The Mediterranean World*, 44–47; Patrick J. Geary, “Barbarians and Ethnicity,” in Bowersock et al., *Late Antiquity*, 110–17.

²⁷Ralph W. Mathisen, “The Letters of Ruricius of Limoges and the Passage from Roman to Frankish Gaul,” in Ralph W. Mathisen and Danuta Shanzer, eds., *Society and Culture in Late Antique Gaul: Revisiting the Sources* (Aldershot, UK: Ashgate, 2001), 101.

changed: regions became more self-sufficient, reducing the need for integration, and Caracalla issued blanket citizenship to the Empire, eliminating any motivation to “Romanize.”²⁸ The Empire began to dissolve into localized economies and villa-centered landlord–tenant relationships that presage the beginning of what might be called feudalism. In the fourth century, the Empire was further restructured into ever-smaller administrative units, which must have made it easier for the barbarians to insert themselves into the Roman system.²⁹ Halsall also finds it noteworthy that barbarian movements were closely aligned with changes in the imperial situation throughout this period. The Franks, Alemanni, and Goths were all first attested during the instability of the third century, and it was only ten years after Diocletian’s restructuring that the barbarians, long lurking on the outskirts of the Empire, made their first permanent appearance at the turn of the fifth century.

Halsall notwithstanding, the majority view is that Pirenne was, in fact, on to something, the result of which is Brown’s conceptualization of late antiquity. In fact, approaching the period from the other (barbarian) direction, Walter Pohl suggests that we should really be asking why the Roman Empire lasted as long as it did. He proposes that the answer is to be found in conceiving the Empire’s “successor” kingdoms instead as continuations, actual or metaphorical, of the Empire: “the barbarian kingdoms were themselves a Roman achievement.” Geary likewise suggests that “The Germanic world was perhaps the greatest and most enduring creation of Roman political and military genius.”³⁰ This line of reasoning both projects Roman continuity much further forward in time and nicely encapsulates the previously problematic period.

²⁸Halsall, *Barbarian Migrations*, 66–72. Geary, *Before France and Germany*, 28–29, also emphasizes the integrating effects of culture.

²⁹Halsall, *Barbarian Migrations*, 68–70, 74–76. See also Geary, *Before France and Germany*, 11.

³⁰Walter Pohl, “The Barbarian Successor States,” in Leslie Webster and Michelle Brown, eds., *The Transformation of the Roman World AD 400–900* (Berkeley: University of California Press, 1997), 33. Geary, *Before France and Germany*, vi (this is actually Geary’s opening line).

2.2 Barbarian Identity

The subject of barbarian identity (together with the related but distinct question of ethnicity) touches on this thesis in two ways. The first is largely a matter of terminology. The second is the way the study of barbarian identity has become politically bound up with established narratives of continuity and change in the aftermath of the Empire; the continuity of barbarian identity has been set against the continuity of Roman identity. More subtly, these issues are connected: the nature of the language, and the precise applicability of certain labels—specifically both ‘Roman’ and ‘barbarian’—in themselves reveal some of the complexities of interpreting this period.

With regard to terminology, the nature of this thesis demands that I refer both to the Romans and to non-Roman peoples. When it is possible to be specific in referring to a group such as the Franks I will do so (although even that can be problematic). Frequently, however, I will need to be more general, and there I run into a historiographic problem. Different sources refer to the non-Roman peoples as ‘barbarian,’ ‘Germanic,’ or even ‘German.’ This is to some extent a matter of convention, but misuse of the terms can be quite misleading at best and factually incorrect at worst. In terms of potential ethnicities, the word ‘barbarian’ is extraordinarily far-reaching, in that it originally applied to (almost) all non-Romans.³¹ Even within the confined area of Western Europe, however, there are many theories as to the identity of these peoples. Roger Collins notes that we will very likely never know how they saw themselves—how consciously Burgundian (or Frankish, or Gothic, etc.) they were. The complexity of the problem has caused many contemporary historians (Collins

³¹See, e.g., Geary, “Barbarians and Ethnicity,” 107, or Ralph W. Mathisen, “Barbarian Bishops and the Churches ‘*in barbaricis gentibus*’ during Late Antiquity,” *Speculum* 72 (1997): 665: “It also should be noted that the word ‘barbarian’ will be used here as a convenient, nonpejorative term to refer to all the non-Latin- and non-Greek-speaking *externae gentes* who dwelt around, or eventually settled within, the Roman Empire during late antiquity.” The term did *not* apply to the Greeks or Persians, whom the Romans considered cultural equals.

included) to effectively throw up their hands and muddle forward.³²

What is clear is that these peoples were not German in any modern sense of the word. The original *Germani* were an insignificant Rhineland tribe, and attempts to link these ancient people with the modern Germans are a purely modern, ahistorical endeavor. Some of the barbarians cannot even properly be called Germanic: the Alans, for example, were Indo-Iranian.³³

Roman identity, or at least that of the Roman state, might seem clear enough. It is important to remember, however, that particularly during the time period leading up to and surrounding the formal end of the Empire, that ‘Roman’ had not been an ethnic label for several centuries. Rather, as Geary puts it, “the sense of *populus Romanus* was a constitutional one, internally generated and based on a common cultural and intellectual tradition, a legal system, and a willingness to be part of a common economic and political tradition.”³⁴ In fact, in thus defining ‘Roman’, Geary implicitly offers what may be the best definition of ‘barbarian’: one who does not subscribe to this constitutional identity. Further complicating matters, the idea of being ‘Roman’ was itself not a “primary self-identifier for the millions of people [in] the Roman Empire.”³⁵ Geary notes that “the central state had never demanded exclusive adherence to Roman values: Whenever possible, local tradition was assimilated into or equated with that of Rome. However, one did not need to forget one’s pre-Roman family position in earlier tribal or cultural traditions.” Indeed, such over-

³²Collins, *Early Medieval Europe*, 101.

³³*Germani*: Walter Pohl, “Ethnicity, Theory, and Tradition: A Response,” in Andrew Gillett, ed., *On Barbarian Identity: Critical Approaches to Ethnicity in the Early Middle Ages* (Turnhout, Belgium: Brepols, 2002), 226–27. Modern revisionism: Andrew Gillett, “Introduction: Ethnicity, History, and Methodology,” in Gillett, *On Barbarian Identity*, 5–6. Alans: Bachrach, “Alans in Gaul,” 477. Note that most European languages do not have this ambiguity, using ‘*alemanes*’ or the equivalent (or in German ‘*deutsch*’) for modern Germans, and ‘*germanos*’ or the equivalent for the ancient barbarians: see Halsall, *Barbarian Migrations*, 11. While clearer, this is really just sidestepping the question of actual identity, and of course *alemanes* itself derives from the barbarian ethnonym ‘Alemanni’.

³⁴Geary, *Myth of Nations*, 63.

³⁵Geary, *Myth of Nations*, 64.

lap between nominally ‘Roman’ and ‘barbarian’ structures will form a major part of my argument in Chapter 3. Religious integration, intermarriage, economic ties and (at least the promise of) social mobility were all additional mechanisms for blurring the lines between multiple identities³⁶—and ones that I will come back to throughout the following discussion.

Likewise, Ralph Mathisen has called the very use of labels like ‘Roman’ or ‘barbarian’ problematic. (He does not, however, appear to have any problems with the labels themselves, merely with their use, including the division into ‘Roman Gaul’ and ‘Frankish Gaul’.)³⁷ Misuse, or at least confusing use, is widespread. Even Cameron—who was generally careful to note the change in scholarship surrounding traditional theories—casually uses phrases like “either [the eastern government] could follow a pro-German [in this case actually Gothic] policy and continue to attempt to conciliate such leaders, or it must attempt to root them out altogether”³⁸ (thus in one sentence neatly demonstrating both the problems of barbarian identity and one possible framework for Roman interaction with barbarians). Even Walter Goffart, Andrew Gillett, *et al.*, who raise the most serious objections to common perceptions of barbarian identity (on which more below), do not have any better terminology.

Lacking any terms or concepts more suitable than ‘Roman’ or ‘barbarian’, therefore, I—like Mathisen, Cameron, Geary, Goffart, and practically everyone else—will continue to use them. It is beyond the scope of the current project to fully explore the actual identity of these peoples. For the purposes of this thesis I am primarily interested in their role as non-Romans and in distinguishing one group from another, although I will also draw some conclusions about common barbarian culture. Consequently, I will use the generic term ‘barbarian’—without any pejorative connotations—as both the noun and adjective for these peoples; cited passages may follow different conventions.

³⁶Geary, *Myth of Nations*, 66–70; quotation is from 67.

³⁷Mathisen, “Letters of Ruricius,” 101.

³⁸Cameron, *The Mediterranean World*, 17.

* * *

As discussed in some detail above, the question of continuity is a subtext to virtually all the history being done today. The emphasis on the continuity of Roman culture and institutions is now shared by many modern historians—notably including Goffart (to whom I will return)—who claim themselves to be the inheritors of Pirenne.³⁹ There is another school of thought focused on the continuity of barbarian culture. Primarily continental scholars continuing the work of Reinhard Wenskus and Herwig Wolfram, their nationalities and focus of research have led them to be caricatured as the ‘Germanists’; I will use the more neutral term ‘Vienna School’ after the leading university associated with the theory. The debate between these two poles has typically been seen as a ‘zero-sum game’—that is, we can have long-term continuity of either Roman culture or barbarian culture, but not both. However, I believe a more comprehensive view of the historiography will demonstrate that these two threads of continuity are not really at odds.

There are two fundamental theories, or frameworks, of barbarian identity that have shaped the historiography of late antiquity throughout the twentieth and into the twenty-first centuries.⁴⁰ Both originated, or were at least popularized, by scholars from the University of Vienna in the early to middle twentieth century.⁴¹ The more significant of these theories is the so-called *Traditionskern* (“tradition core”) model of ethnogenesis. This theory holds that a kernel of tradition, passed down among leading figures or families, formed the cohesion point for all other members of the group, be they family members, political or military followers, etc. Over time it may even have led people “of quite heterogeneous backgrounds” to believe they

³⁹See Gillett, “Ethnicity, History, and Methodology,” 17–18.

⁴⁰In addition of course to the initially controversial notion of late antiquity itself, as discussed above.

⁴¹Wolfram, *History of the Goths*, 11. Hereafter I will call this the “Vienna School,” although others, particularly their detractors, sometimes refer to this perspective as the “Germanist tradition”: see, e.g., Gillett, “Ethnicity, History, and Methodology,” 6. The Vienna School grew out of nineteenth- and twentieth-century German-nationalist attempts to promote the notion of long-term barbarian (originally ‘Germanic’) continuity.

shared a common origin, quite literally serving as the genesis of a new *ethnos*.⁴² More significantly from the original ‘Germanist’ perspective, it provided a plausible mechanism by which the groups of historical literature and myth could have retained continuity of identity.

The second framework is that of ‘culture history’, and it is commonly connected with, or at least seen as supporting, *Traditionskern*. Culture history fundamentally consists of the twin assumptions that archaeologically identifiable continuities in artifacts map to historically attested peoples, and that by following traces in the material record it is possible to reconstruct the movements of these peoples. It was originally the goal of many culture historians to identify an *Urheimat*, or original homeland, for the various peoples they studied. The concept is still useful today given the desire to supplement the (frequently sparse) historical record of the late antique/early medieval period with archaeological evidence. Like *Traditionskern*, culture history began in the studies of German (and also, in this case, Slavic) history.⁴³

The notion of *Traditionskern* properly began with Wenskus in his *Stammesbildung und Verfassung*, published in 1961, although it owes the core of its own ideas to nineteenth- and twentieth-century scholarship, particularly in Germany.⁴⁴ Wenskus’s lordship theory, which helped form the basis of his theory of ethnogenesis, reached back all the way to the work of Hector Munro Chadwick in England just at the turn of the twentieth century, and it certainly owed something to Nazi historian Otto Höfler’s work in the 1930s. In fact, the idea of “Germanic” continuity—politically, culturally,

⁴²Pohl, “Ethnicity, Theory, and Tradition,” 221. Halsall, *Barbarian Migrations*, 14–17, has the best summary. See Gillett, “Ethnicity, History, and Methodology,” for a similar chronology but more critical opinion.

⁴³Gillett, “Ethnicity, History, and Methodology,” 4, offers a good summary; Halsall, *Barbarian Migrations*, 14, has similar information.

⁴⁴Walter Pohl, “Conceptions of Ethnicity in Early Medieval Studies,” in Lester K. Little and Barbara H. Rosenwein, eds., *Debating the Middle Ages: Issues and Readings* (Oxford: Blackwell, 1998), 15; Pohl, “Ethnicity, Theory, and Tradition,” 221–24; Gillett, “Ethnicity, History, and Methodology,” 3; Alexander Callander Murray, “Reinhard Wenskus on ‘Ethnogenesis’, Ethnicity, and the Origin of the Franks,” in Gillett, *On Barbarian Identity*, 49–54.

and eventually racially—dominated mid-twentieth-century German historical thinking in forms ranging from the relatively benign origins of the *Monumenta Germaniae Historica* to the more political (and racist) work of Höfler. Wenskus, ironically, actually formulated *Traditionskern* to avoid a reliance on racial ties.⁴⁵ In the decades after Wenskus, Wolfram and Pohl attempted to make the theory both clearer and more nuanced, and Geary has done much to defend the idea of barbarian identity as a constructed phenomenon.⁴⁶ As a result, the Vienna School, and particularly the *Traditionskern* model, continued to gain in prominence throughout the latter part of the twentieth century. This coincided with the emergence of late antiquity as a viable sub-discipline in the 1960s and 1970s. Historical study of the period was also bolstered by a surge in archaeological interest around the same time.⁴⁷

* * *

After having attained what Gillett called “historical orthodoxy,”⁴⁸ *Traditionskern* has recently come under attack by Goffart and several of his students from the University of Toronto (including Gillett and Alexander Callander Murray). The gist of the complaint—the kernel, as it were—seems to be two-fold: First, that *Traditionskern* is *prima facie* preposterous because memory is insufficiently lengthy or precise to support the traditions assumed by the Germanists. Second, that there is something distasteful about the apparent elitism—and potentially racial elitism—of *Traditionskern* as an element of ethnicity. A brief summary of the criticisms follows.⁴⁹

⁴⁵Pohl, “Ethnicity, Theory, and Tradition,” 224; Murray, “Reinhard Wenskus,” 51.

⁴⁶Wolfram, *History of the Goths*, 5–6, has a particularly good summary; see also pages 11–13. Pohl, “Conceptions of Ethnicity,” 17, acknowledges that reality was not always as straightforward as theory might seem; Pohl, “Ethnicity, Theory, and Tradition,” 222–26, cautions in particular about drawing overly general or long-term conclusions. See also Patrick J. Geary, “Ethnic Identity as a Situational Construct in the Early Middle Ages,” in Edward Peters, ed., *Folk Life in the Middle Ages*, Medieval Perspectives 3 (Richmond, KY: Southeastern Medieval Association, 1988), 1–17, and Geary, *Myth of Nations*.

⁴⁷Cameron, *The Mediterranean World*, 6–7.

⁴⁸Gillett, “Ethnicity, History, and Methodology,” 3.

⁴⁹For ease of reference, I will call this group the Toronto School, after Goffart’s place

The Toronto School's principal objection seems to be to an overly simplistic combination of *Traditionskern* and culture history that implies straightforward continuity from prehistoric times to the present. The Toronto School argues that *Traditionskern* relies on (and implies) an element of continuity that human memory is insufficiently lengthy or precise to support. In particular, Goffart *et al.* disclaim the idea of an *Urheimat* derived from tribal legends, even if backed by some "culture historical" evidence.⁵⁰ The standard for proof in this attack is peculiar. After recounting a series of "tenuous and disconnected" events in Gothic history, each of which he understands to imply a "break in cohesion," Goffart concludes that "No smooth line of historical narrative can connect the Goths in southern Russia to the heterogeneous peoples led by Alaric. . . . However Gothic in name, *their following was no lineal prolongation* of the nation that Athanaric had ruled in the 370s."⁵¹

In a similar vein, Murray (probably rightly) dismisses the Frankish origin myths promulgated by Gregory of Tours and Fredegar—but from this basis he goes on to disparage not only the existence of *any* tradition of Frankish history but by impli-

of employment. Probably the best treatment of their argument is still Gillett's 2002 book *On Barbarian Identity: Critical Approaches to Ethnicity in the Early Middle Ages*, which includes many of the sources cited here. The book was based upon a symposium at the 2000 International Congress on Medieval Studies, itself originally organized as a reaction against *Traditionskern* theory. In particular, see Walter A. Goffart, "Does the Distant Past Impinge on the Invasion Age Germans?" in Gillett, *On Barbarian Identity*, 22–24, especially on the inadequacy of memory; Pohl, "Ethnicity, Theory, and Tradition," 222.

⁵⁰Goffart, "The Distant Past," 22. To support his argument Goffart provides only an unsourced anecdote of a university student reputed never to have heard of World War I, and the bald assertion that memory "rarely carries back more than three generations"; he further notes that "Three *medieval* generations incorporated little more than fifty years of memory": Goffart, "The Distant Past," 22 (emphasis original). To counter Goffart's anecdote with one of my own: My family has a history of continuous military service dating back to 1922, and we remember service stories dating to the early 1930s—roughly 80 years over four generations. These stories, and military service, have become part of what it means to be a 'McDaniel', and it is virtually certain they will be passed down to future generations. Even the fact that they are no longer precisely remembered and are slowly being mythologized I think supports *Traditionskern* rather more than it does Goffart's position.

⁵¹Walter A. Goffart, *Barbarians and Romans, A.D. 418–584: The Techniques of Accommodation* (Princeton: Princeton University Press, 1980), 6–7, emphasis mine.

cation any coherent Frankish history at all.⁵² In my view this is throwing the baby out with the bathwater, rejecting two fundamentally reasonable theories because of a perception that an extreme interpretation is illogical. Just to take Murray's example: That Gregory or Fredegar might have invented historical traditions for the Franks, for example, may mean that earlier traditions were not remembered by the time of their writing—but it does not have to mean that there were no traditions, or that the Franks did not in fact constitute a persistent coherent group with a recognizable past, movement history, even something like an *Urheimat*.

Additionally, despite Wenskus's construction of an ethnic theory that explicitly did not depend on race, the Toronto School still attempts to paint its opponents with this brush.⁵³ As one example, Murray offers up the supposedly damning fact that “[Wenskus's] model itself does not preclude a racial interpretation.”⁵⁴ Since it is hard to see how any model of ethnic identity could in fact *preclude* a racial interpretation, it is not clear what Murray hoped to accomplish beyond an *ad hominem* attack. Similarly, the necessarily nation-building aspects of any ethnogenesis theory are, in the case of *Traditionskern*, blamed for current European (and particularly German) nationalism.⁵⁵

Based on such logic, Goffart and his fellow “anti-Viennans” attack the implications of *Traditionskern*. However, the Toronto School has done little beyond asserting that the Vienna School has not sufficiently proved its argument. This is debatable in itself, but in any event absence of proof is not proof of absence, and certainly is not license for the sort of rejectionist claims being made by Goffart and Murray. Nor

⁵²Murray, “Reinhard Wenskus,” 64–65. In particular the line “So much for the ideological cultivation and propagation of genealogy by the Merovingian *Traditionskern*” (65) conveys something of Murray's attitude.

⁵³As satirized by Pohl, “In the language of [Murray's] myth, Otto Höfler went out to Germany where he met a monster, Heinrich Himmler, and then he begat Reinhard Wenskus, who begot Herwig Wolfram, who begot Walter Pohl”: Pohl, “Ethnicity, Theory, and Tradition,” 223.

⁵⁴Murray, “Reinhard Wenskus,” 51.

⁵⁵Geary, *Myth of Nations*, 10; Pohl, “Ethnicity, Theory, and Tradition,” 222–26.

has the Toronto School put forward any substantive alternatives on the subject of barbarian continuity.

* * *

Although from a scholarly perspective the Toronto School is justified in questioning orthodoxy, fundamentally, Goffart *et al.* are missing the point. The nihilism in their position cannot be wholly accurate. There was a clear belief evident in the ancient sources that barbarian group identifiers meant *something*, although the sources are not always clear what; sometimes the same individual is even labeled differently at different times.⁵⁶ These groups must have been defined by *some* common core of identity that was shared between members. As Pohl summarizes the current view: “Most scholars agree today that these names [*Langobardi, Burgundiones, Gothi, etc.*] do not simply identify coherent wandering peoples. . . . The question is what else this continuity of names means.”⁵⁷

Similarly, it is admittedly erroneous to work forward from a people’s legendary homeland as a basis for understanding their (culture) history. But it is logically fallacious to equate this mistake with tracing a people through the sources as far back as possible and *labeling* that an *Urheimat*. Indeed, it is tempting to consider the earliest stages of Rome, including the almost certainly apocryphal descent from the mythical Trojan Aeneas or the equally legendary wolf-raised twins Romulus and Remus, as a sort of cultural *Urheimat* of the Roman civilization. This in no way lessens the reality of a coherent Roman history; why must we question the movement of barbarians from some more or less original location in more or less coherent groups? Similarly, why should Alaric’s movements, consisting of the long-distance transport of sufficiently many people that they “could both absorb and disgorge impressive numbers of people and still be perceived as fundamentally the same unit”⁵⁸—which

⁵⁶Michael Kulikowski, “Nation versus Army: A Necessary Contrast?” in Gillett, *On Barbarian Identity*, 83–84.

⁵⁷Pohl, “Ethnicity, Theory, and Tradition,” 222–26.

⁵⁸Kulikowski, “Nation versus Army,” 81.

no one seems to question as historical fact—not serve as a model for the movements, either migratory or invasive, of other coherent groups of barbarians?

The debate over continuity of tradition is not truly zero-sum; it is possible to see elements of Roman continuity (in economics, for example) and of the newly-introduced barbarian culture (in law). Indeed, to pick up on the point made by Geary about the blending of Roman and barbarian identities, Jonathan Barlow makes a persuasive argument for the multicultural nature of barbarians in service to the later Empire, retaining (at least to some extent) their barbarian identities and connections even when immersed in Roman structures.⁵⁹ Murray likewise gives the example of the fifth-century historian Renatus Profuturus Frigeridus, “whose three names, to paraphrase Gibbon, show him to be a Roman citizen, a Christian, and a barbarian.”⁶⁰

At this point the study of coherent group history, whatever we may hope to learn from it, needs to be completely divorced from the idea of ethnogenesis as the basis of modern Europe. In this sense, I think Geary is spot on: “the history of the barbarian world must be seen, not in the context of ‘German history’ in any modern sense but rather in terms of the history of late antiquity.”⁶¹ Despite the reservations of the Toronto School, and even if a persistent Germanism has been set against the idea of Roman continuity, we do not need to resolve that debate to analyze the impact of the barbarians. We need to accept the fact that the barbarians can be talked about in a meaningful way even if we do not know their “real” identity. Indeed Geary, Chris Wickham, and to an extent Halsall are already moving in that direction.⁶²

⁵⁹Jonathan Barlow, “Kinship, Identity and Fourth-Century Franks,” *Historia: Zeitschrift für alte Geschichte* 45 (1996): 223–29.

⁶⁰Murray, “Reinhard Wenskus,” 64.

⁶¹Geary, *Before France and Germany*, 43. He makes this point even more forcefully in his 2002 book, *The Myth of Nations*, most explicitly on pages 9–13.

⁶²See cited references for all three authors, particularly their most recent publications.

2.3 Feudalism as a Framework for Transition

Since the latter part of the twentieth century, and particularly since the critiques of E. A. R. Brown and Susan Reynolds, “feudalism” has been a highly contentious concept. Nevertheless, its widespread acceptance by earlier historians means that the term appears not infrequently in the literature relevant to this thesis. As such, it is important to come to grips with the debate over the meaning (if any) of the term and the resulting significance for interpretations of the post-imperial transition. The following discussion is focused on the early medieval period, and makes no attempts to draw conclusions on the subject of so-called “classic feudalism” during the High Middle Ages. I will look only at whether there is an identifiable change in socio-economic structures during the transition period that—for the sole purpose of facilitating further discussion in this thesis—might profitably be called feudalism.

Although they formed a major part of many definitions of the practice, and though I will mention them briefly in passing, I am not concerned here with the formal trappings or ceremonies surrounding notions of feudalism. I am concerned instead with understanding the sorts of social relationships that influenced both the alignment of power and the nature of economic production and transfer. As such, I will consider both “classic” feudalism as well as a more modern Marxist (economic) interpretation.

* * *

The traditional understanding of feudalism—to the extent that there is one, which is one of the complaints leveled by Brown—is probably best exemplified by the similar yet distinct approaches of Marc Bloch and F. L. Ganshof. According to Bloch, feudalism is characterized by “A subject peasantry; widespread use of the service tenement (i.e. the fief) instead of a salary, which was out of the question; the supremacy of a class of specialized warriors; ties of obedience and protection which bind man to man and, within the warrior class, assume the distinctive form called vassalage; fragmentation of authority—leading inevitably to disorder; and, in

the midst of all this, the survival of other forms of association, family and State, of which the latter, during the second feudal age, was to acquire renewed strength.”⁶³ Bloch noted that relationships based on service (patronage or homage) date to at least within the fourth-century empire. He also noted that the similarity between the homage customs of the Franks, Anglo-Saxons, and Scandinavians “attests [a] Germanic origin.”⁶⁴ The natural conclusion is a marrying of “Germanic” form and Romano-barbarian understanding of the relationship. And, like those who came after (notably Ganshof), Bloch saw a natural connection between the need for support identified in the patronage relationship and the disposition of “service tenements” or fiefs.

Ganshof, writing somewhat later, offered a definition that was both more limited and more specific: Feudalism consists of “a body of institutions creating and regulating the obligations of obedience and service—mainly military service—on the part of a free man (the vassal) towards another free man (the lord), and the obligations of protection and maintenance on the part of the lord with regard to his vassal. The obligation of maintenance had usually as one of its effects the grant by the lord to his vassal of a unit of real property known as a fief” (from *feodum*)⁶⁵ Ganshof similarly identified the bond of protection between freemen with the established concept of *patrocinium* (patronage), and argued that it was initiated by a ritual contractual ceremony called a commendation. This process may have been connected with the swearing of fealty *in manus* (i.e. by placing of the inferior’s hands within the hands of the superior), but Ganshof is not willing to commit to this latter identification. Finally, as one possible source of maintenance under *patrocinium*, Ganshof saw a connection with the granting of land (*beneficia*) under particular, usually favorable terms. Together this represented what he called the “union of vassalage and

⁶³Marc Bloch, *Feudal Society*, 2nd ed., trans. L. A. Manyon (London: Routledge, 1965), vol 2, 167.

⁶⁴Bloch, *Feudal Society*, vol 1, 149–51; quotation is from 151.

⁶⁵F. L. Ganshof, *Feudalism*, trans. Philip Grierson (Toronto: University of Toronto Press, 1996), xvi.

benefice” that formed the backbone of feudalism.⁶⁶ Ganshof saw the origins of this system in the system of personal retainers (*vassi*, *gasindi*, *antrustiones*) prevalent in the Merovingian kingdoms of the fifth and sixth centuries (and in fact it was the *vassi* that gave vassalage its name).⁶⁷

Georges Duby offered a more nuanced interpretation, that “Vassalage and the fief, customary practices born in private usage, organized the relations that unequal division of wealth and power had already determined; they created no additional ones.”⁶⁸ While Brown is citing Duby to claim the “superficial importance” of feudalism, I would argue that if there is a meaningful sense in which we can talk about the organization of relations through feudal structures, then we have something we might as well call feudalism. Note that Brown also cites Duby to the effect that “As the count’s power declined and as that of the castellans increased, bonds of dependence among the higher classes became more important, and grants of land were used to solidify the ties until by 1075 land outweighed loyalty as their determinant.”⁶⁹ These statements, as with much of the rest of the discussion in this section, concern the later Middle Ages rather than the immediately post-imperial period. Nevertheless, they seem to indicate fairly strongly a reasonably consistent understanding of feudalism (as much as Duby might protest the contrary).⁷⁰

Despite the fact that Brown describes them as “diverg[ing] at many points,”⁷¹ the descriptions offered by Bloch, Ganshof, and even Duby strike me as sufficiently

⁶⁶Ganshof, *Feudalism*; commendation: 5–8; *patrocinium* and *beneficia*: 9–12; union with vassalage: 16. On the subject of commendation as a ritual (or at least a process) Ganshof also notes that the verb *se commendare* already in classical times had the meaning of placing oneself under another’s authority.

⁶⁷Ganshof, *Feudalism*, 3–5.

⁶⁸Duby, *Feudalism*, cited in Elizabeth A. R. Brown, “The Tyranny of a Construct: Feudalism and Historians of Medieval Europe,” *The American Historical Review* 79, no. 4 (1974), 1082.

⁶⁹Brown, “Tyranny of a Construct,” 1082.

⁷⁰See Brown, “Tyranny of a Construct,” 1084, where she claims Duby told her there was “*Toute la différence du monde*” between his theory and that of Ganshof.

⁷¹Brown, “Tyranny of a Construct,” 1071n30.

consistent to form the basis of a working understanding. Ganshof may be more narrowly defined than Bloch, but in fact nothing of what he says is truly contradictory. Both of the descriptions encompass reciprocal relationships between persons free to engage in them; both encompass the use of land as a gift, payment, or means of sustenance (which we may call a fief); and both encompass the idea of service in return for support or maintenance (which we may call vassalage). Both Bloch and Ganshof cite evidence for some of their specific claims that is admittedly a little thinner than they imply it to be—it is not at all clear, for example, that the formula cited by Ganshof for the details of commendation was actually a universally representative document.⁷² Nevertheless, while they may be drawing overly broad conclusions from specific examples (or attributing unjustifiably specific forms to the idea of feudalism), the overall scheme of their arguments may continue to prove useful.

* * *

The first significant attack on feudalism as a concept was levied by E. A. R. Brown in her 1974 article “The Tyranny of a Construct.” Suggesting that there was already general “unease” around the term ‘feudalism’ “for years” by the time of her writing, Brown’s initial approach is that ‘feudalism’ as a term is confusing, probably over- and mis-applied, and prone to oversimplification.⁷³ While certainly a valid criticism, this does not necessarily mean that the term is wrong, or that it is not useful to continue employing it.

According to Brown, “the concepts of feudalism and the feudal system” dominated medieval studies only since the middle of the nineteenth century. She decries the efforts by many in the twentieth century—she specifically calls out Ganshof and Bloch among others—to retain feudalism as a useful abstraction or concept even as evidence has mounted for a more sophisticated understanding of medieval social

⁷²See Ganshof, *Feudalism*, 6–7.

⁷³Brown, “Tyranny of a Construct,” 1063–66; quotations are from 1063. On “unease,” Brown cites, among others, Frederic William Maitland. Maitland objected to the vagaries of the terms ‘feudalism’ and ‘feudal system’ but nevertheless used both (synonymously); Brown takes him to task for a “tolerance for unresolved contradictions.” (1066)

structures.⁷⁴ In fact, Brown wanted to eradicate any reference to feudalism as an ‘ism’ *per se* (she also decries ‘manorialism’, ‘scholasticism’, and ‘humanism’). Her argument that different times and regions must be considered as varying instances of the development and organization of society is perfectly valid (though the implicit conclusion that broader generalizations are therefore either wrong or to be avoided is unwarranted). Her statements suggest that a modern definition of a term describing a perceived organization necessarily means that the organization did not actually exist. She instead would require using the words that medieval people themselves used, and states that “attention must be paid to the shifting meanings of key words.”⁷⁵

Reynolds is even more harsh. She opens her substantial 1994 book by stating that her objective “is most emphatically not to prove that feudo-vassalic relations or institutions were less important than is generally thought, nor to trace their rise or say when and where they appeared, nor to judge which part of Europe was most truly feudal. *These seem to me meaningless subjects.*”⁷⁶

‘Vassalage’ as a concept Reynolds dispenses with fairly swiftly. Noting that vassalage is by definition a personal relationship, Reynolds argues that medieval societies demonstrated extensive blending of what we now call ‘public’ and ‘private’; in particular she disagrees with the contrast between a ‘personal’ bond of obligation and the ‘territorial’ relation embodied in fiefs. Moreover, Reynolds disagrees with the tendency to see medieval relationships (particularly between ‘lords’ and ‘vassals’) as close or personal (*contra* Bloch and Ganshof), and levels particular incredulity at the supposed practices of commendation and swearing fealty *in manus*. Reynolds ultimately concludes that “Vassalage itself is a term that no longer matches either the evidence we have available or the conceptual tools we need to use in analysing it. . . . [V]assalage is too vacuous a concept to be useful.”⁷⁷

⁷⁴Brown, “Tyranny of a Construct,” 1065, 1067–70, 1078; quotation is from 1065.

⁷⁵Brown, “Tyranny of a Construct,” 1086–88, quotation from 1087.

⁷⁶Susan Reynolds, *Fiefs and Vassals: The Medieval Evidence Reinterpreted* (Oxford: Clarendon Press, 1994), 14, emphasis added.

⁷⁷Reynolds, *Fiefs and Vassals*, 25–47; quotations both from 47.

With respect to fiefs, Reynolds argues that seeing feudalism in service relationships based on land grants is imposing a modern distinction (rent versus tax, property versus government) where none existed. She traces this ‘confusion’ to much later academic study of property law, arguing that the customary law of the time was far looser than our conceptions of it.⁷⁸ Reynolds is particularly insistent on the connection between military service and fiefs/feudalism, and notes that grants to soldiers by Conrad II in the early eleventh century marked the true beginnings of the “feudo-vassalic relations” that Reynolds believes are incorrectly read backward in time.⁷⁹ This is strange, as military service is by far the most likely type of service, as she notes herself.⁸⁰

Her account of relations to state powers is similarly confusing. Reynolds argues on the one hand that until the twelfth century the expectation of property ownership by free men was in full (“allodial”) rights, thus implying that no “feudal” relations existed with a higher lord. On the other hand, she notes that “Wherever any semblance of government was maintained, the holder of what was thought of as full property had obligations to the ruler,” which rings very much of feudalism, as does her further statement that “People with full property had some rights over their unfree or less free tenants that we might consider governmental rather than property rights.” She claims that “the standard form of property . . . certainly did not correspond to Weber’s ideal type of the fief as a ‘service tenement’ that is granted in return for services.” However, in a world where personal and public distinctions are blurred—as she herself points out—how is the obligation of service to a “government” ruler different from obligation to a feudal lord?⁸¹

Reynolds’ argument boils down to believing that we are trapped by the language and constructs of earlier historians; she blames these constructs on overly literal

⁷⁸Reynolds, *Fiefs and Vassals*, 53–59.

⁷⁹Reynolds, *Fiefs and Vassals*, 44.

⁸⁰Reynolds, *Fiefs and Vassals*, 39, 62–63. See also the discussion on Wickham below.

⁸¹Reynolds, *Fiefs and Vassals*, 53–74; quotations are from 59, 60, and 73, respectively.

reading of the later medieval *Libri Feudorum* (which she calls an academic attempt to impose an inappropriate concept of property law on the Middle Ages). In her words, “We cannot understand medieval society and its property relations if we see it through seventeenth- or eighteenth-century spectacles. Yet every time we think of fiefs and vassals we do just that.”⁸²

* * *

In 2006, Fredric Cheyette wrote a lengthy review of Reynolds’ book; though motivated by her work, his comments apply almost equally to Brown. Noting that Reynolds was the first to “grind systematically through the sources on which that conventional (non-Marxist) construction of ‘feudalism’ has been based,” Cheyette argues that she must be taken seriously. “If she is successful, certain assumptions will no longer hold easy sway, and post-Reynolds accounts of European society in the half millennium from Charlemagne to 1300 will differ in significant ways from the pre-Reynolds accounts that she criticizes.”⁸³ There, however, the praise stops, hinging on that supposition: “*If* she is successful.” In the first place, Cheyette takes Reynolds to task for what he calls “a radical nominalism” in asserting that we cannot draw any larger inferences about the meanings of words beyond their particular use in particular documents (which is really just an extension of Brown’s point two decades earlier). In demolishing this argument, Cheyette calls this approach the “road to paralyzing skepticism.”⁸⁴

On a related front, Brown’s objections to the comparison of the terms ‘war’ and ‘agriculture’ with ‘feudalism’ as similarly necessary abstractions ring hollow. In particular, she states that “there is an evident difference between, on the one hand, those collective descriptive abstractions arrived at by isolating common features of different phenomena similar enough to permit the use and assure the acceptance

⁸²Reynolds, *Fiefs and Vassals*, 3; see, among many others, page 5 for the *Libri Feudorum*.

⁸³Fredric L. Cheyette, review of *Fiefs and Vassals: The Medieval Evidence Reinterpreted*, by Susan Reynolds, *Speculum* 71 (1996): 999.

⁸⁴Cheyette, review of *Fiefs and Vassals*, 1000–1002, quotations from 1000 and 1001 respectively.

of single words to denote them, and, on the other hand, those abstract analytic constructs formulated and defined as a shorthand means of designating the characteristics that the observers consider essential to various time periods, modes of organization, movements, and doctrines. To a degree to which the first type is not, the second sort of general term is inevitably and often intentionally affected by the theories and assumptions of the formulators and users.”⁸⁵ Brown offers no support for this “evident” claim. Even assuming her distinction to be meaningful and appropriate, she offers no firm criteria for sorting abstractions into one category versus the other. And finally, even assuming that ‘feudalism’ is an abstraction of the second type, she has given no reason for denying it meaning as a concept.⁸⁶

Additionally, responding purely historically, Cheyette directly rebuts three of the central tenets of Reynolds’ critique. She claims that an *ex post facto* concept of feudalism derives from misinterpreting texts like the *Libri Feudorum*. Cheyette, however, notes that to the extent that something like the *Libri Feudorum* was used as the basis for case law, it cannot have embodied a property too radically different from the customary interpretation, as “there were no revolts, no demands for concessions or charters of privilege in response to [what would have been] a wholesale introduction of new legal rules.” Moreover, although Reynolds attacks the critical Ganshof-ian “union of vassalage and benefice”, as Cheyette points out, “eleventh- and twelfth-century documents that explicitly tie fidelity to property are not all that hard to find.”⁸⁷ Cheyette also critiques Reynolds’ distinction between “attribute[s] of government” and “right[s] of property”; if she claims that “it is only the anachronis-

⁸⁵Brown, “Tyranny of a Construct,” 1080.

⁸⁶By implication, Brown is putting ‘war’ into the first category. Yet our understanding of the term is clearly “affected by the theories and assumptions of the formulators and users,” as the early twenty-first century consternation over the rise of ‘cyber warfare’ illustrates. Occurring in a new domain in which the doctrine and modes of organization of traditional warfare do not apply, the idea of ‘cyber war’ has fundamentally altered our perceptions of what ‘war’ itself means. It has not, however, done away with all meaning whatsoever; ‘war’ is still a useful concept. Similarly, ‘feudalism’ may still be meaningful regardless of its origins.

⁸⁷Cheyette, review of *Fiefs and Vassals*, 1003.

tic application of ‘feudalism’ that has led us to confuse the two,” what reason do we have for anachronistically applying our understanding of government and property?⁸⁸

Separately—and in fact writing halfway in time between Brown and Reynolds—Wickham demonstrates a totally different approach to feudalism. His 1984 article “The Other Transition: From the Ancient World to Feudalism” is explicitly an attempt to frame the “end of the ancient world” in economic terms, and then frame those terms “into the Marxist problematic of transition.”⁸⁹ Wickham’s particular emphasis is the transition between slave labor and tenant rents as the primary basis of the economy; as far as he is concerned, “feudalism . . . has nothing to do with military obligations, vassalage or the fief.”⁹⁰ Since much of Brown’s and Reynolds’ critiques are levied at assumptions about form, Wickham’s approach deserves a separate look.

Without going too much into the details of Wickham’s article, which will be addressed more fully in Chapter 4, his argument runs essentially as follows: Economies may be driven by “modes of production”, and at any one point in time tend to be dominated by one mode over any others. In particular, the medieval period (including the early medieval period) is characterized by a mode that may be called “feudalism” that is based upon the exchange of land for service or rent. For Wickham, “feudal relations are represented simply by tenants paying rent to (or doing labour service for) a monopolistic landowner class.”⁹¹ (Rents in cash may seem antithetical to the more traditional definitions of Bloch or Ganshof, but for reasons that will be discussed later, there is a valid case for considering them a ‘service’.)

This characterization is sufficiently strong that we can identify a definite transition between imperial society (characterized by slavery and taxation, as noted above) and an early medieval “feudal” society. In specifically avoiding any discussion of this

⁸⁸Cheyette, review of *Fiefs and Vassals*, 1004–05; quotation from 1005.

⁸⁹Wickham, “The Other Transition,” 4.

⁹⁰Wickham, “The Other Transition,” 6.

⁹¹Wickham, “The Other Transition,” 6.

“Marxist” view of feudalism,⁹² Reynolds is limiting herself to a never-realistic view of feudalism as *only* fiefs in return for *only* military service.

* * *

The purpose of this section was to investigate whether there is an identifiable change in socio-economic structures between the Empire and the Middle Ages that can be called feudalism, and I believe that there is. I am not concerned with commendation, swearing *in manus*, or any of the other formal trappings; I am interested in the social institutions that people made and used for themselves—on which see also Cheyette’s suggestion to ask “what people are doing rather than what is the nature of legal institutions and social classes.”⁹³ That said, I think that the debate over feudalism as a concept has become bogged down in precisely these sorts of trappings and ceremonies or, in the case of Reynolds, become a matter of not seeing the forest for the trees. One of the causes (and consequences) has been the unfortunate identification between fief and vassalage ever since Ganshof’s memorable phrase.

Nevertheless, fief and vassal are not unhelpful concepts. To best employ them we will probably need to match the intent of Brown’s suggestion and base our understanding on the best historical evidence available. And, following Wickham (over his express objections), that may mean identifying his service and/or rent tenants as fief-holding vassals. In fact, although Wickham is not explicit, his arguments are generally consistent with Bloch’s “feudal society.”

Indeed, Wickham and Cheyette have made it clear that there was something like feudalism, even if it does not have all the formal structure of the classic understanding represented (and debated about) by Bloch, Ganshof, and Duby. Wickham specifically argues that feudalism obtained very early in the medieval period. Although precise definitions may vary, and even though ‘feudalism’ as a label may be a modern framework for interpreting the medieval period, Brown and Reynolds

⁹²Reynolds, *Fiefs and Vassals*, 15.

⁹³Cheyette, review of *Fiefs and Vassals*, 1001–02; quotation from 1002.

are overreaching in their attempts to do away with feudalism as a construct. The claim that ‘feudalism’ as a label is a recent construct, even if true, does not imply that the label does not have a meaningful referent. Similarly, Brown’s suggestions to pay attention to the meaning of words, and preferably to use the words that medieval people themselves used, both have merit. But even taken together they do not discredit the explanatory power of a modern construct.

2.4 Towards a More Sophisticated Understanding

One other historiographic trend that bears some discussion is the increasingly sophisticated understanding of and discussion about the nature of the transition from Roman Empire to European kingdoms. This change is reflected in the ways historians talk about the barbarians and the effect they had on the later Empire. It is also reflected in, and shaped by, the application of new technologies and techniques to the study of the time period.

On the most simplistic level, the very language of the discussion has changed. Criticizing the barbarians for not matching Roman cultural or technological achievements (or simply for not being Christian) is no longer commonly accepted practice. Neither is calling the barbarians, or any other peoples, “primitive” or “backward”—as did virtually all earlier historians, and even some more contemporary ones.⁹⁴

At a deeper level, the past century has seen Gibbon’s straightforward account of collapse rejected by increasingly many historians. The argument has been set against Pirenne’s not-much-more-complicated account of continuity in the face of change. Current views now see a more nuanced, multi-threaded history—a trend that culminated, or at least peaked, with Peter Brown’s construct of late antiquity (which itself has seen evolving interpretations).

⁹⁴See among others Braudel, *The Mediterranean*, and Wickham, “The Other Transition,” *passim*.

On the subject of identity, the simplistic notions of culture and ethnicity that characterized the historical approach of the nineteenth century have given way to sustained debate about the nature and impact of these labels (see Wolfram, Pohl, Goffart, etc.). Geary *et al.* have argued increasingly in favor of ethnicity and identity as constructed markers rather than inborn attributes, and have described the concepts as fluid, rather than fixed.

Finally, in terms of social and economic structures, the long-cherished (or at least much-used) term ‘feudalism’ has seen substantial debate and revision in the last several decades. Duby already was setting himself against the more classical understanding of Bloch and Ganshof, though his definition was not after all so different. Brown and Reynolds, of course, declared the entire concept inapplicable—though that argument has not turned out to be nearly as persuasive as either might have hoped. In fact, Wickham has attempted (successfully in my view) to extend the traditionally social view of feudalism to more purely economic grounds.

* * *

The other way in which interpretations of the late antique/early medieval period have become more sophisticated is by bringing new technologies and techniques to bear on historical problems. The following discussion is not an argument for or against any particular technology or innovation, but rather an attempt to highlight the ways in which our understanding of the past (and of history itself) continues to evolve based on new material.

Concerns over culture history notwithstanding, archaeology has a great deal to offer, especially for a period in which the written sources are comparatively sparse. Archaeology itself is not a new field—though its techniques have likewise become more sophisticated—and has been contributing significantly to our knowledge of history for well over a hundred years.⁹⁵ Yet Hodges and Whitehouse were arguing

⁹⁵In a limited sense, it has been contributing for far longer than that: Bede, for example, discusses (albeit incorrectly) the ruins of Hadrian’s Wall in an attempt to structure the post-Roman period of history in Britain.

in the 1980s that the application of archaeology to late antiquity was still in its infancy. And recent archaeological work, frequently backed by rigorous statistical analysis, has offered new kinds of data on which to formulate historical arguments. Mark Handley's essay "Beyond Hagiography" contains a good discussion on the use of inscriptions on datable artifacts to trace shifts in local religious beliefs, for example,⁹⁶ and Michael McCormick points to the use of ice cores to document atmospheric pollution traceable to metalworking.⁹⁷ Now, most major histories of the period draw heavily if indirectly on archaeological evidence—the works of Geary, Heather, Halsall, and Wickham are all good examples.

Likewise, the seemingly unrelated fields of genetics and paleoclimatology each bring their own contributions. By offering credible scientific evidence for migration and assimilation of different gene pools, genetic studies of the sort conducted in England regarding Anglo-Saxon history can shed some light on the sorts of tribal movements that have caused controversy between the Vienna and Toronto schools.⁹⁸ Paleoclimatology—the study of changes in climate on long time scales—was already being discussed qualitatively by Braudel in the middle twentieth century. Now historians like Horden and Purcell, Cheyette, and Tamara Lewit are tackling the issue in greater detail to explain some of the driving forces behind economic and/or social change; more details are provided in Chapter 5.

The historiographic trends discussed above have all overturned, or at least revised, earlier, more simplistic (or naïve) arguments in favor of more complex interpretations. These will not in themselves be the end of the debate. Likewise, there are presum-

⁹⁶Mark A. Handley, "Beyond Hagiography: Epigraphic Commemoration and the Cult of Saints in Late Antique Trier," in Mathisen and Shanzer, *Society and Culture in Late Antique Gaul*.

⁹⁷Michael McCormick, *Origins of the European Economy: Communications and Commerce AD 300–900* (Cambridge: Cambridge University Press, 2001), 53.

⁹⁸See, e.g., Cristian Capelli *et al.*, "A Y Chromosome Census of the British Isles," *Current Biology* 13 (2003): 979–84, as well as Mark G. Thomas, Michael P. H. Stumpf, and Heinrich Härke, "Evidence for an Apartheid-Like Social Structure in Early Anglo-Saxon England," *Proceedings of the Royal Society B* 273 (2006): 2651–57.

ably many other ways in which our knowledge and understanding of history can be increased through the adoption and application of new methods and materials.

Chapter 3

Political Structures: Devolution and Evolution

3.1 The Empire's Barbarians/The Barbarians' Empire

A. H. M. Jones, in his *The Later Roman Empire, 284–602: A Social, Economic, and Administrative Survey* (first published in 1964), laid out a vision of the Empire that shaped the study of late antiquity for decades. Jones saw an Empire that was autocratic, absolute, and pervasive. Guy Halsall credits this view in part to the then-current context of fascism and communism, and notes that Jones's model evolved over time to become more nuanced. Nonetheless, the authority and range of the imperial bureaucracy was indisputably immense, though not without its limits (notably corruption and the sheer difficulty of managing so vast a territory without modern communications or transportation).¹

¹A. H. M. Jones, *The Later Roman Empire, 284–602: A Social, Economic and Administrative Survey*, reprint of the 1964 edition (Baltimore: Johns Hopkins University Press, 1986); “late antiquity” of course was a concept that arose after the publication of Jones's book. Halsall, *Barbarian Migrations*, 68, 74–76; see also Heather, *Fall of the Roman Em-*

In some respects, the Empire was as much an ideological and cultural phenomenon as it was a military and administrative reality.² Even into the fifth century, the local powers and ruling class shared with the emperor a sophisticated elite culture that derived from the Classical period, helping to hold the ideological Empire together despite its apparent shortcomings as a bureaucracy. This elite culture spanned the Empire, papering over (at least at society's upper levels) the differences in the social structures and living conditions of the various regions of Europe. Initially these regions were bound together by a common desire for *romanitas* as the upper classes (or upwardly mobile) sought privilege or citizenship.³ This binding culture was partially undone in the third century as, on the one hand, the individual regions became more prosperous and self-sustaining, weakening integrating economic ties, and on the other, the incentive to "Romanize" was reduced after Caracalla issued blanket citizenship in 212—everyone already was Roman.⁴

At least as important in the loss of imperial cohesion, however, was the crisis of the third century, which saw a dramatic decrease in central authority from which the Empire never fully recovered. The third century was balanced to some extent by the restorative fourth century. This period saw a huge expansion in the imperial bureaucracy, including the separation of military from civil service, that turned birth/wealth distinctions into a "service aristocracy" in which "the importance of rank, status, and precedence . . . cannot be overestimated."⁵ Among the most significant changes instituted by Diocletian was the administrative re-organization of the Empire into smaller provinces consisting of more locally autonomous *civitates* (cities), which were the fundamental administrative unit.⁶

pire, 23–30, on the evolution of the structure of the Empire, and 103–10 on limitations.

²See, for example, Heather, *Fall of the Roman Empire*, 69–70.

³Halsall, *Barbarian Migrations*, 66–71; Geary, *Before France and Germany*, 28–29; Heather, *Fall of the Roman Empire*, 15–22, 116–18.

⁴Halsall, *Barbarian Migrations*, 71–72.

⁵Halsall, *Barbarian Migrations*, 74–78; quotation is from 76–77.

⁶Halsall, *Barbarian Migrations*, 74–76; Geary, *Before France and Germany*, 11; Christopher Kelly, "Empire Building," in Bowersock et al., *Late Antiquity*, 176–77. Provinces were

* * *

Throughout the last decades of the fourth century, and the first decades of the fifth, the barbarians inflicted harassing attacks that weakened—though they did not yet permanently damage—imperial stability.⁷ As it became apparent that the barbarians were not going to go away, the Empire attempted to find ways to make them useful. Thus began the imperial policy of settling barbarians as *foederati*: they were settled by treaty, or *foedus*, in a particular region, usually to provide some stability as a sort of contracted army. (Though etymologically it is only a coincidence that this word looks like *feodum*, or fief, in a very real sense this was the beginning of what might be called feudalism: the barbarian kings were granted territory to support themselves and their people, over which they exercised at least some governmental authority, and in return for which they provided military security and tax revenues.)⁸ Officially established as buffer zones, over time—and often quite rapidly—these *foederati* begin to turn into more or less autonomous sub-kingdoms.

The Franks settled gradually as individuals and small groups west of the Rhine in what is now the southern Netherlands and northern Belgium.⁹ In 358, Julian formally recognized the right of the Franks to live where they did, making the Franks the first barbarians to be “settled” within the Empire; the majority of Franks at this time continued to live east of the Rhine.¹⁰ In 382, after an extended period of conflict with the Empire, the Goths were settled by treaty on the Danube and in the Balkans. Exposing the dangers that arose when imperial actions did not live up to imperial promises, however, an army under Radagaisus, dissatisfied with the treatment they

grouped into dioceses, which were themselves grouped into praetorian prefectures.

⁷Wells, *Barbarians to Angels*, 20–27; Geary, *Myth of Nations*, 99–103.

⁸See Wolfram, *History of the Goths*, 174. Walter Goffart has made the fairly persuasive argument that what was being assigned was not land *per se* but the tax revenues of the land, but in fact for the purposes of this discussion it hardly matters; also see Section 4.1.

⁹As noted above in Section 2.2, the use of group names to identify the same peoples across several centuries is somewhat controversial. Further complicating matters is the fact that all of these peoples are first documented as multi-ethnic agglomerates. To use particular labels at this point is therefore somewhat misleading, but nonetheless useful.

¹⁰Drew, introduction to *Laws of the Salian Franks*, 3–5.

were receiving from the Empire, invaded Italy in 405. Under Alaric, the Goths sacked Rome itself in 410 but left Italy in 412, somewhat placated. Shortly thereafter the Visigothic king Athaulf married the daughter of Theodosius I, Galla Placidia, and the Visigoths were settled in Aquitaine by Honorius to counter the threat of the Alans and Vandals. Around this time the Goths begin to be divided into the Visigoths, who would be focused more to the West, and the Ostrogoths, focused and aligned more with Constantinople.¹¹

Later, in the fifth century, the Alans were some of the few barbarian peoples to have been deliberately settled twice within the Empire. Originally established in the first decade of the fifth century in northeastern Gaul, where placenames still indicate their settlements, in 440 they were relocated by Flavius Aëtius to the Valentinois in heavily Romanized southeastern Gaul.¹² Like the Alans, the Burgundians were settled twice in a short span of time. The Emperor Honorius first granted the Burgundians federate status in 413, apparently as part of a truce following the uprising of the usurper Jovinus, and settled them in the Rhineland where they occupied the area around Worms.¹³ In 443 the general Aëtius re-established the Burgundians—whom he had defeated in the meantime after a rebellion in 436—in Sapaudia (Savoy) in southeastern Gaul, probably distributed along the Rhône, and certainly in the regions of Vienne and Lyons.¹⁴

¹¹Geary, *Before France and Germany*, 69–73; Cameron, *The Mediterranean World*, 38; date of settlement from P. D. King, *Law and Society in the Visigothic Kingdom* (Cambridge: Cambridge University Press, 1972), 1.

¹²Bachrach, “Alans in Gaul,”: initial settlement 477, later settlement 481; see also Cameron, *The Mediterranean World*, 38.

¹³Prosper of Aquitaine, *Epitoma chronicon*, in Murray, ed., *From Roman to Merovingian Gaul*, annal for 386; Katherine Fischer Drew, introduction to Katherine Fischer Drew, ed., *The Burgundian Code: Book of Constitutions or Law of Gundobad, Additional Enactments* (Philadelphia: University of Pennsylvania Press, 1988), 1.

¹⁴Prosper of Aquitaine, *Epitoma chronicon*, annal for 408; *Chronica Gallica 452*, in Murray, ed., *From Roman to Merovingian Gaul*, 118, 128; Gregory of Tours, *The History of the Franks*, trans. Lewis Thorpe (London: Penguin, 1974), chapter II.9; Ian N. Wood, *The Merovingian Kingdoms* (Harlow, UK: Longman, 1994), 8.

As stated earlier, not all barbarian peoples were settled in this way. The Alemanni, for example, were never established as *foederati* and were soundly crushed by the Franks in the sixth century in the first real barbarian expansion beyond the borders of the Empire.¹⁵ On the other hand, some tribes occupied land by conquest, rather than treaty—as was the case with the Sueves in northwestern Iberia and the Vandals, first in Iberia and later in north Africa. In fact, as noted above, the Visigoths were settled in Aquitania and Iberia precisely to counter the Sueves, Alans, and Vandals.

* * *

The Visigoths proved to be an extremely effective buffer against the Vandals. In fact, they were so effective that (in a prime example of unintended consequences) they pushed the Vandals out of Iberia into Roman north Africa. Under their king Gaiseric, the Vandals subdued the province between the late 420s and early 440s. The emperor Theodosius II failed to retake the province in 441, and in 442 the Vandal kingdom became the first independent barbarian kingdom to be recognized as such, although Vandal Africa remained relatively integrated economically with the Empire.¹⁶

Elsewhere the barbarians were gaining in power and independence. On the Continent, Aëtius led the Romans and the settled barbarians against Attila's Huns at the Battle of Châlons in 451. Although a Roman victory, it did not prevent the Huns from entering Italy, and "as the western government became progressively weaker, it became less and less possible to sustain any coherent policy in relation to barbarian settlement." After the battle and the subsequent disintegration of the Western Empire, Gaul was dependent on Syagrius's Roman field army headquartered at Soissons; the Franks expanded in this context, and in 486 Clovis defeated Syagrius,

¹⁵Geary, *Before France and Germany*, 73–75, 84–86. Note that the Alemanni are sometimes called Sueves—they should not be confused with the Sueves that invaded in the Empire in 406 and ended up occupying Galicia.

¹⁶Halsall, *Barbarian Migrations*, 228–29; Cameron, *The Mediterranean World*, 37, 40.

ending Roman rule in Gaul.¹⁷

After their recognition in Africa, the Vandals began to expand northward into the Mediterranean islands, and even sacked Rome in 468.¹⁸ At roughly the same time, Euric “seized royal power,” effectively creating a break-away state in Aquitaine in 466 and promptly began expanding the Visigothic territorial base. In 475 he was recognized by the Eastern Empire as controlling the land between the Loire and the straits of Gibraltar.¹⁹ The first phase of barbarian ascendancy in the West finally culminated in 476 with the deposition of Romulus Augustulus by Odoacer. Unlike his predecessors, Odoacer did not bother to set up a puppet emperor, but applied directly to Constantinople to use the title *patricius*; he eventually settled for *rex*. Halsall points out that at this point both Gundobad and Odoacer had decided barbarian kingship was more worthwhile than imperial office.²⁰

Further afield, in the wake of Continental unrest and Constantine’s rebellion in Britain, that island was abandoned c.410. Thereafter Saxon raids grew in intensity, leading to a decline in the Roman towns, economy, and imperial integration even faster than was happening on the Continent.²¹ On the subject Bede says merely that “At the same time [as Rome was sacked, i.e. 410] Roman rule came to an end in Britain.”²² After holding out for a generation or two, some time around 450 (Bede says in the reign of Marcian, 449–56), the Romano-British hired the Saxons to help defeat the Picts to the north. Following this initial invitation, successive waves of Continental peoples (predominantly Angles, Saxons, and Jutes) began an invasion of the island.²³

¹⁷Quotation is from Cameron, *The Mediterranean World*, 38; see also Drew, introduction to *Laws of the Salian Franks*, 5.

¹⁸Cameron, *The Mediterranean World*, 37.

¹⁹King, *Law and Society*, 1.

²⁰Cameron, *The Mediterranean World*, 33–34; Halsall, *Barbarian Migrations*, 279–81.

²¹Cameron, *The Mediterranean World*, 36–38.

²²Bede, *Ecclesiastical History of the English People*, ed. D. H. Farmer, (London: Penguin, 1990), chapter I.11.

²³Bede, *Ecclesiastical History*, chapters I.14–15; Gildas, “The Ruin of Britain,” in Michael Winterbottom, ed., *Gildas: The Ruin of Britain and Other Works* (London:

The Ostrogoths under Theodoric invaded Italy in 489; after a short war with the Vandals and various other barbarians under Odoacer, the Ostrogoths established what was to be, for a short time, the most Roman of the barbarian kingdoms.²⁴ Theodoric's policies were generally well-received and he was compared in his own time (by Romans!) to Trajan and Valentinian I, considered model emperors.²⁵ This model was not to last. The Ostrogothic kingdom likewise ended in the mid-sixth century, defeated in relatively short order by the Eastern Empire in a war that lasted 536–54.²⁶

In Gaul the Franks were beginning a long push towards hegemony. As noted above, Clovis conquered the Alemanni living in the middle Rhine and Alsace in 506.²⁷ A year later the Franks, fighting with the Burgundians, defeated the Visigoths, pushing them back into Spain just as they had pushed the Alans and Vandals nearly a century earlier. (Once in Spain, however, the Visigoths thrived.²⁸) After a series of bad decisions that antagonized both the Franks and the Ostrogoths, the Burgundians under Sigismund were in turn conquered by the Franks in 534 and absorbed into that growing kingdom.²⁹ After Clovis the Frankish kingdom was divided into four regions, each with a different demographic makeup.³⁰

Phillimore, 1978), chapters 21–25; James Campbell, “The Lost Centuries: 400–600,” in James Campbell, ed., *The Anglo-Saxons* (London: Phaidon, 1982), 23–34; Peter Hunter Blair, *An Introduction to Anglo-Saxon England*, 3rd ed. (Cambridge: Cambridge University Press, 2003), 3–7.

²⁴Wolfram, *History of the Goths*, 278–90; most Roman: see Burns, *History of the Ostrogoths*, 68.

²⁵Wolfram, *History of the Goths*, 306–07.

²⁶Wolfram, *History of the Goths*, 342–62; Cameron, *The Mediterranean World*, 41, 108–09.

²⁷William M. Daly, “Clovis: How Barbaric? How Pagan?” *Speculum* 69 (1994): 620n3, following Cassiodorus; Drew, introduction to *Laws of the Salian Franks*, 6.

²⁸Halsall, *Barbarian Migrations*, 288–89, 296–300; Cameron, *The Mediterranean World*, 42; Drew, introduction to *Laws of the Salian Franks*, 6; Gregory of Tours, *History of the Franks*, chapter II.37 does not mention the Burgundians.

²⁹Halsall, *Barbarian Migrations*, 302–03; Drew, introduction to *Laws of the Salian Franks*, 7; Gregory of Tours, *History of the Franks*, chapter III.4–6.

³⁰Drew, introduction to *Laws of the Salian Franks*, 9. The regions were northeastern Austrasia, with a majority Frankish population; northwestern Neustria, majority

By the beginning of the sixth century, following the official demise of the Western Empire, the barbarians—initially settled as *foederati* to maintain at least some semblance of imperial control over western Europe—had established a series of more or less permanent independent kingdoms. Nonetheless, the barbarian leaders, at least, were still wrapped into the Roman political structure through the holding of Eastern offices.

* * *

Section 2.1 raised the crucial question of why the Roman Empire lasted as long as it did, even to the point of outlasting—actually in the east, conceptually in the west—its own successors. As suggested there, the answer lies in viewing the barbarian kingdoms as the natural political extension of the Empire, “the greatest and most enduring creation of Roman political and military genius,” as Patrick Geary put it.³¹

In the first place, individual barbarians had long been integrated into the Empire, rising through the imperial ranks to wield often considerable influence. Perhaps befitting the barbarians’ initial role as contracted armies, the position of *magister militum* (roughly, ‘general’; see Section 3.3 for a more detailed discussion of the significance of this title) became the principal route for success.³² Already in the fourth century individual Franks were rising to high position via the army: Richomer became not just *magister militum* but consul, and his nephew Arbogast was likewise *magister militum*.³³ Alaric was finally named *magister militum per Illyricum*, and Geary suggests that it was his search for further imperial recognition that drove his attacks on Italy.³⁴ Ironically, the Goths in Italy had been defeated by Stilicho—himself a Vandal commanding a Roman army. In addition to Stilicho, other notable fifth-

Gallo-Roman/minority Frankish; southwestern Aquitaine, majority Gallo-Roman/minority Visigothic; and southeastern Burgundy, majority Gallo-Roman/minority Burgundian.

³¹Geary, *Before France and Germany*, vi; see also Pohl, “Barbarian Successor States,” 33.

³²Geary, *Before France and Germany*, 13, cites “a continuous increase of the influence of these individuals [barbarian commanders] and their armies.”

³³Drew, introduction to *Laws of the Salian Franks*, 4.

³⁴Geary, *Before France and Germany*, 70.

century *magistri militum* included Ricimer (Suevian-Gothic), Sigisvult (Gothic), and Gundobad (Burgundian). All of these either sparred with or appointed western emperors; of Ricimer, J. B. Bury notes that he “was the first German who had become a virtual king of Italy; he is the link between Stilicho and Odovacar.”³⁵ Even the Scirian Odoacer, who finally ended western imperial succession, had previously been *magister militum*.

This integration of individuals tended to instill some notion of continuity, particularly given the survival of broader state institutions (see Section 3.3). The continued recognition of Roman authority may be explained by an intriguing argument made by Evangelos Chrysos, that the *imperium*, “the constitutional and legitimising power of the Roman state,” was not tied to any particular practical reality of the Empire. *Imperium* could not be divided—Chrysos states that it was believed to be indivisible—and so it endured as a concept not only after the division of the Empire but even after the nominal end of the Western Empire.³⁶ Additionally, the period after the end of the Empire in the West actually corresponds to something of a resurgence in the Eastern Empire, which may have suggested to the barbarians that although the terms of game had changed somewhat, Rome in a broader sense was not yet gone. Certainly in the sixth century there was a great deal of looking back (or simply east) in hopes of claiming or borrowing some of the legitimacy and heritage of Rome. *Inter alia*, Justinian’s codification of law was “a grand imperial gesture” at the start of his reign that he thematically followed with the attempted reconquest of Africa and Italy.³⁷ Belisarius’ African campaign of 533–34 was successful, destroying the Vandal kingdom after a little less than a century of independence. As previously mentioned, the Ostrogothic kingdom was destroyed at about the same

³⁵J. B. Bury, *History of the Later Roman Empire* (London: Macmillan, 1889), 241; Jones, *Later Roman Empire*, 177.

³⁶Evangelos Chrysos, “The Empire in East and West,” in Webster and Brown, *Transformation of the Roman World*, 9.

³⁷Cameron, *The Mediterranean World*, 123. Justinian’s reign began in 527; his code was compiled 529–34.

time, and the Byzantines also had some success against the Visigoths, ruling a strip of territory on the southeastern coast under a *magister militum* from 552–624.³⁸

Before relations were soured by these reconquests, however, there was an extended period of time following Odoacer's deposition of Romulus Augustulus during which various barbarian leaders saw themselves at least as exercising the authority of the legitimate Roman emperor, if not actually as Romans *per se*.³⁹ There were at least four letters exchanged between the Burgundian king Sigismund and the Eastern Emperor Anastasius. These letters indicate not only that there were formal embassies from the king, but that he considered himself (at least when writing to Anastasius) to be "under the jurisdiction of Roman [in this case Byzantine] power." Sigismund also held the titles of *patricius* and *magister utriusque militiae* from the emperor, as had his father Gundobad before him.⁴⁰ Theodoric's letters do not imply quite the same level of submission, probably due to his greater relative power, but nonetheless recognize Anastasius as the emperor,⁴¹ and he persistently tried to be recognized in his own right.⁴² After Theodoric and Anastasius had a falling out in 508, the emperor conferred a consulship on Theodoric's rival Clovis, an appointment that was apparently rewarded by a Frankish attack on Italy that same year; granted that this may have been a case of the Eastern emperors incentivizing the barbarian kings rather than commanding them directly, but it points to a continued linkage between the two.⁴³

³⁸Cameron, *The Mediterranean World*, 40–42, 104–09, 121.

³⁹Chrysos, "Empire in East and West," 10–15.

⁴⁰Avitus of Vienne, *Letters and Selected Prose*, ed. and trans. Danuta Shanzer and Ian Wood, *Translated Texts for Historians 2* (Liverpool: Liverpool University Press, 2002), Epistles 93 and 94; see also accompanying commentary by Danuta Shanzer and Ian Wood, 141–53.

⁴¹See for example Cassiodorus Senator, *Variae*, ed. Theodor Mommsen, *MGH AA12* (Berlin: Weidmann, 1894), I.1.

⁴²A. H. M. Jones, "The Constitutional Position of Odoacer and Theodoric," *The Journal of Roman Studies* 52 (1962), 127–28—although Jones's article is attempting to make the broader claim that Theodoric ruled as king of the Goths and Romans, unfettered by imperial recognition or constraints.

⁴³Ian N. Wood, "Gregory of Tours and Clovis," *Revue belge de philologie et d'histoire*

As will be seen in Chapter 5, the barbarian kingdoms maintained trade connections and other economic ties with the Eastern Empire in addition to their surviving political ties. They even maintained, at some level, a ‘Roman’ identity into the sixth, seventh, and possibly eighth centuries (see Chapter 4 and Chapter 6).

3.2 The Decentralization of Power

Against this backdrop, the Roman world, in which the Empire had been the single centralized focus of society, witnessed the continued and increasing decentralization of power. Indeed, perhaps the best argument for a ‘collapse’ following the end of the Empire is the weakening and eventual disappearance of a centralized state. Yet even here ‘collapse’ is inappropriate, and ‘decline’ may even be too strong a label. At the most, Peter Wells argues, we should see it as “a steady, even inevitable unraveling of the military, political, and economic institutions that Rome had created over its seven centuries of growth. But it was much more complex than that, and few people at the time would have noticed or felt that their world was declining.”⁴⁴

In considering the power of the Empire, Halsall points out that “No modern state has ever been able effectively to hold [the] diverse areas [of Europe] together even with advanced communications and military technology.” To the extent that the Empire was able to do, the question is therefore how the Empire had become centralized in the first place (though Peter Heather notes that the Empire was *not* always able to hold these areas effectively).⁴⁵ Halsall argues that the early Empire solved the problem by incentivizing local powers to participate in the Roman system through common culture and earned rewards (e.g. imperial office). At the same time,

63 (1985), 268–69.

⁴⁴Wells, *Barbarians to Angels*, 18.

⁴⁵Halsall, *Barbarian Migrations*, 68. Heather, *Fall of the Roman Empire*, 100–103, gives a good example of the Empire’s failure to police its own administration. See also Kelly, “Empire Building,” 176.

ironically, this Roman system strengthened the power of the local élites. So long as the central state survived, this relationship was sustainable. In the third and fourth centuries, however, cultural changes within the Empire, including the free extension of citizenship to all inhabitants, reduced the incentive for local élites to engage in a unified endeavor.⁴⁶

For the time being, at any rate, the Empire was able to maintain a centralized, autocratic style of government. However, while changes in the fourth and fifth centuries undid the aristocratic disengagement, they did so in a way that set the stage for more independent local élites. In the first place, the Empire was never really able to repair the ideological damage caused by political instability from the third century onwards.⁴⁷ Additionally, the administrative re-organization of the Empire into smaller, more locally autonomous provinces solidified the rise of a local power élite.⁴⁸ As Halsall put it, not entirely facetiously, “in the late Roman Empire aristocrats ceased to ask what they could do for their Empire and instead increasingly asked what the Empire could do for them.”⁴⁹

* * *

To step away from this narrative briefly, there was a short period after the end of the Empire when central state exercise of power remained strong (at least relatively speaking). And in some areas such as lawmaking the state retained certain powers to itself. Barbarian acculturation within the context of the Empire meant that “[by] the fifth century, under Roman influence, the Germans had come to regard the state as having certain powers, on the one hand, and certain duties and responsibilities, on the other.” This was accompanied by a corresponding decline in barbarian social structures. The “most important” increases in state power were in the areas of

⁴⁶Halsall, *Barbarian Migrations*, 69–72.

⁴⁷Halsall, *Barbarian Migrations*, 73.

⁴⁸Halsall, *Barbarian Migrations*, 74–76; Geary, *Before France and Germany*, 11; Kelly, “Empire Building,” 176–77.

⁴⁹Halsall, *Barbarian Migrations*, 77–79; quotation from 79. See also Cameron, *The Mediterranean World*, 81–94.

security and justice.⁵⁰

In the most obvious case, the existence of more or less autocratic kings represented a continuation of ideology, if not precisely of form. Although more decentralized than the arrangement under the Empire—there were more barbarian kings than there ever had been emperors—the underlying principle of monarchy (maximally oligarchy, in the case of divided kingship) still pertained. Additionally, all of the barbarian legal traditions either imply or specifically refer to the retention of lawmaking councils surrounding the king. Whether these derive from older barbarian traditions or from the period of Roman acculturation is not entirely clear (Chris Wickham would argue for barbarian origins).⁵¹ For the most part this manifested itself in the continuation of Roman state institutions, albeit sometimes with a barbarian twist: see further details below.

In terms of state activities *per se*, during its short span, the Ostrogothic kingdom “maintained many continuities with the Roman past,” including survival of the senatorial class (and the senate itself) and the consular office.⁵² The continued relevance of these groups can be seen in several sixth-century letters from Theodoric addressed to the Roman senate.⁵³ The Ostrogoths are a particularly strong example—Thomas Burns claims that “unlike any other barbarian group [they] entered the living heart of the Western Empire”⁵⁴—but they were hardly unique.

⁵⁰Katherine Fischer Drew, introduction to Katherine Fischer Drew, ed., *The Lombard Laws* (Philadelphia: University of Pennsylvania Press, 1973), 6–7; quotation is from 6.

⁵¹Drew, introduction to *The Lombard Laws*, 7–11; see also Harold J. Berman, “The Background of the Western Legal Tradition in the Folklaw of the Peoples of Europe,” *The University of Chicago Law Review* 45 (1978): 573. See Tacitus, *Germania*, in *Tacitus: The Agricola and the Germania*, ed. H. Mattingly, 2nd ed. with revised translation by S. A. Handford (London: Penguin, 1970), chapters 11–12, 13, for possible origins in older tribal traditions, as well as Wickham, *The Inheritance of Rome*, 100–01.

⁵²Cameron, *The Mediterranean World*, 41.

⁵³Cassiodorus, *Variae*, I.4, I.13, I.30, etc.

⁵⁴Burns, *History of the Ostrogoths*, 68. It is worth mentioning that both Gundomar and Gundobad spent time in Rome and Ravenna as imperial officials—so after the Ostrogoths, the Burgundians probably had the most direct influence from the late Empire.

As mentioned, all of the barbarian laws reference some senate-like body, and Wickham notes that “[the] Vandal administration seems to have been close to identical to the Roman provincial administration of Africa.”⁵⁵ Over time, however, these senates or councils may have declined in influence and power. Noting that “on Italy the effects of the Gothic wars were destructive in the extreme,” Averil Cameron argues that the imperial senate finally collapsed as an institution following the loss of senators’ fortunes and subsequent flight to the east.⁵⁶

* * *

In the hundred years between 400 and 500, “the West was divided into half a dozen major sections . . . and a host of smaller autonomous units in Britain and more marginal areas elsewhere. The larger western polities were all ruled in a Roman tradition, but they were more militarized, their fiscal structures were weaker, they had fewer economic interrelationships, and their internal economies were often simpler. A major change had taken place, without anyone particularly intending it.”⁵⁷

The beginnings of the decentralization of the state and its associated powers began well before the traditional end of the Empire. By the start of the fifth century, events had conspired to make the Empire nearly impossible to govern outright; as Cameron put it, “the frequently repeated and often contradictory pronouncements of emperors do not signify authoritarian intrusions on the lives of individuals so much as vain attempts to regulate a situation which was in practice beyond their control.”⁵⁸ In fact, we can see the first step in decentralization—true devolution, or the voluntary assigning of power downward—in the establishment of the barbarian *foederati*.⁵⁹

⁵⁵Wickham, *The Inheritance of Rome*, 77.

⁵⁶Cameron, *The Mediterranean World*, 122.

⁵⁷Wickham, *The Inheritance of Rome*, 79; the half dozen sections were “Vandal Africa, Visigothic Spain and south-west Gaul, Burgundian south-east Gaul, Frankish northern Gaul, Ostrogothic Italy (including the Alpine region).”

⁵⁸Cameron, *The Mediterranean World*, 86.

⁵⁹See, *inter alia*, Wolfram, *History of the Goths*, 170–74.

Furthermore, what Halsall called a change in the “core-periphery relations” in the fifth and sixth centuries led to the “loss of a monopoly over political legitimacy.” Once people lost their investment in a common political ideology, there was nothing to stop the powerful local élites from choosing different allegiances.⁶⁰ The process is perhaps best exemplified by Wickham’s description of the Vandals: Although they “could be seen as in effect a rogue army that seized power in a Roman province and ran it in a Roman way . . . the Vandals ruled Africa as a military landowning aristocracy [and] became a political élite, replacing and expropriating the largely absentee senatorial aristocracy.” As such breakaway kingdoms began to undermine the perceptions of a unified state (and as the *foederati* became more powerful themselves), the incentive to remain part of the larger Empire declined, in a sort of vicious feedback cycle.⁶¹

The late Empire had become a patronage network of vertical relationships; up to at least during the fourth century the emperors were able to control this framework.⁶² However, as the Empire waned, the aristocracy⁶³ grew in strength and importance. “[The] growth of an immensely rich and powerful class of senatorial landowners in the west [began] during the fourth century. . . . The combination of a weak government and wealthy and powerful landowners was crucial in determining the shape of the western economy.”⁶⁴ The result was a “shift from a complex urban, monetised, Romanised society . . . to an unremittingly local and rural society.”⁶⁵

Already by the fourth century, “most ‘senators’ had never seen Rome. Instead,

⁶⁰Halsall, *Barbarian Migrations*, 513–17, quotations from 513 and 515 respectively.

⁶¹Wickham, *The Inheritance of Rome*, 78.

⁶²Cameron, *The Mediterranean World*, 93; Halsall, *Barbarian Migrations*, 111.

⁶³There is some debate about the appropriate use of the words ‘aristocrat’, ‘noble’, and ‘élite’ to describe the upper tier (or tiers) of late antique and early medieval society: see Guy Halsall, *Warfare and Society in the Barbarian West, 450–900* (London: Routledge, 2003), 21. Without becoming too technical, and at the risk of introducing some slight inaccuracies around the edges, I will use the three terms interchangeably.

⁶⁴Cameron, *The Mediterranean World*, 84; see also Brown, *The World of Late Antiquity*, 34, and Halsall, *Barbarian Migrations*, 497.

⁶⁵Halsall, *Barbarian Migrations*, 498.

they were the leaders of their own society.” Local magnates became important intermediaries in law, military recruitment, and taxation, increasingly taking over all of the trappings of official governance.⁶⁶ Indeed, Susan Reynolds argues that this sort of blending of what we now distinguish as ‘public’ and ‘private’ power is one of the defining characteristics of medieval societies.⁶⁷ The élite transformed, moving from a status defined purely by wealth to one in which official service and position (*i.e.* local power) had become critically interwoven components.⁶⁸ As the aristocracy grew in power, they also strengthened their local ties. The later fourth and fifth centuries exemplified the maxim that all politics is local politics, and the Empire became an increasingly irrelevant superstructure.⁶⁹ Separately, these nobles had already begun to acquire personal military power under the late Empire (beyond just their role in recruitment for the army).

Combined with their roles in law and taxation, F. L. Ganshof saw a merger with imported barbarian traditions and the beginnings of a feudal aristocracy.⁷⁰ This created a tension with the state—first the Empire, later the barbarian kingdoms—as the aristocracy, always eager to hold on to their gains, were now more able to do so. As Wickham notes, “direct state involvement in and control of status was by now lost even to the strongest government.”⁷¹ On the other hand, Wickham notes that “in the last two millennia the period 500–800 was probably when aristocratic power in the West was least totalizing, and local autonomies were greatest,”⁷² so the newfound power of the nobility should not be overemphasized. Just as the central Empire had lost power to them, so they lost some measure of power or control over those beneath them.

⁶⁶Brown, *The World of Late Antiquity*, 36–40. See also Wickham, “The Other Transition,” 10, 14, 23–24, 28–29.

⁶⁷Reynolds, *Fiefs and Vassals*, 25–47.

⁶⁸Cameron, *The Mediterranean World*, 104; Halsall, *Barbarian Migrations*, 77–78.

⁶⁹Brown, *The World of Late Antiquity*, 126–31.

⁷⁰Ganshof, *Feudalism*, 4.

⁷¹Wickham, “The Other Transition,” 24.

⁷²Wickham, *The Inheritance of Rome*, 216.

In cities, Roger Collins suggests that, at least in Spain, local powers—including, or especially, bishops—were more relevant to the inhabitants than were kings, and that there was a general trend toward self-administration at all levels of government. Wickham agrees with Collins on this point, seeing the continued devolution of wealth and authority to lower levels in different regions.⁷³ Less land wealth for aristocracy meant more land wealth for the peasantry and thus more autonomy. The result was political fragmentation, seen especially in Francia and the Rhineland. With some exceptions (e.g. Neustria) Frankish peasant society was autonomous at the level of villages—villages defined by their relationship with a lord used to be taken as the norm, but this is now seen as “highly unusual.”⁷⁴ Wickham sees the influence of “medium owners” rather than a dominant militarized aristocracy. In addition to the remnants of major cities, he sees villages with some powerful external owners but also a significant presence of peasant landowners, or even ones where small, mostly autonomous owners predominated. In Wickham’s view, such villages were common through the sixth and seventh centuries, perhaps becoming less so by the ninth and tenth.⁷⁵

Compounding the problem, at least from the standpoint of a central state, was the increasing tendency towards heritability of power and position. The barbarian kingdoms, for the most part, practiced hereditary kingships, although elections were not uncommon (particularly if the heir was considered unsuitable).⁷⁶ The wealth of the landholding aristocracy was inheritable under both Roman and barbarian law, and increasingly their positions were too. Certainly by the ninth century, and probably earlier, fiefs had acquired an expectation of heritability (at least among their recipients); it is not clear at what point this expectation developed.⁷⁷ In practice, this

⁷³Roger Collins, “Mérida and Toledo: 550–585,” in Edward James, ed., *Visigothic Spain: New Approaches* (Oxford: Clarendon, 1980), 196–99; Wickham, *The Inheritance of Rome*, 204–05.

⁷⁴Wickham, *The Inheritance of Rome*, 205–06.

⁷⁵Wickham, *The Inheritance of Rome*, 206–11.

⁷⁶Halsall, *Barbarian Migrations*, 489–90.

⁷⁷Ganshof, *Feudalism*, 46–49; Reynolds, *Fiefs and Vassals*, 49, 54, 63.

was not so different from the state of affairs under the later Empire, which had made virtually all professions hereditary. In addition to the emperors themselves (who were of course also sometimes elected), even military positions could be inherited—notably in the case of the late general Syagrius.⁷⁸ As noted above, however, this would tend to frustrate the intentions of the nominal overlord.

3.3 Adaptation of Roman Institutions

As suggested in the previous section, for the most part the barbarian kingdoms integrated with or sat atop the remnants of Roman society. In ruling these kingdoms, the barbarians made use of the tools of governance that survived. Although Wickham argued for major, if unintentional, change, Paul Fouracre argues that “What gave early-medieval Europe its particular character was interplay between the local and the universal in [the] process of coping with changing conditions, for although a kaleidoscope of local identities emerged along with the formation of new political and social groups, nearly all groups clung to norms and beliefs derived from the same massive human organisation: the Roman Empire.”⁷⁹ At its height, that Empire had been the single centralized focus of society; as mentioned earlier, perhaps the best argument for a ‘decline’ following the end of the Empire is the corresponding weakening of the centralized state. By the late antique/early medieval period, the exercise of power was largely confined to issuing and administering law; organizing and fielding a military; and collecting taxes to pay for the two.⁸⁰ This section will cover the ways in which the various barbarian kingdoms adopted and adapted Roman

⁷⁸Helen J. Nicholson, *Medieval Warfare: Theory and Practice of War in Europe, 300–1500* (Houndmills, UK: Palgrave Macmillan, 2004), 41; Halsall, *Barbarian Migrations*, 271; Heather, *Fall of the Roman Empire*, 28. It was Clovis’s defeat of Syagrius that initially vaulted him to preeminence in Gaul.

⁷⁹Paul Fouracre, “Cultural Conformity and Social Conservatism in Early Medieval Europe,” *History Workshop* 33 (1992): 152.

⁸⁰See, e.g., Heather, *Fall of the Roman Empire*, 107, and Halsall, *Barbarian Migrations*, 488.

state institutions to suit their evolving needs.

* * *

One of the most important and lasting of the tools available to the barbarians was law. The following description of the legal system after the end of the Empire is intended only to touch briefly on some highlights of the evolution of that system in line with the current discussion on political institutions. The barbarian laws and the corresponding post-imperial legal systems are covered more fully in Chapter 6.

Most if not all of the barbarian kingdoms issued laws, beginning in the mid-fifth century and running more or less continuously until the time of Charlemagne. One of the unique features of early barbarian law was its ‘personal’ nature (i.e., Visigoths, for example, were supposed to be judged according to Visigothic law regardless of where they happened to be). Consequently, the early kingdoms issued separate laws for barbarians and Romans, undoing one of the trends of Roman judicial theory throughout the later Empire. Over time, these diverse personal laws were gradually replaced by integrated territorial legal codes more in line with later Roman law—both in form and in content.

In many ways like the early Roman law, the barbarian laws also exhibited a great deal of shared culture. All of the barbarian codes were issued by a king, sometimes with the help of a council. All assumed some state judicial function and described, to varying degrees, courts and court procedures. Their method for handling violence was a payment in lieu of feud, although the value of a person might vary (for several reasons). They typically placed a high value on marriage and family, and (mostly) had a detailed concept of inheritance. In their treatment of foreigners (Romans) they perhaps differed the most, the integrated societies of the Visigoths and Burgundians contrasting with the more hostile attitudes of the Franks or Lombards. Finally, all the laws showed an increasing impact of Roman heritage—and specifically Christianity—as they evolved and professionalized.

* * *

The later Roman military employed a system of more or less professional legions, as often as not ethnic barbarians, under the command of generals (*magistri militum*: “masters of the soldiers”), who were sometimes given specific geographic commands (*per Gallias*, for instance). Infantry and cavalry were usually commanded separately; when the commands were combined, or when a more senior position was required, a *magister utriusque militiae* (literally “master of both armies”) might be created.⁸¹ This army was paid for out of a hierarchical, centralized system of state tax revenues.⁸²

Collins notes that throughout the fourth and fifth centuries there is declining mention of Roman armies; some are known to have been moved internally within the Empire for political reasons (allowing, for example, the Vandals to seize Africa): “What emerges from the records of Roman military activity . . . is the diminishing capacity of the imperial government in the West . . . to provide direct administrative control over and military defence of its provinces.”⁸³ Consequently, there was an increasing reliance on non-Romans to fill the ranks, which helped to drive taxation ever higher (on which more below).⁸⁴ This difficulty is all the more remarkable given that, according to Halsall, we are talking about individual field armies of at most tens of thousands of troops (Cameron cites a total figure of 400,000 men under arms in the late Empire).⁸⁵

While noting that in fact most armed conflict probably took place on a small scale, Halsall does contend that the post-imperial period still saw real, large-scale warfare requiring sizable armies and the means to maintain them.⁸⁶ The structure and organization of these early medieval militaries was firmly rooted in the late Roman

⁸¹Jones, *Later Roman Empire*, *passim*.

⁸²Wickham, “The Other Transition,” 20–21, including note 21 on page 20; see also Halsall, *Warfare and Society*, 25–26, 43.

⁸³Collins, *Early Medieval Europe*, 80–82; quotation is from 81–82.

⁸⁴Collins, *Early Medieval Europe*, 81–87; Halsall, *Barbarian Migrations*, 146–50; Cameron, *The Mediterranean World*, 83–84, 96–97.

⁸⁵Halsall, *Barbarian Migrations*, 144–45; Cameron, *The Mediterranean World*, 96.

⁸⁶Halsall, *Warfare and Society*, 15–16; see also Nicholson, *Medieval Warfare*, 3.

model: “we can trace transformations in the nature of the army, its methods of recruitment and payment, and its relationships with the state, but these nevertheless remained recognisable descendants of the late Roman system.”⁸⁷ Specifically, the titles—and possibly the roles—of the *magistri militum* survived at least through the sixth century

One of the features that did distinguish early medieval from late imperial military organization, at least in degree, was the role of class. This common association between martial prowess and elite warrior class is usually traced to “ancient Germanic traditions”, and to some extent this is supported by the increasingly important military role of the aristocracy in the fifth and sixth centuries, and corresponding identification of that class with military service.⁸⁸ However, Halsall notes that there is a “continuous thread of development in ideas which associated good rulership with military victory, from the late Roman Empire into the successor states in ‘barbarian’ western Europe and the East Roman or Byzantine Empire,” and many of the third- and fourth-century emperors originally rose via the army⁸⁹ This identification represents a potential conflation of identities: Halsall, noting that there are no records or significant mentions of the Roman army after the end of the Empire, points out that the barbarians who had constituted that army (or, more properly, those armies) were now the very peoples ruling more or less independent kingdoms.⁹⁰

After the Empire, Halsall claims that it was “most plausible that the dukes and counts of a kingdom were responsible for maintaining and supplying the troops within their areas of jurisdiction.” As the accommodations made by the Empire to pay for the hired barbarian armies, as well as the military positions themselves, became

⁸⁷Quotation from Halsall, *Warfare and Society*, 45; see also Bernard S. Bachrach, *Early Carolingian Warfare: Prelude to Empire* (Philadelphia: University of Pennsylvania Press, 2001), 51–2.

⁸⁸Halsall, *Warfare and Society*, 25, 31; quotation from 25.

⁸⁹Halsall, *Warfare and Society*, 25, citing Michael McCormick’s *Eternal Victory: Triumphal Rulership in Late Antiquity, Byzantium and the Early Medieval West*.

⁹⁰Halsall, *Warfare and Society*, 32; see also Wickham, “The Other Transition,” 20–21.

more permanent and hereditary, “by the later sixth century the social group from which the army was raised had become a class of landholders.”⁹¹ The resulting crucial distinction between the Empire and the post-imperial period was the immediate change in military funding from centralized cash payments (paid by taxation) to decentralized landowning (paid by rents); as Wickham puts it, “the Germanic settlement subtracted funding and responsibility for the army from the state in favour of men who ended up as private landowners.”⁹² Wickham is here specifically rejecting Goffart’s *Barbarians and Romans, A.D. 418–584* on the subject of taxation (as do S. J. B. Barnish and Halsall); also note that this does not *per se* reflect any barbarian cultural attitude, but the conditions by which the tribes were settled as *foederati*.⁹³ In fact, Thomas Anderson argues that the original purpose of the infamous Salic Law (which nominally prohibited women from inheriting land) was to ensure that the land intended to support military service by the *foederati* remained with those who could continue to provide that service. There was a similar Burgundian restriction on the alienation of land that had been Roman.⁹⁴

Over time, an expectation developed that all free men would provide either military service in proportion to their wealth or pay a concomitant fine (or “army tax”); although this evolution is clearest in Frankish Gaul, similar transitions occurred in Visigothic Spain and Ostrogothic (later Lombard) Italy.⁹⁵ Bernard Bachrach describes the Carolingian system in very much the same way, noting that it was based on the later Roman and earlier medieval models (he specifically cites an edict from 639)—although we should be careful about reading any Carolingian organization too

⁹¹Halsall, *Warfare and Society*, 42–47, quotations from 45 and 47, respectively.

⁹²Wickham, “The Other Transition,” 20–21, including note 21 on page 20.

⁹³S. J. B. Barnish, “Taxation, Land and Barbarian Settlement in the Western Empire,” *Papers of the British School at Rome* 54 (1986): 170–71.

⁹⁴Thomas Anderson, “Roman Military Colonies in Gaul, Salian Ethnogenesis and the Forgotten Meaning of *Pactus Legis Salicae* 59.5,” *Early Medieval Europe* 4 (1995): 129–44; see also *Liber Constitutionum*, in Drew, *The Burgundian Code*, chapter I.1.

⁹⁵Halsall, *Warfare and Society*, 53–56, 59–65.

directly into the past.⁹⁶ This discussion is deeply connected with the one on feudalism in Section 4.1; for now suffice it to say that changes in social structure, land ownership, and methods of taxation all seem to have been connected, and probably related to the method for raising an army.

* * *

This section will focus on the ‘governmental’ functions of taxation and fiscal administration.⁹⁷ The relationship between these functions and the broader economy, as well as discussion of economic trends and consequences, will be covered more fully in Chapter 5.

Although the financial administrative structure of the late Empire is not fully understood, it appears that there was only a limited bureaucracy for managing the economy, what Peter Garnsey and Richard Saller call a “rudimentary apparatus of officialdom.” In general, the Romans followed the administrative practice of previous rulers in their conquered territories. They had no regular monetary policy, and their default action when faced with a monetary problem was to debase their coinage.⁹⁸ There was a main treasury that received imperial taxes (although there was a separate military treasury) and was administered by the emperor’s staff; there was some probably inevitable blurring between the empire’s and the emperor’s finances. As best as can be determined, the finances of the provinces were controlled by junior magistrates, but sometimes they were under the direct control of the emperor. Roman fiscal policy seems to have allowed diverse tax methods—tribute was paid as a lump sum by Spain, but as an in-kind tithe by Sicily—but Wickham argues that the most significant portion of late Roman revenue was the *annona*, or land tax.⁹⁹

⁹⁶Bachrach, *Early Carolingian Warfare*, 55–60.

⁹⁷While acknowledging the issues raised by Reynolds and Fredric Cheyette over the applicability of the idea of ‘government’ to this time period, there is not really a more suitable word.

⁹⁸Peter Garnsey and Richard Saller, *The Roman Empire: Economy, Society and Culture* (Berkeley: University of California Press, 1987), 20–21; quotation is from 20. Garnsey and Saller see all this as evidence the Romans failed to understand economics.

⁹⁹Garnsey and Saller, *The Roman Empire*, 21–24; Wickham, “The Other Transition,” 9.

Cities' tax obligations were largely fulfilled by the so-called liturgical system, whereby wealthy locals (typically also the city officials or *curiales*) ran the government and paid for services—which seems a little like the later notion of *noblesse oblige*, and may offer the best starting point for understanding the evolution of local finances. One outcome of this arrangement was weak local taxation, which in fact could not be raised without imperial permission. Garnsey and Saller call the cities' tax revenues “adequate for the limited goals of the central government,” but Wickham stresses the other side of the coin, that the increasingly centralized state needed all of this surplus to sustain itself, particularly given the rising costs of maintaining the army. Eventually, therefore, the Empire took an increased interest in the activities of local officials, particularly concerning finance. Local autonomy declined, with jurisdiction being pulled back to the emperor.¹⁰⁰

After the end of the Empire, the various barbarian kingdoms adapted the Roman tax system differently, but it seems probable that all made at least some use of it. Wickham argues that “[the] controlling oligarchy in each of the successor-states sought to maintain the financial mechanisms of the empire as far as they could.” Wickham goes on to note that all of the kingdoms for which we have data (which notably excludes Britain) levied taxes, but that “[s]uch taxation was successful according to the measure of the internal strength of the kingdoms concerned.”¹⁰¹ There seems to have been a two-tiered tax system that dated from Roman times. The lower tier paid in-kind to the upper tier; the upper tier paid in cash to the government. At least initially, kings earned income from their own estates as well as from taxes; the royal financial administration managed both.¹⁰² There is some evidence of continued taxation, censuses, records of purchases, etc. from so-called polyptychs. These originated in the fourth century as simple registers and were used (maybe sporadically)

¹⁰⁰Garnsey and Saller, *The Roman Empire*, 33–39; quotation from 39; Wickham, “The Other Transition,” 9, 15 (the role of cities) and 13–14 (need for surplus).

¹⁰¹Wickham, “The Other Transition,” 19–20.

¹⁰²Walter A. Goffart, “Old and New in Merovingian Taxation,” *Past and Present* 96 (1982): 8–10.

through the ninth century; already by the fifth or sixth century they had evolved into a system of tax administration. Polyptychs were also used for other financial records, and would go on to become the medieval seigneurial list. In fact, the major distinction between the Roman system and *seigneurie* (the system of organization of medieval European land holdings) is the latter's stipulation of particular labor from particular peasants (which also shows a specifically agrarian economy).¹⁰³ As mentioned in the previous section, the transition of the military from paid professionals to levies supported by land dramatically decreased the tax burden on the state. While noting that royal taxes were still opposed by local leaders in the sixth and seventh centuries—when have they not been?—Wickham points out that tax burdens had fallen to something like ten percent of land value from a high of as much as half under the Empire.¹⁰⁴

Burns calls the administration of the Ostrogothic kingdom “remarkably Roman [in] manner.” The old imperial taxation continued under the Ostrogoths (mostly evidenced by Ostrogoths trying to get out of it!) and lasted at least as late as the wars with Byzantium in 533–34.¹⁰⁵ In Iberia, however, Collins claims that “we cannot be precise about taxation either in theory or in practice,” either for the Visigothic court or for individual towns.¹⁰⁶ The Franks seemed to have had the most difficulty in administering their kingdom. The Merovingian tax system was “unquestionably descended” from the late Roman system, though it lost most of its hierarchical structure.¹⁰⁷ However, corruption in raising revenue from aristocratic functionaries led to the decline of the Merovingian kingdom, which possessed no centralized tax, fiscal system, or salaried bureaucracy.¹⁰⁸ Goffart believes the Merovingians “wast[ed] their fiscal inheritance” from a tax and administration standpoint. Henri Pirenne likewise

¹⁰³Walter Goffart, “From Roman Taxation to Mediaeval Seigneurie: Three Notes (Part II),” *Speculum* 47 (1972): 374–88.

¹⁰⁴Wickham, “The Other Transition,” 21.

¹⁰⁵Burns, *History of the Ostrogoths*, 170–71, 174–75, 177–80; quotation is from 177.

¹⁰⁶Collins, “Mérida and Toledo,” 198.

¹⁰⁷Goffart, “Merovingian Taxation,” 3.

¹⁰⁸Pirenne, *Medieval Cities*, 41–42.

saw Charlemagne's fiscal legislation not as creating any real economic policy but as an attempt to enforce Christian morality (forbidding usury, requiring fair dealing, etc.).¹⁰⁹ According to Goffart, the Carolingians finally abandoned the per-person tax maintained by the Merovingians from Roman times, with the king's resources coming instead from revenue from personal estates, tribute, and war spoils.

As mentioned, tax payments originally mixed cash with service or in-kind payment. Goffart argues that over time this system evolved to reflect all in-kind payments, at least at the lower levels of society, or all cash, particularly as payments to the government.¹¹⁰ However, Wickham puts forward another point that he argues is more relevant: Throughout this period, as officials gained wealth (in land), they also gained tax obligations and the incentive not to pay them, which drove another change to the fiscal system. Wickham argues that the élites powerful enough to get away with it simply opted not to pay taxes, and that in turn they were able to act as tax-shelters for people of lesser power (including peasants): these people ceded their lands to the élites and then rented them back in a form of patronage (Wickham uses the term *patrocinium*). Wickham notes that this implied that they must have seen paying rent as preferable to paying taxes, particularly under the tax burdens of the late Empire. (On the social effects of this transition to rents, see Section 4.1.) All of this was facilitated by the political re-alignment towards more local, weaker barbarian kingdoms rather than the centralized and (notionally) more powerful Empire.¹¹¹

* * *

In the period covered by this thesis, from 400–800, the barbarians evolved from imperial nuisance to threat to ally and, eventually, to successor. After many of the barbarian tribes were settled by the Empire as provincial *foederati*, they took up more and more power as the Empire lost the ability to centralize control. Eventually,

¹⁰⁹Pirenne, *Medieval Cities*, 39.

¹¹⁰Goffart, "Roman Taxation to Mediaeval Seigneurie (II)," 386–7.

¹¹¹Wickham, "The Other Transition," 9–18.

many of the barbarian settlements became fully-fledged kingdoms in their own right, although most if not all of them maintained connections to Byzantium for centuries after the end of the Empire in the West.

This period is best characterized by the devolution of power, first from the Empire to its *foederati*, and subsequently the recognition that the emerging barbarian kingdoms had *de facto* taken over the role of the provincial governments. The decentralization of power went further, with the changing role of aristocracy in the late imperial bureaucracy transitioning relatively naturally into a wealthy landholding, aristocratic class with increasingly governmental powers. This class was held in tension with the barbarian kings' desire to hold onto power, nor was it free from the continued decentralizing trend, as the peasantry likewise saw their autonomy increase. There is a logical connection to the evolution of social structures that will be discussed in the next chapter.

Despite increasing localization, the barbarian kingdoms made extensive use of Roman state or governmental structures. The barbarian laws, when they began to be issued, grafted a veneer of barbarian tradition onto a Roman legal framework. Barbarian adaptation of Roman military structures initially looked a great deal like the status quo. The biggest apparent change during the centuries after the end of the centralized Empire was the fact that units began to be drawn as levies or service requirements from assigned land areas. However, even this might almost be called the miniaturization or logical extension of the *foederati* system by which the barbarians had first been settled in the Empire. The early medieval tax systems were likewise derived from their Roman precursors, though with varying success. In most cases, a reduced tax burden (primarily driven by the change in military organization) was offset by increased corruption and a weakened tax collection infrastructure, all of which was complicated by the transition to a rent-based economy.

To quote Fouracre: "The basic shape and configuration of Europe in the early middle ages was determined by a political geography inherited from the later Roman

Empire, and, in ways which now easily suggest modern analogies, Europe's political structures were made out of what could be salvaged from that Empire's disintegrating command economy."¹¹²

¹¹²Fouracre, "Cultural Conformity," 152.

Chapter 4

Social Structures: Localization and Feudalization

4.1 Class Structure and Social Organization

The societies of the late antique and early medieval worlds were built around an overlapping set of classes and hierarchies. Ralph Mathisen and Alan Watson (among many others) describe Roman society in broad terms in the following way: Roman law recognized citizens and non-citizens, and further divided citizens into formal classes. Slavery was rampant, but not a permanent condition; citizenship itself was not a fixed condition. Outsiders (including barbarians) could become citizens, and there were ways in which one could lose citizenship and some of its incumbent privileges.¹

The actual social classes went through a variety of changes over the centuries, but in late antiquity society was broadly divided into the “distinguished” (*honestiores*)

¹Ralph W. Mathisen, “*Peregrini, Barbari, and Cives Romani: Concepts of Citizenship and the Legal Identity of Barbarians in the Later Roman Empire,*” *The American Historical Review* 111 (2006): 1015, 1019–20; Alan Watson, *Roman Law and Comparative Law* (Athens, GA: University of Georgia Press, 1991), 39–43.

and the “humble” (*humiliores*)—those Averil Cameron calls “the poor and the helpless.”² There were at various times different gradations in these classes—at the upper end, *viri illustres* versus *viri clarissimi*, at the lower the distinctions between the free poor, the unfree, and slaves—but the details are not particularly important here. For the purposes of this discussion they were distinctions without a difference. Peter Brown suggests that one consequence of this class structure is that military and political changes described in Chapter 3—the “period of military defeat and of undeniable insecurity among the governing classes of the Roman Empire”—“may not have had repercussions in Roman society at large.”³

Brown notes that already “[by] 200, the empire was ruled by an aristocracy of amazingly uniform culture, taste, and language.”⁴ The position of the élite actually improved despite the events of the fourth and fifth centuries—the senatorial class was a major beneficiary of the social re-arrangements of late antiquity, not the least of which was the patronage system first begun under Constantine.⁵ The élite culture (addressed in fuller detail below) became an element of continuity between the late antique and early medieval cultures. Both were highly unequal societies, in which the élite class lived off the labor of others. Yet this class had (and maintained) very particular ways of viewing itself. Centered around “ideas of justice and custom” and ties of reciprocity, members also shared a common intellectual culture, which overlapped with and grew into ties to (and through) the Church.⁶

Current historiography sees a three-fold division of early medieval society. This is *not* the division into “men of prayer . . . farmers . . . and men of war” popularized by

²Cameron, *The Mediterranean World*, 93; see also Mathisen, “*Peregrini, Barbari, and Cives Romani*,” 1015.

³Brown, *The Making of Late Antiquity*, 4. One assumes the same would hold for barbarian lower classes.

⁴Brown, *The World of Late Antiquity*, 14.

⁵Cameron, *The Mediterranean World*, 89.

⁶Reynolds, *Fiefs and Vassals*, 35–39, with quotation from 37; see also Cameron, *The Mediterranean World*, 131–41.

Georges Duby.⁷ Rather, it is more properly a distinction between what we might call upper, middle, and lower classes. Chris Wickham notes the contrast between suppositions in, e.g., the *Pactus Legis Salicae* of a peasant society with a few aristocrats and the “society of large landowners” revealed in contemporary histories (Gregory, etc.) as well as in charters, wills, etc. Wickham proposes a “tripartite” model with relatively few absentee owners of large amounts of land, their unfree tenants, and a middle class of small landowners.⁸ In this discussion the “middle” and “lower” classes will be treated together. These were the people who, in Susan Reynolds’ words, either “push[ed] ploughs” or were at least “closely concerned with getting their own livings . . . supervis[ing] their own plough-pushers more directly.” Many of them “owed rents and services of various kinds to [the élites] . . . [but] many were free enough to make agreements, however unequal the bargain, about the services they would owe for their land.”⁹

These divisions, though enshrined both in Roman and later in barbarian law, became more changeable in the fourth and fifth centuries—continuing a trend that had begun much earlier.¹⁰ As Brown noted, “The phenomena that distinguished the society of the Later Empire—a sharpening of the division between the classes . . . and the accumulation of wealth and status into ever fewer hands—were the most predictable developments in the social history of the Roman world. They were well under way by A.D. 200.”¹¹ However, Guy Halsall and Patrick Geary point out changes in the structure of the Empire in the fourth century—including enormous expansion in the

⁷Georges Duby, *The Three Orders*, trans. Arthur Goldhammer (New York: Barnes & Noble, 2009), xviii; he is citing Gerard of Cambrai.

⁸Chris Wickham, “Problems of Comparing Rural Societies in Early Medieval Western Europe,” *Transactions of the Royal Historical Society*, 6th ser., 2 (1992): 233–34.

⁹Reynolds, *Fiefs and Vassals*, 38–43; all quotations from 39.

¹⁰See, *inter alia*, *The Visigothic Code (Forum Judicum)*, trans. S. P. Scott (Boston: Boston Book Company, 1910), chapters VI.5, VI.4.1, and VI.5.9, or *Pactus Legis Salicae*, in Drew, *Laws of the Salian Franks*, chapters XV.1, XLI.1, XLI.5, and XXIV; also see Chapter 6.

¹¹Brown, *The Making of Late Antiquity*; quotation is from 31, similar content can be found throughout 31–33.

imperial bureaucracy and the separation of military from civil service—that meant the Empire was moving towards a “service aristocracy” in which “the importance of rank, status, and precedence . . . cannot be overestimated.”¹²

In particular, this reduced the importance of one’s birth status or inherited wealth.¹³ The seemingly paradoxical result, Cameron notes, is that “there was in practice a high degree of social mobility,” at least early in this period.¹⁴ This mobility, together with the surprising structural similarities between the Roman/barbarian societies, allowed the barbarians to be integrated into the late antique social system.

* * *

The process of integrating the ‘barbarians’ into society began well before the end of the Empire. I am not going to get into the by-now lengthy debate over the technicalities of precisely how the barbarians were settled within the Empire, nor will I address the particular fiscal or legal mechanisms employed to ensure they received sufficient support to provide the required military service.¹⁵ I will take it as given that the barbarians were settled somehow: I am more concerned here with how they were integrated into society, not with late antique property law.

In fact, Walter Pohl proposes that the key to the Empire’s long-term success may well have been its ability to integrate such disparate peoples and groups “more or less firmly into its social and cultural texture.” Following Herwig Wolfram, he suggests that nascent networks of patronage and power, the importance of which in the later

¹²Halsall, *Barbarian Migrations*, 76–77.

¹³Halsall, *Barbarian Migrations*, 74–78.

¹⁴Cameron, *The Mediterranean World*, 91.

¹⁵Were I to do so, this thesis could easily double in length without achieving any more clarity on the subject. For the most recent, sometimes bitter, salvos in that war, see Walter Goffart, “The Technique of Barbarian Settlement in the Fifth Century: A Personal, Streamlined Account with Ten Additional Comments,” *Journal of Late Antiquity* 3 (2010): 65–98, and Guy Halsall, “The Technique of Barbarian Settlement in the Fifth Century: A Reply to Walter Goffart,” *Journal of Late Antiquity* 3 (2010): 99–112; other significant works on the subject include Goffart, *Barbarians and Romans*, Wickham, “The Other Transition,” and Halsall, *Barbarian Migrations*, among the works I cite elsewhere in this thesis.

Empire was not always recognized, may have cleared the way for the barbarian kings that arose after 400.¹⁶

As noted above, the transition to a more “service aristocracy” increased social mobility, opening the door for barbarians to integrate themselves successfully into the Empire.¹⁷ In fact, barbarians became not only citizens but valuable members of the Empire: the late-fourth-century Vandal Stilicho (who served as *magister militum* and consul, and was made a patrician) is specifically referred to as a citizen, and the Goths and other peoples are called “no longer . . . barbarians but Romans” or “worthy of citizenship.”¹⁸

Additionally, when the barbarians brought their culture into the Empire, it was also explicitly class-based: Wolfram calls the “social and economic conditions among the Goths [as] unequal as those of their Roman ‘hosts.’ ”¹⁹ I would argue that one potentially unintuitive effect of this similarity was to facilitate the barbarians’ assimilation: rather than enforcing a strict Roman–barbarian dichotomy, the Romans could accept certain barbarians while excluding others (and vice versa). That this happened at some level is shown by a Pannonian funerary inscription: *Francus ego cives miles romanus in armis* (“I am a Frankish citizen [and] a Roman soldier in arms”).²⁰ This tendency would only be enhanced by Pohl’s observation that “We have scarcely any proof that the lower strata of society felt part of any large-scale ethnic group.”²¹

¹⁶Pohl, “Barbarian Successor States,” 34–37.

¹⁷Halsall, *Barbarian Migrations*, 74–78.

¹⁸Mathisen, “*Peregrini, Barbari, and Cives Romani*,” 1023, 1025–26. It is not clear how Stilicho or other barbarians acquired Roman citizenship; some presumably did so in 212 with Caracalla’s edict, and other groups settled later may have been treated similarly. However they got it, Mathisen makes it clear that barbarians throughout the Empire must have had status equal (or very nearly so) to Roman citizenship.

¹⁹Wolfram, *History of the Goths*, 239.

²⁰Geary, *Before France and Germany*, 79; Geary translates the missing conjunction as “but”, though I think the multi-layered identity expressed justifies “and”.

²¹Pohl, “Conceptions of Ethnicity,” 17.

Even at the upper level, despite some initial resistance, barbarians participated in the late antique elite culture. In the mid-to-late fifth century, Gallo-Roman senators like Sidonius Apollinaris were still poking fun at the barbarians for being relatively uncultured.²² Nonetheless, by the late fifth/early sixth century, Sidonius's cultural successor Avitus of Vienne carried on a lively correspondence—including fairly deep theological discussions—with the same Burgundians Sidonius had mocked.²³

As discussed in Section 3.3, Halsall and Geary highlight that among the most significant changes instituted by Diocletian was the administrative re-organization of the Empire into smaller divisions. When we combine this with what Brown calls “a tacit collusion with the upper classes” and the previously noted connection between status, power, and government positions, the result is a framework that allowed the barbarians (as groups of people headed by kings) to be inserted more or less seamlessly into the Roman system.²⁴ The result was probably the most important social change introduced by the arrival of the barbarians: the dual nature of the barbarian leadership. Katherine Fischer Drew, Wolfram, and Halsall note that in their own right they were kings of barbarian nations, but at the same time—and symbiotically—they took the place of the Roman provincial governors, and frequently fell under the Eastern emperors as local magistrates.²⁵

²²See, for example, Sidonius Apollinaris, *Poems and Letters*, trans. W. B. Anderson (Cambridge, Mass.: Harvard University Press, 1936), *Carmina* 12: “placed as I am among long-haired hordes, having to endure German speech, praising oft with wry face the song of the gluttonous Burgundian who spreads rancid butter on his hair.”

²³See the sixteen letters between Avitus and Gundobad or Sigismund in Danuta Shanzer and Ian Wood, eds., *Avitus of Vienne: Letters and Selected Prose*, Translated Texts for Historians 2 (Liverpool: Liverpool University Press, 2002), as well as his additional letter to Clovis.

²⁴Halsall, *Barbarian Migrations*, 74–78; see also Geary, *Before France and Germany*, 11. Brown, *The Making of Late Antiquity*, 47–49. Of course sometimes the barbarians decided they wanted more, and then we see Alaric and his Visigoths rampaging through the Empire!

²⁵Drew, introduction to *The Lombard Laws*, 11–12. Clovis (Frankish), Theodoric (Ostrogothic), Gundobad (Burgundian) and others all had Eastern patrician titles. Wolfram, *History of the Goths*, 211–17; see also Chrysos, “Empire in East and West,” 10–15.

Although no barbarians ever made it to the imperial throne,²⁶ many certainly became significant aristocratic powers in their own right, via either the army or imperial office. At some point, however, this balance broke down: Halsall notes that even before the deposition of the last emperor, both Gundobad and Odoacer had decided barbarian kingship was more worthwhile than imperial office.²⁷

Halsall also notes that by the end of the Empire, the barbarians had become so entwined in its structure that “any idea of power and prestige that we can perceive from *barbaricum* had by this time come to be entirely based upon the Roman Empire.”²⁸ This view was already recognized by the time of Henri Pirenne: see Pirenne, *Mohammed and Charlemagne*, 58–59. As Pohl noted, “None of [the] kings could have kept his position without the revenues from the Roman tax system, whether he took them by force or by treaty, whether he was charged with guarding part of it (again, usually by treaty), or was paid off directly.”²⁹

In more general terms, the degree of barbarian Romanization and conception of their place on a Roman/barbarian spectrum is a matter of some dispute. Thomas Burns claims that “the Ostrogoths, unlike any other barbarian group, entered the living heart of the Western Empire” and saw themselves fundamentally as Romans.³⁰ About the Visigoths, even Luis García Moreno notes that their enforcement of the Roman status quo in the fifth century showed a continuity with the Empire that Edward Gibbon would not have admitted.³¹ The grave goods of Clovis’s father

²⁶Probably. Zeno (eastern emperor 474–475/476–491) has been considered a ‘barbarian’, being ethnically Isaurian. See Wickham, *The Inheritance of Rome*, 96, where he suggests that Basiliscus (eastern emperor 475–476) may have been a Scirian.

²⁷Halsall, *Barbarian Migrations*, 279–81. See also 502, where Halsall suggests that this may have been generational, with later barbarians more ready to deal with the Eastern Empire as peers.

²⁸Halsall, *Barbarian Migrations*, 57

²⁹Pohl, “Conceptions of Ethnicity,” 18. He also noted that “Technically, Goths, Vandals, Franks, even Huns were not enemies of the Roman Empire—they were its (initially external) members and federates, and their attacks were more of an upheaval than an invasion by foreigners.”

³⁰Burns, *History of the Ostrogoths*, 68.

³¹García Moreno, “Las invasiones y la época visigoda,” 264.

Childeric imply he considered himself ruling as a Roman, but “literary and legal evidence” implies Clovis’s Frankish kingship was basically military leadership.³² The issue of the barbarians’ religion is controversial, but José Orlandis Rovira, Drew, William Daly, and Danuta Shanzer all argue that while it was not in itself a barrier to integration, conversion to Catholicism did smooth the process.³³

Geary argues that the social and cultural changes (including legal acculturation) that in the seventh and eighth centuries blurred or even erased whatever divisions remained between Romans and barbarians.³⁴ It should come as no surprise that the increasing establishment of barbarians in the upper tiers of society (both *de jure* and *de facto*) would have blurred or erased those lines.³⁵

* * *

Romans and barbarians alike, this social structure was surprisingly long lived. Paul Fouracre emphasizes the essential continuity of the class system throughout the late antique and early medieval period: “A hierarchy of society in which even within the nobility those at the top were vastly more wealthy than those at the bottom of the scale, was something else which medieval Europe inherited from antiquity and which, as we shall see, continued to be preserved in legal, religious and political cultures.”³⁶ And those at the top were highly motivated to stay there: Geary calls them motivated primarily by their desire to preserve their shared culture. (And it

³²Drew, introduction to *Laws of the Salian Franks*, 7; on grave goods see also Daly, “Clovis,” 625, and Guy Halsall, “Childeric’s Grave, Clovis’ Succession, and the Origins of the Merovingian Kingdom,” in Mathisen and Shanzer, *Society and Culture in Late Antique Gaul*.

³³José Orlandis Rovira, *La iglesia en la España visigótica y medieval* (Pamplona: Ediciones Universidad de Navarra, 1976), 97–98; Drew, introduction to *Laws of the Salian Franks*, 7; Daly, “Clovis,” especially 623, 639–41; and Danuta Shanzer, “Dating the Baptism of Clovis: The Bishop of Vienne vs the Bishop of Tours,” *Early Medieval Europe* 7 (1998). See also Chapter 7.

³⁴Geary, *Myth of Nations*, 120–41.

³⁵*De jure*: *PLS*, chapter XV.1 among many others; *de facto*: see Walter Goffart, “From Roman Taxation to Mediaeval Seigneurie: Three Notes (Part I),” *Speculum* 47 (1972): 169, or *LC*, preamble, for examples of otherwise ‘Roman’ aristocrats with barbarian names.

³⁶Fouracre, “Cultural Conformity,” 154.

may have worked: Geary points to a mid-fifth-century saint's life that relates the tale of a Gallo-Roman aristocrat who believed, political realities notwithstanding, that the Roman Empire was still intact.)³⁷

As Drew pointed out, the barbarians were for a long time under the control of the Empire, and they retained much of the prevailing Roman culture and civil administration in their own kingdoms after the Empire's dissolution. The Gallo-Roman aristocracy (and bureaucracy) generally played significant roles in the new kingdoms, as did the Church, especially for the Franks and the later Visigothic kings.³⁸

Indeed, as hinted at in Chapter 3, the Ostrogothic kingdom was unique among its peers in that it controlled the imperial cities of Rome and Ravenna. Theodoric attempted to solidify his own authority by borrowing the "conceptual hierarchy of Christian Rome with its titular elevations and ranks delineated in dress and court ceremonial."³⁹ He adopted Roman names (Flavius), titles and positions (Consul), etc., and fought to be recognized by Constantinople. Under Theodoric the Ostrogoths continued the senatorial tradition, both in social class and function, as well as offices like *magister militum*, *magister officiorum*, *quaestor*, the consuls, praetorian prefect, etc.⁴⁰ Ironically, it would not be until the Byzantine attempts to reconquer Italia that the Roman senate would finally be dissolved.⁴¹ In fact, given that he used the title *rex*, not *imperator*, seems not to have issued any law code *per se*, and otherwise maintained the imperial structure as he had found it, Theodoric appears to have seen himself as merely stepping into the Roman Empire rather than replacing it

³⁷Geary, *Before France and Germany*, 29.

³⁸Drew, introduction to *The Lombard Laws*, 11–12; Drew, introduction to *The Burgundian Code*, 4; see also García Moreno, "Las invasiones y la época visigoda," 321–23.

³⁹Burns, *History of the Ostrogoths*, 71.

⁴⁰Burns, *History of the Ostrogoths*, 71, 70, and 84–7 respectively.

⁴¹Cameron, *The Mediterranean World*, 41. See also Burns, *History of the Ostrogoths*. Not that this meant the senators always had an easy time of it: Symmachus and Boethius were executed by Theodoric for no apparent reason beyond a possibly excessive 'Romanism' (see Cameron, *The Mediterranean World*, 42).

with something new and barbarian.⁴²

Further afield, and contradicting the general notion of declining central power and corresponding localization, Fouracre notes that there were massive “political units” (i.e., kingdoms) during the seventh century, even larger than some of the corresponding modern-day states. He attributes this to élite cooperation enabled by shared culture. He further notes that this is most probably a derivation from the Roman culture, as the areas that had never had Roman influence (Ireland, Saxony) never developed such broad-based cooperation.⁴³

Fouracre, Wickham, Cameron, and Halsall all attribute the existence of a more or less Europe-wide élite culture to the inheritance of Roman culture. “The class of magnates who had built up their own powers at the expense of public authority actually blocked the latter’s complete disintegration, for they found in it the means of legitimising their own social preeminence and a provider of mediation in their relationships with each other.”⁴⁴ The bonds between these élites—Roman and increasingly barbarian—were reinforced by gifts and other economic (or pseudo-economic) “dealings for mutual benefit” from the time of Sulpicius Severus (c.363–c.425) through at least the Merovingian period.⁴⁵ “[A]lthough increasingly following the military idiom, the sixth-century aristocracy retained many features of the late Roman social élite.”⁴⁶ “Overall, in fact, the major change in political culture was not Germanization but militarization.”⁴⁷

⁴²See also the central argument in Jonathan J. Arnold, “Theoderic, the Goths, and the Restoration of the Roman Empire” (PhD diss., University of Michigan, 2008).

⁴³Fouracre, “Cultural Conformity,” 154–55, 158. He does, however, call these units “confederate in nature” (155) and notes that they were “simultaneously both weak and large” (158). Saxony, of course, was later integrated into the Frankish hegemony.

⁴⁴Fouracre, “Cultural Conformity,” 152–53. He is also referencing Wickham, “The Other Transition.”

⁴⁵Cameron, *The Mediterranean World*, 89.

⁴⁶Halsall, *Barbarian Migrations*, 496.

⁴⁷Wickham, *The Inheritance of Rome*, 200. See also Geary, *Before France and Germany*, 15, where he suggests this may have been an effect of settling the Roman legions in place for centuries at time.

4.2 The Localization of Society

Although Rome is often seen through the lens of the eastern Spain–southern Gaul–Italy arc, in fact the Empire was divided into “numberless regions and lesser localities” with their own economies and ways of life.⁴⁸ Peregrine Horden and Nicholas Purcell make a similar point in *The Corrupting Sea*: While noting the fundamental similarities that can be seen across Mediterranean culture and history, they also note that “From whatever theoretical vantage point [geography, anthropology, political science, economics] we view the region it apparently remains ineluctably divided.”⁴⁹

As discussed in Chapter 3, the Roman Empire had for centuries been able to impose a unifying order on these disparate regions. Yet as mentioned in Section 3.2, political events solidified the power of the élite class in their locales. Over time, these élites began to identify increasingly with their regions, rather than with the Empire *per se*. Halsall identifies this trend as beginning as far back as the second century, seeing increasing complexity in the way such local magistrates negotiated with the emperors (or simply refused to comply: corruption was a pervasive problem).⁵⁰ In fact, this sort of localization, particularly in terms of ethnic identification, may finally have undone the Empire: Odoacer and Theodoric were both barbarians who had led troops on behalf of the Roman state; but whereas Odoacer was elevated to the kingship by his army, he is never called ‘king of the Scirians’—yet ‘king of the Goths’ was an integral part of Theodoric’s identity.⁵¹

The result, as characterized by Sebastian Schmidt-Hofner, was that “From ca.400 CE onward . . . this unified world began to disintegrate, even if at regionally varying rates: Smaller political bodies took the place of the central Roman state; the Mediterranean system of exchange shrank into regional economic areas of very different levels

⁴⁸Halsall, *Barbarian Migrations*, 68–70; quotation is from 68.

⁴⁹Horden and Purcell, *The Corrupting Sea*, 16–21.

⁵⁰Halsall, *Barbarian Migrations*, 63–66.

⁵¹Wickham, *The Inheritance of Rome*, 98.

of prosperity and often with weaker cross-regional ties; regionalisms appeared in the material culture. . . . The result was a strongly diversified Mediterranean world.”⁵²

* * *

Élite culture may have survived, but it was increasingly turning west (away from the culture of the Eastern Empire) and becoming more local. Geary describes this “growing sense of regionalism within the Empire” as a natural outcome of the political transformations discussed in Chapter 3.⁵³

Geary believes that the local cultures in the West, “always primarily Celtic and Germanic,” began to reassert themselves as the unifying ties of the Empire faded.⁵⁴ Cameron likewise suggests that “What might perhaps be observed in late antiquity is a heightened sense of and readiness to proclaim local traditions, with a consequent increase in their visibility. The disturbance at the centre of power in the third century has often been seen in terms of such a rise to prominence of local cultures.”⁵⁵

Indeed, while on the one hand we may say that “A common political culture may have survived,” on the other, “in each former Roman region or province its points of reference were becoming more localized, and its lineaments would soon start to diverge.” While Augustine’s religious works drew on inspiration from (and were aimed at) the whole Empire, later writers were more constrained. For all he ridiculed the Burgundians, Sidonius Apollinaris was a provincial Gaul himself, as were all his colleagues. Wickham makes the argument that by the sixth century, the letters that survive from the various Gallo-Roman bishops are addressed almost entirely to recipients within the same kingdom. The Chronicle of Hydatius deals almost entirely with northern Spain (for which it is nonetheless an invaluable source).⁵⁶

⁵²Sebastian Schmidt-Hofner, “Regionalization and the Integration of the Mediterranean World in Late Antiquity,” *Journal of Late Antiquity* 4 (2011): 162.

⁵³Geary, *Before France and Germany*, 30.

⁵⁴Geary, *Before France and Germany*, 14.

⁵⁵Cameron, *The Mediterranean World*, 185. She is here in the middle of a discussion on the Eastern Empire, but the observation applies equally to the West.

⁵⁶Wickham, *The Inheritance of Rome*, 91.

Horden and Purcell, in the midst of a rather muddled section on urban history, note that “Only under the Romans, after all, did larger settlements around the sea even begin to approximate to uniformity of architecture and status, let alone to socio-economic function. . . . Thereafter, for the historian of urban form, all is divergence.”⁵⁷ Schmidt-Hofner cites cultural variations ranging from Horden and Purcell’s urban layout “to tableware as well as in the formation of new identities.”⁵⁸ Peter Wells notes a change not only in the increasing ‘barbarization’ of style (of jewelry, for example), but also in the transition from the mass production of goods in Roman times to the rise of local styles created by artisans in each region.⁵⁹ Certainly we start to see regionalization of the various barbarian laws.

Thus Schmidt-Hofner concludes that “regionalization remains an important characteristic of many processes in the economic, social, cultural, and ecclesiastical history of Late Antiquity,” and that “The economic transformations of the Mediterranean thus are only one part of a larger picture that encompasses regionally different developments of many sociocultural factors, from social stratification to the evolution of aristocratic power to the role and function of cities.”⁶⁰

* * *

Roman fiscal administration had been centered on the city. Cities were the basis of Roman government, as autonomous urban centers of Romanization. As noted, cities levied local taxes and services from villages in their surrounding territories. Emperors could raise (or lower) a settlement’s status, allowing them to form a council and govern themselves; this was sometimes forbidden in order to increase the emperor’s control of revenues (as in Egypt). There were varying levels of self-governance: *coloniae* all in theory mirrored Rome, *municipia* had their own varied constitutions;

⁵⁷Horden and Purcell, *The Corrupting Sea*, 90–105; quotation is from 101.

⁵⁸Schmidt-Hofner, “Regionalization and Integration,” 162.

⁵⁹Wells, *Barbarians to Angels*, 5–11, 142–52. ‘Barbarization’ does *not* imply inferior style or quality, merely a different artistic tradition.

⁶⁰Schmidt-Hofner, “Regionalization and Integration,” 166–70; quotations from 170 and 166 respectively.

some *civitates foederatae, liberae, or liberae et immunes* were exempt from external interference or taxation.⁶¹

Medieval cities were generally smaller than they had been under the Empire. At the extreme end, Augustan Rome probably housed over one million residents, a number not passed in the west until London in the eighteenth century.⁶² The decline of western cities and migration to the east was already happening by the early fourth century.⁶³ Pirenne sees a further decline after the loss of surplus from Mediterranean trade in the seventh century.⁶⁴ However, this does not mean that we should see the decline of the Empire as a barbarian substitution of agriculture for urban commerce. Towns did survive as administrative and economic centers in Italy, Spain and Gaul, and the Church based its dioceses on the old *civitates*.⁶⁵ S. J. B. Barnish likewise identifies at least partial survival of the old cities in various functions (primarily local administration).⁶⁶

One of the reasons for this change is that, whereas in the East many cities were old and had previously enjoyed autonomy, in the West cities were largely founded or greatly expanded by Rome.⁶⁷ As such, many existed (or existed in their current form) only because of the Empire. With no equivalent of a Rome or Constantinople in early medieval Europe, particularly in Iberia, there was thus no reason for towns to be as large as they had been. Cities retained only a social function as the residence of significant persons (counts, bishops, etc.); cities with a fixed bishop were more prosperous.⁶⁸

Wickham makes a similar, if simpler, argument: cities may have declined simply

⁶¹Garnsey and Saller, *The Roman Empire*, 26–31.

⁶²Garnsey and Saller, *The Roman Empire*, 83.

⁶³Pirenne, *Medieval Cities*, 5.

⁶⁴Pirenne, *Economic and Social History*, 39–40.

⁶⁵Pirenne, *Medieval Cities*, 13–15.

⁶⁶S. J. B. Barnish, “The Transformation of Classical Cities and the Pirenne Debate,” *Journal of Roman Archaeology* 2 (1989): 394–96.

⁶⁷Garnsey and Saller, *The Roman Empire*, 28.

⁶⁸Pirenne, *Medieval Cities*, 59–63.

because they were no longer important from a tax standpoint. “The city under the empire was a real force of attraction because of its tax-raising role, and the late Roman urban focus of the aristocracy and of aristocratic values resulted therefrom. When taxation ended, cities acted as foci only for ideological reasons. Bishops, conscious inheritors of the Roman tradition, lived in them everywhere; this at least resulted in a certain persistence of administrative activity. Aristocrats too could choose to continue to live in cities and centre their political rivalry on an urban stage; if they did, cities retained their political-administrative and commercial importance (or much of it), often right through to the commercial upturn of the tenth and eleventh centuries.”⁶⁹

The nature of settlements also changed. In addition to the remnants of major cities, Wickham sees villages with some powerful external owners but also a significant presence of peasant landowners, or even ones where small, mostly autonomous owners predominated. In Wickham’s view, such villages were common through the sixth and seventh centuries, perhaps becoming less so by the ninth and tenth.⁷⁰ Clearly such reduced settlements were serving less as administrative centers than the surviving cities. Some, like Dorestad, became major trading centers (see Section 5.4), although there was presumably local commerce being conducted in all of them. More likely, such settlements were the outgrowth of the late imperial villas and represented the fundamental units of the local economy, be it agriculture or production.

Recent scholarship has argued against the once-traditional idea that Roman elite villas disappeared in late antiquity and the early medieval period. Tamara Lewit et al. note that the changing nature of villa construction and use does not imply the disappearance of the villas *per se*. Paul Van Ossel and Pierre Ouzoulias argue that the classical Roman villa has been too exclusively the focus of archaeological study, and that looking also at more architecturally simple structures (e.g. wooden buildings) at

⁶⁹Wickham, “The Other Transition,” 27.

⁷⁰Wickham, *The Inheritance of Rome*, 206–11.

the same sites shows continued or even increased construction during late antiquity, including fortifications and in limited cases an increasing ‘monumentalization’ of the villa.⁷¹ Similarly, “in every region, including Britain, Gaul, the Iberian Peninsula, and Italy,” Lewit sees extensive modification of these villas to become local or regional economic, even manufacturing centers.⁷² In particular, one of the outcomes of this social structure was the villa-centered landlord-tenant relationship which starts to look like the very beginning of what might be called feudalism.⁷³

The argument that these villas served as the “nucleation points” for a relatively more concentrated population in the early medieval period thus makes a good deal of sense. To offer an alternate, or at least a more cautionary, view, Van Ossel and Ouzoulias maintain that while this argument for the concentration of active life around the old villas (to form villages) is perhaps the most plausible one, it is not yet fully confirmed by archaeological evidence.⁷⁴

On the other hand, previous conventional wisdom had also been to see a drastic decline in rural habitation and a corresponding increase in nucleated settlements around these large villas. Fredric Cheyette would push the evidence further, arguing against any assumptions of continuity (at least in peasant village life) between late antiquity and the Middle Ages. “[W]here there was a striking discontinuity of physical forms there could have been neither continuity of habitation, nor continuity of agriculture, nor, therefore, continuity of social forms or institutions.”⁷⁵ This is an argument with which I cannot agree. Citing more recent archaeological evidence,

⁷¹Paul Van Ossel and Pierre Ouzoulias, “Rural Settlement Economy in Northern Gaul in the Late Empire,” *Journal of Roman Archaeology* 8 (2000): 140–45.

⁷²Tamara Lewit, “‘Vanishing Villas’: What Happened to Élite Rural Habitation in the West in the 5th–6th C?” *Journal of Roman Archaeology* 16 (2003): 260–61; Tamara Lewit, “Pigs, Presses and Pastoralism: Farming in the Fifth to Sixth Centuries AD,” *Early Medieval Europe* 17 (2009): 82–84; see also Section 5.3.

⁷³Halsall, *Barbarian Migrations*, 68–70.

⁷⁴Van Ossel and Ouzoulias, “Rural Settlement Economy,” 139.

⁷⁵Fredric L. Cheyette, “The Origins of European Villages and the First European Expansion,” *The Journal of Economic History* 37 (1977): 182–206, *passim*, quotation from 184.

Van Ossel and Ouzoulias claim that “it is no longer possible to maintain the view of an almost total abandonment of rural settlements in this period.”⁷⁶ In fact, in terms of social organization, Wickham makes the interesting argument that communities where there were no significant large landowners seem to have reverted in the absence of central taxation to a more communal/egalitarian social structure.⁷⁷

4.3 Feudalization

The possibility of the sorts of social structures that we can call feudalism was latent within the late Roman Empire. The combination of various economic and social incentives drove a move away from centralized cash economies (as discussed in Section 3.3 and Chapter 5) towards increasing land ownership. Simultaneously, society was becoming increasingly local, as discussed above. Finally, the system of patronage evolved into personal lordship. The aggregate effects of these trends—and sometimes their explicit combination—may not quite be the models advocated by Marc Bloch or F. L. Ganshof but are much more like them than E. A. R. Brown or Reynolds would admit.

Wickham argues that the transition to the dominance of feudalism was emphatically not a result of the barbarian conquest *per se*; the largely romanized barbarians could have formed states exploiting tax structures and maintained a more Roman-like appearance. Rather, he says, the systems of land ownership that would enable feudalism were already present under the Empire; the re-configuration of the political system merely opened up an opportunity for the decentralized feudal mode to win out over the more centralized ancient mode of slave labor.⁷⁸

⁷⁶Van Ossel and Ouzoulias, “Rural Settlement Economy,” 134–40; quotation from 137.

⁷⁷Wickham, “The Other Transition,” 26.

⁷⁸Wickham, “The Other Transition,” 25–26. Wickham is specifically using the economic (or ‘Marxist’) sense, as in the “feudal mode of production”: see the following pages for a discussion. To the extent that any description of feudalism will hang in large part on the underlying economics, I will be somewhat loose with my terminology and simply use

Patronage (*patrocinium*) had likewise long existed in the Empire. In fact, several times in the later Empire various authorities tried to make patronage illegal. They recognized that patronage between “men with local authority, secular or religious” and the comparatively less powerful was “an evasion of the responsibilities of [the poorer] subjects, and an illicit appropriation of [imperial] authority by those who took it on.” Cameron, however, notes that in such circumstances “the poor and the helpless looked where they could for protection.”⁷⁹ Throughout this period the institution grew stronger.⁸⁰

* * *

Wickham draws a distinction between ‘mode of production’ and ‘social organization’, acknowledging that different modes of production can coexist in a society (the indisputable example being capitalism and slavery in the American South), and that the social organization will reflect the dominant mode, especially once it has become aligned with the state’s activities. Medieval Europe is therefore characterized as a feudal *society*, whereas the late Roman Empire had some feudal (or pseudo-feudal) *production*: “Our terminal point in the late Roman tradition is not, then, simply the feudal mode of production, but a society *dominated* by the feudal mode of production, the ‘feudal social formation’.”⁸¹

Wickham characterizes the Roman economy as driven by centralized taxes based on the monetization of slave labor; specifically, he cites the consolidation of public wealth in cash money (as opposed to land): the Roman economy “gradually developed into a wholesale taxation network, with the old city/country relationship as its inner structure.”⁸² Over time, Bloch and Wickham see the slavery that fueled the ‘feudalism’ as a catch-all.

⁷⁹Cameron, *The Mediterranean World*, 93.

⁸⁰In fact, even Reynolds, who generally argues against the idea of personal lordship, offers arguments that seem to support this conclusion: see Reynolds, *Fiefs and Vassals*, 36–37, 42–43.

⁸¹Wickham, “The Other Transition,” 7–8, quotation from 8, emphasis original. See Cameron, *The Mediterranean World*, especially 87–88, for a contrasting view; I remain more convinced by Wickham.

⁸²Wickham, “The Other Transition,” 5–6. Quotation is from 6.

whole economy giving way to feudalism. The mechanism by which this happened is not entirely clear, but it seems to have been an indirect process by which slaves began to be used as tenant farmers that eventually led to the rise of serfdom as an institution.⁸³ ‘Serfdom’ is another problematic concept; for this discussion I will understand it to mean that the former slaves were now tied to land valued in terms of physical production or service, rather than being tied to an occupation valued in cash generation. At this lower level of society, the focus would naturally be local agriculture (or some other productive activity), which fits nicely with Pirenne’s notion of the origin of feudalism: the loss of cash due to the collapse of a mercantile economy meant power, including military power, had to come from the land as a sort of payment in kind.⁸⁴

At the upper level of society, the transition to a more feudal structure happened largely in the fifth century, when having land became more important than having office. The élite class increasingly identified with their land holdings, which replaced the wealth and status previously provided by state service. As Wickham put it, “The shift can be simply expressed in material terms: a fourth-century official, unless exceptionally and personally rich, did in fact gain more from his office in terms of wealth and status than he did from landowning. From the sixth century, however, this was only true in so far as offices brought land; in the long run these two became the same.”⁸⁵

Ganshof saw feudalism as arising naturally out of a combination of the trends

⁸³Wickham, “The Other Transition,” 4–5; Goffart, “Roman Taxation to Mediaeval Seigneurie (I),” 183–184. See also Marc Bloch, “Comment et pourquoi finit l’esclavage antique (I),” *Annales. Economies, Sociétés, Civilisations* 2 (1947): 30–44 (especially 33–34), and Marc Bloch, “Comment et pourquoi finit l’esclavage antique (II),” *Annales. Economies, Sociétés, Civilisations* 2 (1947): 161–70, which Wickham still calls the “standard interpretation of the economic changes of late Rome.”

⁸⁴Pirenne, *Economic and Social History*, 7–9.

⁸⁵Wickham, “The Other Transition,” 24. See also Cameron, *The Mediterranean World*, 84; Brown, *The World of Late Antiquity*, 34; and Halsall, *Barbarian Migrations*, 497–98.

described above.⁸⁶ Thus as wealth went back to being land-based, the aristocracy acquired an incentive to amass land, both from above (as grants) and below.⁸⁷ All of this aligns well with the argument raised in Section 3.3 that the lower class (or classes) voluntarily traded their tax-paying freeholder status to become rent-paying tenants, at precisely the same time as their new landlords were gaining in land-based wealth and power, including an increasing degree of control or lordship over their tenants.

As a result, late antique patronage practices stemming ultimately from Roman tradition became something like personal lordship in a natural evolution. There is a school which sees such personal lordship as a purely ‘German’ cultural institution. This does not seem credible, but the fact that there were historical precedents on both sides presumably only helped solidify personal lordship as a viable social construct.⁸⁸ Even Reynolds, in arguing *against* the idea of vassalage, noted that medieval culture became one that “embodied a belief in hierarchy, obedience, and loyalty on the one hand and a belief in custom, immanent justice, mutuality of obligations, and collective judgement on the other,” and that “[p]eople owed obedience and loyalty to their immediate superiors or lords.”⁸⁹ Although the institution of personal lordship had not yet developed the full powers of local jurisdiction, it seems already to have been headed in that direction. Wickham notes, however, that even in the absence of formal jurisdiction, “such landowners [would] always, while the system is stable, have the non-economic coercive powers necessary to enforce their control, whether informally or through their control of public or private justice.”⁹⁰

These changes caused tension within the upper tier of society, as noted in Sec-

⁸⁶Ganshof, *Feudalism*, 4.

⁸⁷Wickham, “The Other Transition,” 15–16.

⁸⁸Ganshof, *Feudalism*, 3–5. See Katherine Fischer Drew, “Another Look at the Origins of the Middle Ages: A Reassessment of the Role of the Germanic Kingdoms,” *Speculum* 62 (1987): 803–12, for the Germanist position.

⁸⁹Reynolds, *Fiefs and Vassals*, 34–35; jurisdiction: 61.

⁹⁰Wickham, “The Other Transition,” 6; see also Reynolds, *Fiefs and Vassals*, 61.

tion 3.2. Walter Goffart argues that (at least in Italy), “Far from there having been antagonism between large landowners and the later Roman state, the two went hand in hand.” However, his argument is based on an identification of public and private that I think goes beyond anything even Reynolds would support.⁹¹ Certainly by the sixth century, there was more or less open competition between kings and aristocracy for land and resources. Kings like the Frankish Chilperic I actively “tried to undermine the independence of their aristocracies and make them more dependent on royal patronage.”⁹²

* * *

As Wickham says, we can really only talk about ‘feudalism’ or a ‘feudal society’ when we have a society dominated by the feudal mode: that is, one in which the primary source of wealth was service or rent payment based on working the land (to which I would add a hierarchical set of obligations and jurisdictions). None of the above argues that this was the *only* way in which society was organized (nor does it need to), only that it was the *dominant* mode of organization. Based on the preceding arguments, I think it is fair to say that Wickham’s criterion had been met by the fifth, or possibly sixth, century.

The ownership of land was ceded upwards to the more powerful; the use or exploitation of that land was literally farmed downwards to the new tenants. These tenants paid in cash rents or service—see Goffart’s arguments on the seigneurial lists, which indicate both, possibly supporting a trend towards a greater proportion of services owed.⁹³ The resulting effect on society was a consolidation into three groups: those who *owed* rents or services, those who *were owed* rents or services, and probably some in the middle who both owed and were owed.⁹⁴ Wickham argues that under this system, by the sixth and seventh centuries even taxation had become

⁹¹See Goffart, “Roman Taxation to Mediaeval Seigneurie (II),” 384.

⁹²Halsall, *Warfare and Society*, 22–23, quotation from 22.

⁹³Goffart, “Roman Taxation to Mediaeval Seigneurie (I),” and Goffart, “Roman Taxation to Mediaeval Seigneurie (II),” 386–388 in particular.

⁹⁴Reynolds, *Fiefs and Vassals*, 39.

more or less feudal: “the Merovingians were already speaking the language of feudal social relations. The land tax became simply one part of the resources of the fisc, like an estate or a toll; the Merovingians gave them away indifferently.”⁹⁵

Fouracre thus concludes: “In the countryside the pattern of land ownership inherited from the Romans remained relatively unchanged for centuries. Though it was increasingly landowners other than the state who tapped surplus production, there remained spread across Europe a complex of large estates interspersed with small communities more or less independent of producers.”⁹⁶ This pattern combined with other trends driving the increased fracturing or regionalization of society at all levels. In particular, the increasingly local interests and power base of the aristocracy, combined with the localization of governmental functions and the replacement of taxes and cash payments with rents and payments in kind or in service, began a trend towards the sorts of social relationships that we can call feudalization. One of the consequences of this change—the return to a more local, land-based economy—will be discussed in the following chapter.

⁹⁵Wickham, “The Other Transition,” 21.

⁹⁶Fouracre, “Cultural Conformity,” 153.

Chapter 5

Economic Structures: Was Pirenne Right?

5.1 The Bases of the Economy

Understanding the economies of Rome and medieval Europe is a complex problem that has long defied a complete analysis: we know unfortunately little detail about the economies of either the Roman or the medieval world.¹ Of the early medieval peasant societies, Chris Wickham notes that they “were too far from the aristocratic and ecclesiastical interests of the great bulk of our written sources.”² However, Tamara Lewit sees the evolution of the basis of the economy as a rebound from “the pressures of the Roman imperial market, army and taxation” to a more natural condition favoring local production and consumption of necessary (or desired) goods without artificially enforced specialization.³

It was not until the middle twentieth century that Moses Finley and A. H. M.

¹Romans: Garnsey and Saller, *The Roman Empire*, 43, which incredibly claims that no official records survive; medieval economy: Lewit, “Pigs, Presses and Pastoralism,” 78.

²Wickham, *The Inheritance of Rome*, 204.

³Lewit, “Pigs, Presses and Pastoralism,” 82.

Jones could put together the first comprehensive model of the Roman economy. Finley and Jones saw agriculture as the primary basis of the economy, with most production and trade being regional (with a few exceptions, including shipments to major cities such as Rome and Alexandria). They assumed that long-distance trade was largely restricted to luxuries, and that in the absence of trade, local agriculture would have been largely self-sufficient. There was a lack of farming specialization, and no mass market for goods.⁴ More recently Peter Garnsey and Richard Saller have modeled the Roman economy against other pre-industrial economies, and similarly conclude that it was “underdeveloped”—that is, the majority of the population lived at or near the subsistence level; there was little investment; and manufacturing was mostly local.⁵ This is to some extent backed up by archaeological evidence.⁶

This common model of course had to adapt to regional geographical differences: the mountainous Mediterranean, fertile northwest, and desert southeast. Furthermore, the presence of the Empire itself altered the economy, particularly in agriculture; there was some restructuring of agriculture due to transport costs, and some regional specializations in cash crops.⁷ Without widespread trade, local agriculture would have been as self-sufficient as possible, as Finley and Jones assumed.

* * *

In contrast to the Empire, the most striking feature of the early Middle Ages was a markedly lower population—there was probably a post-Roman population drop not made up again until the tenth century, and archaeological evidence supports lower settlement density—leading to increased local autonomy, and permitting only

⁴Kevin Greene, *The Archaeology of the Roman Economy* (London: B. T. Batsford, 1986), 14. See also Garnsey and Saller, *The Roman Empire*.

⁵Garnsey and Saller, *The Roman Empire*, 43.

⁶See, e.g., Greene, *Archaeology of the Roman Economy*, 9–10, citing “a combination of anthropology, ethnography, archaeology and history” (9). See also J. C. Edmondson, “Mining in the Later Roman Empire and Beyond: Continuity or Disruption?” *The Journal of Roman Studies* 79 (1989): 86–87, which cites archaeology as the major source for our knowledge of mining.

⁷Greene, *Archaeology of the Roman Economy*; geography: 10, restructuring: 43.

relatively little control of the environment (though Chris Wickham cautions against the traditional view of tiny unordered settlements “menaced” by wilderness).⁸ Most evidence for the medieval economy is archaeological; there are only a few documents from a few villages, most of which are from the ninth century or later. We do have access to laws that frequently deal with peasant society, but Wickham cautions against assuming they described it accurately.⁹

However, whereas the traditional archaeology of settlements would indicate substantial population decline, agricultural archaeology shows “considerable continuity of land use during the fifth to sixth centuries, with no dramatic abandonment of farmland.”¹⁰ This is hugely significant, as agriculture was the primary element of the economy. In fact, says Michael McCormick, “In a pre-modern economy, the extent of land farmed was the first and primordial economic fact determining food production and therefore wealth at its most basic level.”¹¹

Cultivated land remained basically unchanged in Europe from the Roman Empire to about 1000. Lewit suggests that these populations must simply have left little other archaeological impression.¹² The impact of this agricultural continuity is unclear. There have been many studies of medieval agriculture based on some documentation of the production and consumption of food as well as archaeological evidence for plant and animal remains. The resulting conclusions have varied wildly, ranging from support for only a subsistence level economy to something like a 6,000–9,000-calorie-per-day diet.¹³ McCormick would peg this at the lower end of

⁸Wickham, *The Inheritance of Rome*, 216–17.

⁹Wickham, *The Inheritance of Rome*, archaeology: 204; laws: 213–14.

¹⁰Lewit, “Pigs, Presses and Pastoralism,” 79.

¹¹McCormick, *Origins of the European Economy*, 31; see also Bowersock et al., *Late Antiquity*, 279–82, 387.

¹²Lewit, “Pigs, Presses and Pastoralism,” 77–79. Lewit also warns about an over-reliance on this methodology, however, as interpretations may be skewed by the selective survival of certain flora and fauna in the archaeological record where others have perished. See also Pirenne, *Medieval Cities*, 81.

¹³Kathy L. Pearson, “Nutrition and the Early-Medieval Diet,” *Speculum* 72 (1997): 1–2.

the range, particularly in the sixth century, and notes the negative trend in popular health in this time (which he claims was poor enough that it can be detected in skeletal remains).¹⁴

The most significant economic shift during the late antique/early medieval period occurred in the fifth century, after which Wickham cites a “dramatic economic simplification.” The broad base of the economy remained the same, although the tax and administrative superstructure changed significantly.¹⁵ McCormick calls it “the end of the ancient economy.”¹⁶ In their compilation *Late Antiquity*, G. W. Bowersock, Peter Brown, and Oleg Grabar provide a good list of the variety of possible explanations that have been put forth for this phenomenon. The list includes pre-capitalist crisis, the generic “non-development”, state competition, the deterioration of currency, etc., though they do not pick any most likely factor.¹⁷

Agreeing with Wickham’s recent work, Lewit sees a decline in specialization, with a rise instead of “mixed animal husbandry and diversified farming,” increased “regionalization,” some reforestation, and the resurgence of marshlands. She notes, however, that throughout the Rhineland and Britain agriculture shows greater continuity from Roman times through the fifth, and in places into the seventh, century.¹⁸ Crop types naturally varied based on location; Kathy Pearson calls the diversification “only logical.” Grain cultivation was extensive, with several varieties being planted throughout Europe, or nearly so, with the particular mix depending on the area (more barley would be planted in colder or wetter climates, for example). Legumes were also widespread, and their ability to replenish the soil is credited with allowing the continued use of fields from Roman to Anglo-Saxon times in England. Meat was valued everywhere; particular preferences were (and remain) highly local, but most commonly included cattle, sheep, goats, pigs, and chickens. There is actually very

¹⁴McCormick, *Origins of the European Economy*, 30–41.

¹⁵Wickham, *The Inheritance of Rome*, 95, 102–04; quotation from 95.

¹⁶McCormick, *Origins of the European Economy*, 28–30, quotation from 29.

¹⁷Bowersock et al., *Late Antiquity*, 386–88.

¹⁸Lewit, “Pigs, Presses and Pastoralism,” 79; for the Rhineland and Britain, see note 6.

little evidence for widespread consumption of game, with most animal remains belonging to domesticated stock.¹⁹ There was likewise substantial fruit and vegetable cultivation, and wine production may have survived from Roman times.²⁰ At the same time, marginal land cultivated under the Empire transitioned back to more natural uses. This effect, which ranged from Italy to northern Britain, was particularly pronounced in previously heavily militarized areas, suggesting the strong economic impact of the Roman army.²¹

Under the Empire—and indeed in subsequent medieval Europe—technology limited productivity in agriculture, trade, and manufacturing. It was expensive, often prohibitively so, to haul heavy goods, including grain, overland. River transport was therefore vital; sea transport was in general possible only between April and October. Consistent with such an underdeveloped trade system, evidence of commercial institutions shows them to have been “primitive.” Industrial technology was likewise minimal, with some exceptions (glass-blowing, for example).²² Yet despite this the massive building projects undertaken during the Empire speak to immense management capability.

Given these limitations, Rome’s prosperity was due in part to access to natural resources, including metals; mining included iron (the most necessary), gold, silver, copper, and tin. There were even some large-scale iron foundries (in Kent and Austria); most mines, however, were local, including those in Iberia (which was nonetheless a major source of gold), as well as Gaul, Britain, and throughout the Balkans.²³ Again speaking to Rome’s capacity for management, there is evidence for centralized control of mining to ensure efficient allocation of skill sets and to create

¹⁹Pearson, “Nutrition,” 3–7; quotation is from 4.

²⁰Pearson, “Nutrition,” 11–13; wine: 13. Wickham, *The Inheritance of Rome*, 229, calls the viticulture of northern Francia the only agricultural specialization until the Carolingian period.

²¹Lewit, “Pigs, Presses and Pastoralism,” 80–82.

²²Garnsey and Saller, *The Roman Empire*, 52.

²³Edmondson, “Mining in the Later Roman Empire and Beyond,” 84–85, 88–90.

economies of scale. The clear implication is that the more fragmented barbarian kingdoms would have seen the reverse of this trend, although in fact the evolution of mining into more localized operations (some state-owned, some private) was already underway in the later Empire.²⁴

* * *

The administrative and social roles of cities were discussed in Section 3.3 and Section 4.2, respectively, but they also had an economic role. During the Empire, Garnsey and Saller advocate for the model of “consumer cities” in which, as the name implies, cities were primarily consumers, not producers. Cities paid for their consumption by “a legal claim such as taxes or rents,” not a return value.²⁵

Strictly speaking, this would argue against a significant role for trade and manufacturing in cities. Garnsey and Saller suggest that the argument should not be taken to extremes, but Brian Tierney points out that cities in the West were never the economic centers that their eastern counterparts were.²⁶ Perhaps the biggest role that cities had, East or West, was as recipients, collectors, and distributors of the *annona*—the food tax (if you were paying it) or dole (if you were receiving it) that also, significantly, supported the army.²⁷

5.2 Pirenne, the Barbarians, and Islam

It is impossible to discuss the post-imperial economy without addressing the arguments raised, most prominently by Henri Pirenne, regarding the putative survival of the Roman world following the barbarian invasions. This whole thesis concerns the

²⁴Edmondson, “Mining in the Later Roman Empire and Beyond,” 96–99.

²⁵Garnsey and Saller, *The Roman Empire*, 48–49.

²⁶Brian Tierney, *Western Europe in the Middle Ages: 300–1475*, 6th ed. (Boston: McGraw-Hill, 1999), 19.

²⁷See McCormick, *Origins of the European Economy*, and Wickham, *The Inheritance of Rome*, *passim*.

evolution of Roman institutions during and following the period of barbarian invasions into and eventually supplantation of the Empire. It should not be construed as anti-Pirenne, or as arguing against substantial continuity between the late Empire and the early kingdoms: indeed, I reference Pirenne throughout, and I believe that many of his details are correct. Nonetheless, a solid refutation of some of Pirenne's conclusions is in order.

Pirenne famously argued that the effect of these invasions—at least, the economic effect—was negligible. His conclusion was two-fold: “The Germanic invasions destroyed neither the Mediterranean unity of the ancient world, nor what may be regarded as the truly essential features of the Roman culture”; and “The cause of the break with the tradition of antiquity was the rapid and unexpected advance of Islam.”²⁸ Pirenne emphasizes the survival of the legal fiction of the Empire (no barbarians in the sixth century claimed the imperial throne, all recognized the Eastern empire) and the actual survival of “Romania” or *romanitas*, the idea of “Romaness” that motivated the barbarians to act in this way in the first place. These claims are not as controversial as they once were, and were discussed in Chapter 2 and Chapter 3. Less well accepted is Pirenne's claim that throughout this period, trans-Mediterranean voyages, trade, and wars continued just as they had under the emperors, and that “the truly essential features” of Roman culture survived intact.

Instead Pirenne argued that Mediterranean trade finally collapsed after the rise of Islam in the seventh century made the southern shore and much of the shipping unsafe.²⁹ He saw the focus of Francia shifting under Charlemagne away from the Mediterranean and the Eastern Empire towards northern Europe, becoming “essentially an island.” Marseilles, which had been a significant port, saw its trade begin to slow during the seventh century due to the closure of the Mediterranean. He cites

²⁸Pirenne, *Mohammed and Charlemagne*, 284.

²⁹Pirenne, *Medieval Cities*, 23–25. See also Pirenne, *Mohammed and Charlemagne*, 147–52. The Islamic conquests took just eighty years—thirty, not counting Iberia. Pirenne opposes this swiftness to the long period of barbarian acculturation in the north, and strongly implies that this speed was crucial to the Muslims' retention of their own culture.

a drop-off in travel, merchants, and their wares, particularly the relative absence of Mediterranean goods in continental Europe, around this time (after 677, for example, the Frankish chancellery stopped using papyrus).³⁰

Pirenne's argument—on the barbarians, at least, if not the Muslims—has recently gotten a roundabout sort of support from Jean Durliat (*Les finances publiques de Dioclétien aux Carolingiens (284–889)*, 1990). Durliat's argument is based on an extension of Walter Goffart's assessment of taxation (see Section 3.3), and has been thoroughly dismantled by Wickham. It runs essentially as follows: the barbarians had no effect on the administrative or fiscal structure of the Empire, which survived more or less intact in the union of the Church and Frankish Empire up to the year 888. After listing several breaks with the Empire known to have occurred by the time of Charlemagne, Wickham is forced to ask: "Why ever was all this so, except as the result of some crisis at the level of a whole social system? . . . [It] is nonsense to put the Early Middle Ages on the same level as the Roman Empire in any material sense."³¹ The comment could just as easily apply to Pirenne.

* * *

More recent scholarship has shown Pirenne's assessment to be simplistic, and the general consensus is now that he was wrong about the timing of the closing of the Mediterranean. The western part of the sea saw shipping decline even before the Arabs, and a limited trade (in luxuries) survived after their arrival. Wickham argues from archaeological evidence that Pirenne's theory is based on a disproportionate emphasis on East–West trade in luxury items.³² Already under the Roman Empire,

³⁰Pirenne, *Medieval Cities*, 27–30; quotation is from 29. See also Pirenne, *Mohammed and Charlemagne*, 152–53. He notes the lack of travel via conventional sea routes (though finding some still through Adriatic and Byzantine waters) and the disappearance of Syrian merchants and their eastern goods (e.g. papyrus, spices, silk) along with gold currency; the drop in trade was so substantial that even inland merchants not directly involved in Mediterranean trade disappeared from the record: 164–74.

³¹Chris Wickham, "The Fall of Rome Will Not Take Place," in Little and Rosenwein, *Debating the Middle Ages*, 45–57; quotation is from 57.

³²Wickham, *The Inheritance of Rome*, 223–24.

the maritime trade routes had declined somewhat. Kevin Greene believes that the “transport systems of the empire worked best in the first two centuries AD.”³³ Guido Berndt and Roland Steinacher argue that while Pirenne overlooked a longer period of economic decline, he was right in seeing Mediterranean trade continuing until the Arabs; certainly during the fifth and sixth centuries Vandal North Africa was involved in trade with other barbarian kingdoms, particularly in Iberia.³⁴ And in a limited capacity, Richard Hodges and David Whitehouse argue for the continuation of Mediterranean trade through the end of the sixth century.³⁵

Although there is still debate over Pirenne’s assertion that the Islamic conquest was fundamentally to blame for the end of the Empire, it has fared better than his economic assessment of late antiquity.³⁶ It is worth noting that Robert Lopez, in recasting Pirenne’s economic “disappearances” as the collapse of Roman state monopolies and their reconstitution under different Arab regimes, is actually strengthening Pirenne’s fundamental argument: that the replacement of Romans by Arabs was decisive.³⁷ There is nonetheless general consensus that there was at least limited trade even after the Arabs’ arrival, in the period Pirenne saw as decline.³⁸ In fact,

³³Greene, *Archaeology of the Roman Economy*; maritime traffic: 43, inland transport: 30–36. See also Pirenne, *Economic and Social History*, 86. Road maintenance was of constant and critical importance, which highlights the impact to communications and trade when later kings failed to maintain the roads: Pirenne estimated that the Roman roads were completely gone by the ninth century.

³⁴Guido M. Berndt and Roland Steinacher, “Minting in Vandal North Africa: Coins of the Vandal Period in the Coin Cabinet of Vienna’s Kunsthistorisches Museum,” *Early Medieval Europe* 16 (2008): 255; Iberia: Lewit, “Pigs, Presses and Pastoralism,” 88–89.

³⁵Hodges and Whitehouse, *Mohammed, Charlemagne*, 88–91.

³⁶See Horden and Purcell, *The Corrupting Sea*, 153–72.

³⁷Lopez, “Mohammed and Charlemagne,” 42–55. He specifically addresses gold currency, luxury textiles, and papyrus, all commodities mentioned by Pirenne.

³⁸Horden and Purcell, *The Corrupting Sea*, 153–60; Steven A. Epstein, *Genoa and the Genoese, 958–1528* (Chapel Hill, NC: University of North Carolina Press, 1996), 13–14; as well as Lewit, “Pigs, Presses and Pastoralism,” 85–87. All see continued (albeit reduced) maritime commerce even during the period Pirenne saw as in decline. David Whitehouse, “‘Things that Travelled’: The Surprising Case of Raw Glass,” *Early Medieval Europe* 12 (2003): 301–05, offers as an interesting case a detailed chemical analysis proving that literally every post-imperial item of glass in the West until the late eighth century—i.e.,

see *inter alia* Hodges, Whitehouse, and McCormick for the inverse suggestion, that the Islamic rise to dominance was a *consequence* of events in the Roman world.³⁹

Finally, in thoroughly disagreeing with Pirenne, McCormick is as harsh in his overall assessment of late antiquity as Pirenne was of the eighth century: “The economy which had sustained the Roman empire collapsed. It did so through a very long concatenation of gradual deteriorations and sharp blows. Over time . . . the situation improved, sometimes considerably, at various times between c.250 and 650. But the short-term upswings were not sufficient to redress the long-term trend.”⁴⁰

A proper assessment of the impact of Islam on the former Empire is beyond the intent of this thesis. It is fair to say, however—without necessarily going so far as McCormick—that well before the Islamic conquest of the southern Mediterranean, a series of economic events represented a real break from the end of the Empire. The barbarians played a major part in (and were frequently the cause of) these events, which had lasting impacts—economic and otherwise—on the remnants of the Roman world.

5.3 Increasing Localization

The trends described in the previous sections were general but not universal. Nevertheless, in what is becoming a recurring theme, the fourth, fifth, and sixth centuries saw the economy (and after the end of the Empire, economies) become increasingly local. Put succinctly, “the proportion of short-distance hauls had grown at the expense of long-distance ones.”⁴¹ The full explanation is still not well understood, but the change was probably due in large part to the disappearance of the dominating

well after the Muslim conquest—can be traced back to trade with the Levant.

³⁹Hodges and Whitehouse, *Mohammed, Charlemagne*, 175; McCormick, *Origins of the European Economy*, 118.

⁴⁰McCormick, *Origins of the European Economy*, 115.

⁴¹McCormick, *Origins of the European Economy*, 116.

command economy of the Empire, which the smaller kingdoms could not replicate.

“[The] central role of the state in collecting and distributing the *annona* (the army supplies) remained an important feature of the economy, both in terms of organization and stimulus to production; the cessation of this state function in the fifth century was a major factor leading to economic fragmentation.”⁴² Fredric Cheyette also offers a good discussion on the role of climate change (particularly colder, wetter weather) in the fifth century in both the decline of agriculture and populations and the movement and restructuring of population centers and agricultural methods. He specifically sees a positive feedback loop being kicked off by this sort of change (poorer weather meant worse yields, supporting fewer people in the cities, which then drove the markets down even further, disincentivizing maintenance of infrastructure, which means even worse crop yields, etc.).⁴³ Although stating that “[no] single cause was decisive in terms of that contraction [of the late antique economy],” McCormick does highlight the effects of plague and the collapse of the *annona* command economy.⁴⁴

Throughout the Mediterranean, the agricultural system persisted, though modified. McCormick emphasizes the removal of the distorting effects of the *annona*.⁴⁵ Lewit likewise sees an increasingly regional focus with a corresponding decline in specialization. Indeed, in her words, “The clearest trend that can at present be discerned in fifth- to sixth-century western European land use was a decrease in specialized cereal production and cattle raising directed towards the organized state market, army and taxes of Rome. In many regions, there appears to have been an increase in mixed animal husbandry, usually of pigs, sheep, or goats, and greater regional variation in land use, with farming determined by local conditions rather than

⁴²Cameron, *The Mediterranean World*, 84.

⁴³Fredric L. Cheyette, “The Disappearance of the Ancient Landscape and the Climatic Anomaly of the Early Middle Ages: A Question to be Pursued,” *Early Medieval Europe* 16 (2008).

⁴⁴McCormick, *Origins of the European Economy*, 116.

⁴⁵McCormick, *Origins of the European Economy*, 116–17.

imperial demands.”⁴⁶ Pearson goes further, characterizing the fourth through the eighth centuries as “sedentary pastoralism” wherein animal husbandry, not farming, was important.⁴⁷

In other pursuits, Sueves, Visigoths, and Merovingians mined silver and gold in Iberia and Gaul. In both regions there was some consolidation for economies of scale, as under the Romans, but the scale was smaller nonetheless.⁴⁸ Inter-regional (now international) trade continued, at least in the Mediterranean. First in Spain, and later in Africa, the Vandals profited from a continued trade in grain, oil, garum, and slaves.; their position was made even better when they stopped paying the *annona* to the Empire.⁴⁹

Iberia was something of a special case: while it did see some transition of villas into local power centers, it did not see the decline of specialization, and in general retained a more Roman style of agriculture and trade than elsewhere.⁵⁰ Perhaps as a consequence Roger Collins is dismissive of the notion of a “free peasantry” championed by Wickham, at least among the Iberian Visigoths.⁵¹ However, Wickham argues forcefully in favor of a broad network of independent land-owning “peasantry” elsewhere in the Mediterranean. In fact, he connects the survival of civil law courts in Italy and the relatively weak seigniorial lordship to this class’s economic support for civil society.⁵²

In Gaul even more than the rest of the former Empire the economic basis was the landed proprietor. The survival of Roman-style charters (and implied theory of ownership) in Gaul and southern Europe in Carolingian times suggests that there was at least some continuity in the land economy from Roman times. Agricultural

⁴⁶Lewit, “Pigs, Presses and Pastoralism,” 79–80; quotation is from 80.

⁴⁷Pearson, “Nutrition,” 2–3. The quoted phrase comes from 2.

⁴⁸Edmondson, “Mining in the Later Roman Empire and Beyond,” peak: 91–102.

⁴⁹Berndt and Steinacher, “Minting in Vandal North Africa,” 258–59.

⁵⁰Lewit, “Pigs, Presses and Pastoralism,” 89–90.

⁵¹Collins, “Mérida and Toledo,” 200.

⁵²Wickham, “Comparing Rural Societies,” 228–29.

continuity was particularly strong in Gaul and the Rhineland, but commerce was “negligible” after Charlemagne.⁵³ Pearson argues that the change from sedentary pastoralism to more intensive forms of agriculture started in the seventh century, spreading outward from the Rhineland and northern Francia.⁵⁴ Pirenne saw a decline of free small landowners in favor of large landowners, though Wickham would prefer to see both; in fact the most common use of land was under deed of tenure by non-land-owning peasants.⁵⁵

In contrast to the Continent, the situation in England was much more complicated. The precise nature of land ownership and use before about 700 is unclear, although throughout Britain agricultural evidence shows significant continuity from Roman times through the fifth century, and in places into the seventh.⁵⁶ Manufacturing declined in Britain both in the late Roman and post-Roman periods. Nonetheless there was probably some continuity in manufacturing from Roman times up to the time of the Anglo-Saxons, but the extent is generally hard to assess. Metalworking likewise continued in the fifth and even sixth centuries, most commonly in the southwest but in fact all over Britain. This was well into the early Anglo-Saxon period, and metalworking survived at least long enough to influence Anglo-Saxon work in several ways (e.g. enameling).⁵⁷ There was however greater disruption of mining in Britain than on the Continent. Gold mines in Britain are known to have been operating around 380, but there is no evidence either way after that point.⁵⁸

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⁵³Pirenne, *Medieval Cities*, 42. See also Lewit, “Pigs, Presses and Pastoralism,” 79n6, on the Rhineland. Charters: Wickham, “Comparing Rural Societies,” 231–32.

⁵⁴Pearson, “Nutrition,” 2–3. Pearson is citing an argument based on the evidence of law codes, which may or may not be reliable on this front.

⁵⁵Pirenne, *Medieval Cities*, 43–45; Wickham, *The Inheritance of Rome*, 229.

⁵⁶Wickham, “Comparing Rural Societies,” 231–32; agricultural continuity: Lewit, “Pigs, Presses and Pastoralism,” 79n6.

⁵⁷Lloyd Laing, “Romano-British Metalworking and the Anglo-Saxons,” in N. J. Higham, ed., *Britons in Anglo-Saxon England* (Woodbridge, UK: Boydell, 2007); manufacturing: 42, metalworking specifically: 43–56.

⁵⁸Edmondson, “Mining in the Later Roman Empire and Beyond,” 101; gold mines: 92.

One of the more significant economic changes in late antiquity and the early medieval period is the decline of large-scale industry. To the extent that the economy was largely based on what may be called craft production,⁵⁹ the true impact of this decline is hard to gauge. Nevertheless it is a sign that all was not well with the late antique economy. The following discussion will use the mining and smelting of metals as a proxy for industry in general—McCormick states that the ceramic and food-processing industries underwent similar changes.⁶⁰

The Roman Empire had once had a thriving metal industry. Although it declined somewhat in the third and fourth centuries, mining in Iberia, Gaul, Britain, and the Balkans was restructured and survived under the later Empire.⁶¹ Mining is known to have declined in the later Empire and after its disappearance, although mining of all types persisted longer in the East than the West. This does not mean that the need for metals diminished substantially under the barbarians: McCormick notes that “Theodoric’s Italy was famished for metal.”⁶²

The extent to which this was a result of changes in administration, economics, or capability is unclear. The conventional view is that mining required sophisticated economics (capital, labor supply, etc.) and of course the major question is whether the barbarians could organize such efforts without the coordinating influence of the Empire. McCormick argues that they could not, citing a labor shortage even before the end of the Empire, and specifically credits the Empire’s “economy of scale.” However, mines also required other raw materials such as mercury and salt, and the disruption of trade networks could in itself have impacted mining production. J. C. Edmondson additionally suggests that at least some of the decline may have been

⁵⁹See McCormick, *Origins of the European Economy*, 607, 654, and Wickham, *The Inheritance of Rome*, 219–22.

⁶⁰McCormick, *Origins of the European Economy*, 53–61.

⁶¹Edmondson, “Mining in the Later Roman Empire and Beyond,” 85.

⁶²McCormick, *Origins of the European Economy*, 42–49, quotation from 49; see also Edmondson, “Mining in the Later Roman Empire and Beyond,” 99.

due to exhaustion of the mines given the available technology.⁶³

Not all metal production ceased: as noted above, Iberia remained the most active mining center, producing gold, silver, copper, lead, tin, iron, mercury, cinnabar, sulfur and zinc. Although production peaked during first and second centuries, it never stopped.⁶⁴ However, in all cases, what mining survived—along with any dependent refining and production—tended to be both smaller and more local.⁶⁵

Lest this discussion of industry seem too pessimistic, there is one positive (or at least less negative) development worth noting. The evolution of both agriculture and mining is consistent with the established archaeological narrative of late imperial villas undergoing a transformation into regional economic (even low-scale industrial) centers. Lewit disagrees with the traditional dismissal of such change as marginal or unimportant, seeing in the transformation of these multi-structure villas the origins of the small villages common in the Middle Ages.⁶⁶ Note that this fits well with Pirenne's model of a localized land-based economy.⁶⁷ Lewit contrasts this western outcome with the increased "market orientation" of agricultural villages in the eastern Mediterranean at this point (which was presumably due to the pressures of the still-extant Eastern Empire). She notes that eastern goods (oil, wine, and amphorae, among others) still ended up in the West, indicating the survival of at least some inter-regional trade.⁶⁸

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One of the possible impacts of the decline of the mining industry, at least, was

⁶³McCormick, *Origins of the European Economy*, 49–53; Edmondson, "Mining in the Later Roman Empire and Beyond," 93–95.

⁶⁴Edmondson, "Mining in the Later Roman Empire and Beyond," 88–94. In fact, the mines at Almaden produced mercury continuously from Roman times until the seventeenth century.

⁶⁵Edmondson, "Mining in the Later Roman Empire and Beyond," 93–95; McCormick, *Origins of the European Economy*, 52.

⁶⁶Lewit, "Vanishing Villas," *passim*. See also Lewit, "Pigs, Presses and Pastoralism," 82–84.

⁶⁷Pirenne, *Economic and Social History*, 7–9.

⁶⁸Lewit, "Pigs, Presses and Pastoralism," 85–87.

the change in the currency of the early medieval period. As Wickham points out, “all documented early medieval societies had standards of value, and they were almost all in coins.” The use of coins (and frequently the coins themselves) followed Roman custom, but the monetary systems became less complex, and particularly devalued, over time.⁶⁹ Wickham also believes that early Anglo-Saxon England operated at least partially on the barter or exchange system, with the island beginning to see a return to the market economy in the eighth century.⁷⁰

“Until at least the mid-sixth century the Mediterranean remained connected through a uniform coinage system that also included the [barbarian] kingdoms in the west.”⁷¹ Even after that time, the biggest initial change was the king under whose name the coinage was minted—currency became a local item, no longer common across the Empire. The barbarians retained the Roman gold *solidus*, at least initially.⁷² Minting in some form or fashion was essentially constant in Francia and the south, and was revived no later than the seventh century elsewhere in Europe.⁷³ Berndt and Steinacher note that the Ostrogoths were the only barbarian group to have a “fully formed monetary system” of gold, silver, and copper. In addition to the Franks, the Visigoths and Burgundians also minted in gold, but did not have a full system of coinage. The Vandals minted silver and copper coins, but none in gold (this may have been because they still recognized the Eastern Empire’s gold coinage).⁷⁴

The Ostrogoths outright assumed the old Roman imperial coinage, and reserved the imperial right to mint money. While Theodoric revalued the exchange between

⁶⁹Wickham, *The Inheritance of Rome*, 226. The only exception to coinage Wickham cites is Ireland, which used slave women and cows! On continuity, see also Pirenne, *Medieval Cities*, 16.

⁷⁰Wickham, *The Inheritance of Rome*, 218–19.

⁷¹Schmidt-Hofner, “Regionalization and Integration,” 165.

⁷²Pirenne, *Economic and Social History*, 3.

⁷³Wickham, *The Inheritance of Rome*, 226.

⁷⁴Berndt and Steinacher, “Minting in Vandal North Africa,” 257–58; quotation is from 257.

gold, silver, and copper, “the Goths actually parted from Roman traditions very gradually.”⁷⁵ Later Ostrogothic coins all showed symbols of Theodoric, even after his death.⁷⁶ Frankish coinage was “purely Roman or, strictly speaking, Romano-Byzantine.” Pirenne argues that the Franks’ persistent replication of Byzantine coinage shows the continued influence of the Empire, or at least continued economic ties.⁷⁷ Under the Visigoths, coins continued to be minted and circulated in Spain from at least two major mints, Mérida and Toledo; those of Mérida were particularly widely distributed in the sixth and seventh centuries. In fact, based on this coin distribution, Collins sees an Iberian-wide economy.⁷⁸ Edmondson also supports a monetary economy in Portugal.⁷⁹

By contrast, coins in seventh- and eighth-century England, according to P. H. Sawyer, “had a social rather than a commercial significance.”⁸⁰ In the ninth century, however, mints were being reestablished in England;⁸¹ Neil Middleton implies that the return of minting was related to the rise of trading settlements.⁸² It is not clear how these positions can both be reconciled with Bede’s statements that London was already a major trading center in the early eighth century (see below).

In the eighth century, starting with Pepin and concluding by the time of Charlemagne, even the Franks abandoned gold coinage in favor of silver. Pirenne claims the *solidus* referenced in the barbarians’ laws became “only nominal money.” The whole of Europe had switched to silver pennies by 800, a move that was not reversed until the advent of gold florins and ducats in the thirteenth century.⁸³ Pirenne ties this

⁷⁵Burns, *History of the Ostrogoths*, 70.

⁷⁶Burns, *History of the Ostrogoths*, 181–82.

⁷⁷Pirenne, *Medieval Cities*, 16–17; quotation is from 16.

⁷⁸Collins, “Mérida and Toledo,” 207.

⁷⁹Edmondson, “Mining in the Later Roman Empire and Beyond,” 99.

⁸⁰P. H. Sawyer, “Kings and Merchants,” in P. H. Sawyer and I. N. Wood, eds., *Early Medieval Kingship* (Leeds: University Printing Service, 1977), 139–40.

⁸¹Sawyer, “Kings and Merchants,” 155.

⁸²Neil Middleton, “Early Medieval Port Customs, Tolls and Controls on Foreign Trade,” *Early Medieval Europe* 13 (2005): 314.

⁸³Pirenne, *Medieval Cities*, 36–37; quotation is from 36. See also Goffart, “Merovingian

transition to the loss of Mediterranean trade, reasoning in part that southern Italy, which did still trade with Constantinople, retained its gold coinage until the region was conquered by the Franks. Pirenne also sees the increasing decentralization of minting privileges (usually attached to market rights) as a sign of decline.⁸⁴

* * *

In contrast with Garnsey and Saller's view of imperial "consumer cities," cities in ninth-century Gaul were not centers of commerce or agriculture. They lacked a "middle class" and any communal organization.⁸⁵ In the early Middle Ages, cities really served only as concentrated populations with some administrative and/or defense functions; whatever economic (and specifically manufacturing) role they had had was lost.⁸⁶ This statement is not universally accepted; Lewit, for example, makes a case for "vigorous urban activity" that was "focused on the cathedral, *market*, and palace of the bishop or king."⁸⁷ Even assuming that cities' economic role was at best minor, however, it is unclear exactly how much of a change this represented. Cities had retained their administrative functions largely unchanged, if not always organized or conducted in the same way (see Section 4.2), and had never been significant economic powerhouses, at least in the West.⁸⁸

For a somewhat different view, see the following section for a discussion of the rise of specific trading centers. These were not always cities *per se*, but Pirenne, for one, did not think it a coincidence that Italy and the Netherlands were the first areas to show the resurgence of both cities and trade. Likewise, S. J. B. Barnish sees *some*

Taxation," 19–20; Wickham, *The Inheritance of Rome*, 226–27; and Pirenne, *Economic and Social History*, 5.

⁸⁴Pirenne, *Medieval Cities*, 37–38; on the connection of gold coinage to Mediterranean trade, see also Pirenne, *Economic and Social History*, 5.

⁸⁵Pirenne, *Medieval Cities*, 56.

⁸⁶Hodges and Whitehouse, *Mohammed, Charlemagne*, 83.

⁸⁷Lewit, "Vanishing Villas," 266–67; quotations from 266 and 267 respectively, emphasis mine.

⁸⁸Barnish, "Transformation of Classical Cities," 386–96. Also see Tierney's comment above on page 99.

economic role for cities even in the post-imperial period.⁸⁹

Compare this with the rising economic importance of landed estates. In Francia and Bavaria, the landowners controlled a comparatively greater fraction of wealth; in Italy and Spain less so.⁹⁰ However, as Lewit put it, “in every region” there was “a series of characteristic transformations [in villas] during the 5th or 6th c. [*sic*].” These modifications emphasized the newly economic nature of the villa, “defy[ing] classical aesthetic traditions and lifestyle [and] converting decorative areas to agricultural or industrial uses.”⁹¹

5.4 The Impact on Trade

Trade in the Roman Empire had faced a number of hurdles. It was hard, risky, and not appreciated. Society valued the landed aristocracy over a merchant class; trade, and crafts in general, had a low social status, and any money generated was likely to be converted into land and thus respectability (thus impeding any long-term build-up of trading companies).⁹² Additionally, and probably as a consequence of the reasons listed above, the institutions for handling trade were underdeveloped. The Romans lacked a concept of legal agency (though there was some progress on this front over time), double-entry book-keeping, or sophisticated credit and banking (though investment banking was recognized).⁹³ In fact, although trade, both local and long-distance, obviously existed in the Roman Empire, Sawyer warns against overestimating its overall impact.⁹⁴

The Roman Empire was fundamentally a maritime economy. Already under the

⁸⁹Pirenne, *Medieval Cities*, 132; Barnish, “Transformation of Classical Cities,” 396–400.

⁹⁰Wickham, *The Inheritance of Rome*, 204–05.

⁹¹Lewit, “Vanishing Villas,” 260. See also pages 261, 270.

⁹²Garnsey and Saller, *The Roman Empire*, 44–45; see also Greene, *Archaeology of the Roman Economy*, 14.

⁹³Garnsey and Saller, *The Roman Empire*, 52, 54–55.

⁹⁴Sawyer, “Kings and Merchants,” 141–42.

late Empire, however, the maritime trade routes had declined somewhat. Greene believes that the “transport systems of the empire worked best in the first two centuries AD.” He cites the sharp decline in the number of shipwrecks from the third to the fifth century, though of course that may simply mean that the construction quality of Roman ships was improving. Nonetheless the supply of grain to Rome in the fourth century demonstrated that Roman shipping was still sophisticated.⁹⁵ Throughout the Empire, inland trade was tied closely to rivers, and where there were no rivers, the Roman roads were indispensable: Greene estimates they would have cut travel times by a factor of two or three. Road maintenance was of constant and critical importance, which highlights the impact to communications and trade when later kings failed to maintain them: Pirenne estimated that the Roman roads were completely gone by the ninth century.⁹⁶

* * *

The written evidence for trade in the early medieval era is very sparse, but this is largely because most of our sources were churchmen and, although some references do appear in saints’ lives, trade was not always seen as relevant—there were even occasional polemics from churchmen against trade. Historians therefore are forced to turn to numismatic and other archaeological evidence, as in other aspects of economic history. This evidence should be treated carefully, however, as valuables also circulated through means other than trade, including plunder, gifting, etc.⁹⁷

The Mediterranean remained important to the barbarian kingdoms, just as it had been under Rome. Indeed, market tolls along inland routes and charters of the Abbey of Corbie exempting that abbey from some tolls on Mediterranean goods show continued trade into the interior from the Mediterranean trade network,⁹⁸ and as late as 500

⁹⁵Greene, *Archaeology of the Roman Economy*, 43; see also Pirenne, *Medieval Cities*, 3–4.

⁹⁶Greene, *Archaeology of the Roman Economy*; maritime traffic: 43, inland transport: 30–36. See also Pirenne, *Economic and Social History*, 86.

⁹⁷Sawyer, “Kings and Merchants,” 139–40. Polemics: Pirenne, *Economic and Social History*, 12–14.

⁹⁸Pirenne, *Medieval Cities*, 9–10, 18–19.

there was trade between Britain and the Mediterranean.⁹⁹ Rome remained the center of what Wickham calls a broad trade network stretching from Sicily to Provence (although the fact that this was “broad” says something of the reduced conditions).¹⁰⁰ The only long-distance Mediterranean trade routes were Marseilles–Genoa–Rome, Rome–the Aegean–Constantinople, and Constantinople–Syria/Palestine.¹⁰¹ These routes allowed at least some places—the cities of southern Spain, for example—to maintain commercial and cultural ties to the eastern Mediterranean. In Spain, these ties continued into the seventh century, and Collins believes they were even stronger than they had been in the sixth, potentially arguing for a closer connection between the kingdoms and the Eastern Empire. It is unclear how merchants traveled to inland Spanish cities, but it was probably via rivers, as elsewhere. It is also unclear what was being traded, though Collins suggests grain or silver from Spain, and possibly marble from the East.¹⁰² In general, the western Mediterranean (Gaul, Italy, Spain) continued to see some maritime trade even after the sea was mostly closed by Islam.¹⁰³

Whether or not the Mediterranean was effectively closed, it is true that trade became more localized in the early medieval period.¹⁰⁴ Yet even after the collapse of truly international Mediterranean trade, the littoral edges of Europe retained some (usually localized, but gradually less so) maritime commerce. This was true both in the Mediterranean and in the North and Baltic seas. There was even a common pattern: first the collapse of Roman merchants and their protecting navy, then the rise of piracy, and finally the transition of pirates into merchants and a revival of

⁹⁹Wickham, *The Inheritance of Rome*, 219.

¹⁰⁰Wickham, *The Inheritance of Rome*, 219–20.

¹⁰¹Wickham, *The Inheritance of Rome*, 225. See Map 20.2 in McCormick, *Origins of the European Economy*, 593, for an excellent depiction of these (and other) routes.

¹⁰²Collins, “Mérida and Toledo,” 202–04.

¹⁰³See Horden and Purcell, *The Corrupting Sea*, Epstein, *Genoa and the Genoese*, and Lewit, “Pigs, Presses and Pastoralism,” all of which advocate for trade at a not insignificant level.

¹⁰⁴Wickham, *The Inheritance of Rome*, 218; McCormick, *Origins of the European Economy*, 592.

trade, first locally, then on a wider scale.¹⁰⁵

The economies, and thus trade networks, of the Mediterranean kingdoms were varied, with some areas of complexity and some simplicity. There were still “complex patterns of production and exchange,” including factories of pottery and metals, particularly in the western Mediterranean region.¹⁰⁶ The whole of continental Europe shows evidence of local manufacture and provincial land-based trade networks that would have carried some goods (presumably including the factory-made pottery and metals) throughout Spain, Francia, and Italy.¹⁰⁷ Unlike in the north, if traders used any southern rivers, this is unattested.¹⁰⁸

The “Frankish heartland” had the largest economy in the West, with surviving trade networks, production facilities, and merchant activity documented in saints’ lives. Northern Francia, in particular the area that is now the Netherlands, had more commercial activity and a more complex exchange system than the rest of Europe before 800, and continued to be prominent under the Carolingians.¹⁰⁹ Pirenne and Wickham both credit this in part to the presence of so many long rivers. Wickham cites as major inland routes the Rhine, the Seine–Meuse system (increasingly so), and the Rhône (decreasingly so). Wickham specifically believes northern rivers to have been important due to the interlinks between them, not because of their access to the North Sea.¹¹⁰ But the more intriguing thing is who the Franks were trading with: the Islamic Abbasid Caliphate.¹¹¹

The north, including Britain, had a much simpler exchange system than the

¹⁰⁵Pirenne, *Economic and Social History*, 15–25.

¹⁰⁶Wickham, *The Inheritance of Rome*, 219–22; quotation is from 219. McCormick, *Origins of the European Economy*, 573–80.

¹⁰⁷Wickham, “Comparing Rural Societies,” 242–43.

¹⁰⁸Wickham, *The Inheritance of Rome*, 226.

¹⁰⁹Wickham, *The Inheritance of Rome*, 220–22; quotation is from 220.

¹¹⁰Pirenne, *Medieval Cities*, 94; Wickham, *The Inheritance of Rome*, 226.

¹¹¹Hodges and Whitehouse, *Mohammed, Charlemagne*, 120–25; McCormick, *Origins of the European Economy*, 386–87, 562–64.

south.¹¹² Nevertheless, the northern coast of Europe, especially in the area of Calais and Utrecht, was trading with England, Ireland, Denmark, Sweden, and Poland under the Merovingians. (Pirenne sees this as part of the motivation for river trade by the Frisians along the Rhine, Scheldt, and Meuse.)¹¹³ Before the mid-eighth century, however, Anglo-Saxon trade was particularly highly localized—with the exception of the “relatively rich and powerful”¹¹⁴—and evidence for manufacturing and regional trade networks is totally lacking in England before the ninth century;¹¹⁵ this does not, of course, mean that there was none.

Thus, although most needs were supplied locally in the early medieval period, even more so than they had been during the Empire, it is clear that there were still complex networks to supply non-local goods when necessary. Salt was one of the most important traded commodities throughout Europe, but trade in furs, ivory, and amber continued as well.¹¹⁶ However, in Pirenne’s words, “it would certainly be an error to assume that the dealings of the oriental merchants of Gaul were restricted solely to articles of luxury.” In fact, such general goods as wine, oil, spices, and papyrus were exported northward from the Mediterranean.¹¹⁷ There was a trade in glass, pottery, and millstones from Francia.¹¹⁸

Further north, eighth-century England imported fish, wine, and woad, and exported wool, cloth, and hides.¹¹⁹ Flemish cloth and Rhenish wine (still known in Shakespeare’s day) were exported to England. Coins from Dorestad (near Utrecht) have been found in Sweden and Poland, though what they were buying is unknown. Irish ships have been excavated in Noirmoutier (on the Atlantic coast, near the mouth

¹¹²Wickham, *The Inheritance of Rome*, 222.

¹¹³Pirenne, *Medieval Cities*, 33–34.

¹¹⁴Wickham, *The Inheritance of Rome*, 218.

¹¹⁵Wickham, “Comparing Rural Societies,” 243.

¹¹⁶Sawyer, “Kings and Merchants,” 146–50.

¹¹⁷Pirenne, *Medieval Cities*, 17–20. As noted above, the papyrus trade stopped in the seventh century.

¹¹⁸Sawyer, “Kings and Merchants,” 153.

¹¹⁹Middleton, “Early Medieval Port Customs,” 351.

of the Loire), presumably there for the salt; Salzburg, in contrast, shipped its salt along the Danube. Slaves were also a major trade throughout the region.¹²⁰

The most visible impact of the barbarians was therefore the shifting of trade northward, but whether this was a product or the cause of the barbarians' continental, rather than Mediterranean, orientation is not yet settled. Sawyer and Wickham note that land-based trade was retained from imperial times, with urban markets and county fairs evolving into their medieval equivalents—in Francia, this transition had happened by the sixth century.¹²¹ Middleton and Simon Coupland also cite evidence for large trading centers developing in the sixth and seventh centuries to support the Frisian trade across the English Channel and North Sea.¹²² (The Romans created frontier trading towns to accommodate foreign trade. All foreign trade was restricted to these towns without special exemption from the emperor or his delegates, a system broadly retained in the barbarian kingdoms.¹²³) Finally, Sture Bolin makes the point that the economy of Western Europe (particularly Francia) centered on the transshipment of goods between Muslim and Scandinavian territories.¹²⁴

* * *

All of this commerce had to be conducted somewhere. The Romans originally created frontier trading towns to accommodate foreign trade. All foreign trade (as well as the foreign merchants) was restricted to these towns without special exemption from the emperor or his delegates.¹²⁵ Roman urban markets and county fairs

¹²⁰Pirenne, *Medieval Cities*, 33–34.

¹²¹Sawyer, “Kings and Merchants,” 144–46. Francia: Wickham, *The Inheritance of Rome*, 221.

¹²²Sawyer, “Kings and Merchants,” 151–54; Middleton, “Early Medieval Port Customs,” 313, 330; Simon Coupland, “Trading Places: Quentovic and Dorestad Reassessed,” *Early Medieval Europe* 11 (2002): 209–11, 221–22.

¹²³Roman system: Middleton, “Early Medieval Port Customs,” 317–18; Sawyer, “Kings and Merchants,” 142. Continuation under the barbarians: Middleton, “Early Medieval Port Customs,” 319–29; cf. Pirenne, *Medieval Cities*, 18–19.

¹²⁴Sture Bolin, “Mohammed, Charlemagne and Ruric,” in Havighurst, *The Pirenne Thesis*, especially 78–82; see also Hodges and Whitehouse, *Mohammed, Charlemagne*, 158.

¹²⁵Middleton, “Early Medieval Port Customs,” 317–18.

evolved into their medieval equivalents, which in Francia were in place by the sixth century. Sawyer points out that these “should be distinguished from long-distance commerce in goods of high value [which were] offered for sale not by producers, but by middle men or merchants.”¹²⁶

Of the markets, Pirenne notes that their “number is itself proof of their insignificance.” Although they probably satisfied local household needs, the transactions they fostered were of minimal economic value. McCormick generally discredits Pirenne’s discussion of commercial activity, but does agree that more or less through the eighth century, kings “were indifferent to markets” due to their low economic impact.¹²⁷ Either way, the benefit they offered may have been less in terms of product valuation and more in terms of cash exchange: Goffart sees some market activity as necessary to mediate between in-kind supply and demand for cash (to pay taxes/rents).¹²⁸

The association between markets and merchants (in the sense of broader trade), and in fact the rise of merchants themselves, are unclear. As noted, trade and piracy frequently went hand in hand, but while this was certainly the case among the northern Vikings and the Islamic pirates in the Mediterranean, it does not seem to have happened in Continental Europe after the fall of the Empire.¹²⁹ Nonetheless there was at least *some* merchant activity throughout the early medieval period—including not just foreign merchants but at least in Francia local ones—among the Visigoths, Franks, Lombards, and at least the later Anglo-Saxons to judge by the evidence of the law codes.¹³⁰ There is even some evidence for merchant associations or consortia, as well as cooperative organizations.¹³¹

¹²⁶Sawyer, “Kings and Merchants,” 144–46; quotation is from 146. Francia: Wickham, *The Inheritance of Rome*, 221.

¹²⁷Pirenne, *Economic and Social History*, 10. McCormick, *Origins of the European Economy*, 573–80, quotation from 580.

¹²⁸Goffart, “Roman Taxation to Mediaeval Seigneurie (II),” 386–87.

¹²⁹Pirenne, *Medieval Cities*, 106–07.

¹³⁰Pirenne, *Medieval Cities*; local merchants: 21–22, citing Gregory of Tours; laws: 127.

¹³¹Wickham, *The Inheritance of Rome*, 224–25.

Pirenne did not believe the merchants evolved from the agricultural markets or even the traveling abbey procurers. Instead he strongly suggests (but does not outright state) that European mercantilism arose through contact with Venice, where the Roman systems of trade (in this case, with Byzantium) never collapsed.¹³² Since Pirenne, this argument has been reversed; Wickham in particular describes the activities of merchants and mercantile consortia.¹³³ Pirenne also believed that there may have been some continuity from Roman traders, with the Jews as a surviving class of merchants focused on specific luxury items rather than more general long-distance trade, another view which has since been largely discredited. Without downplaying the role of the Jews, Wickham does note the presence of “foreign” merchants—mostly “Syrians” (i.e. Easterners), but also Frisians in northern Europe.¹³⁴

What merchants there were were largely confined to specific trading centers (frequently ports) as they had been under the Romans. Marseilles was a major port during Merovingian times, tied to Mediterranean traffic ranging from Spain to Constantinople, and hosted foreign merchants including Jews and Syrians.¹³⁵ Although Marseilles declined in the seventh and eighth centuries as a now unnecessary port, Rome remained a large trading city, at least by eighth-century standards.¹³⁶ Further north, reflecting the transition from Mediterranean-centered economies to continental ones, there is literary and archaeological evidence for large trading centers (mostly coastal or riverside) in England, northern Europe, and Scandinavia. These centers developed in the sixth and seventh centuries, and flourished in the eighth. Centers were sometimes under the direct control of kings or other rulers; by the eighth century many had become recognized townships.¹³⁷

¹³²Pirenne, *Medieval Cities*, 107–13.

¹³³Wickham, *The Inheritance of Rome*, 224–25.

¹³⁴Pirenne, *Economic and Social History*, 11, 34. See Wickham, *The Inheritance of Rome*, 223, for a particularly good critique of Pirenne’s argument, and 225 for foreign merchants.

¹³⁵Pirenne, *Medieval Cities*, 17–18.

¹³⁶Wickham, *The Inheritance of Rome*, 220.

¹³⁷Sawyer, “Kings and Merchants,” 151–54; Middleton, “Early Medieval Port Customs,” 313.

Maastricht (in the modern Netherlands) was founded as a new town in the seventh century with a heavy industrial basis.¹³⁸ Bede suggests that London was in his day a major international trading port.¹³⁹ The rise of Frisian merchants at this time was probably due to their location, which controlled the mouths of the Rhine and Meuse rivers.¹⁴⁰ Dorestad (modern Netherlands) and Quentovic (modern France) were major Frisian and Frankish ports of the late eighth and early ninth centuries. They served primarily the English trade, but also the Continent (inland Germany, Austria, Switzerland, Italy) and the Baltic region.¹⁴¹ Dorestad's importance (or at least its trade connections) seems to have exploded under Charlemagne, as coins from 28 mints all over the Carolingian Empire have been found at the site.¹⁴²

Paul Fouracre argues that the rise of these centers was a result of the continued influence of social élites (see Section 4.1), but I am not convinced of this line of reasoning. His statement that “The links between wealth, status, political power and public authority are demonstrated by the rise in the seventh century of *emporia*, or trading settlements, a development which ran counter to the general decline of urban life in Europe at this time,” is fine as far as it goes. However, he continues: “*Emporia* sprang up to service the various élites by supplying them with the high-value prestige goods necessary for the display of high social status, and they were associated with the growth of those political groupings which had succeeded in mobilizing the wealth with which to trade.”¹⁴³ This seems to me too close to Pirenne's over-emphasis on luxuries.

* * *

Despite, or perhaps because of, its widespread nature, the Empire levied what

¹³⁸Wickham, *The Inheritance of Rome*, 221.

¹³⁹Middleton, “Early Medieval Port Customs,” 349.

¹⁴⁰Sawyer, “Kings and Merchants,” 151; Coupland, “Trading Places,” 211.

¹⁴¹Middleton, “Early Medieval Port Customs,” 330; Coupland, “Trading Places,” 209–11, 221.

¹⁴²Coupland, “Trading Places,” 221–22.

¹⁴³Fouracre, “Cultural Conformity,” 154.

Sawyer called “vexatious taxation” on merchants in the fourth and fifth centuries.¹⁴⁴ The barbarian kingdoms did the same. Indeed, one of the reasons for the establishment and enforcement of such trading centers was the resulting ease with which rulers could control long-distance trade.

According to Middleton, “Controlling the activities of local and foreign merchants in the interests of collecting tolls, maintaining law and order, and gaining privileged access to imported goods was a central concern of medieval rulers. They were also important matters of state in the Roman and Byzantine empires. Port tolls and controls on foreign merchants go back a long way.”¹⁴⁵ The Roman system of trade tax strongly influenced policies in successor states: taxes on commerce (including levies both on transactions and on the transport of goods) were extended by the barbarians in at least Gaul, Spain, and Italy.¹⁴⁶ (Pirenne thought that these market tolls produced very little money, and eventually became just extortion.¹⁴⁷)

Pirenne believed that the Frankish continuation of Roman market tolls or road taxes was evidence of continued commerce, and McCormick supports the same conclusion.¹⁴⁸ In England, “there are questions about whether [tolls] survived from the period of Roman rule in Britain or were adopted and adapted later from continental European practices.” Toll on ships in England in the eighth century may be based on Roman ones, but this is not as clear as it was on the Continent.¹⁴⁹ Similarly, there is evidence that the Anglo-Saxons, Franks (particularly under and after Charlemagne), and Lombards imposed controls on foreign trade and merchants that trace to Roman and/or Byzantine origins.¹⁵⁰ The 10 percent tax on passing borders

¹⁴⁴Sawyer, “Kings and Merchants,” 142.

¹⁴⁵Middleton, “Early Medieval Port Customs,” 315.

¹⁴⁶Sawyer, “Kings and Merchants,” 142; Middleton, “Early Medieval Port Customs,” 316.

¹⁴⁷Pirenne, *Medieval Cities*, 40–41.

¹⁴⁸Pirenne, *Medieval Cities*, 15; McCormick, *Origins of the European Economy*, 641–42.

¹⁴⁹Middleton, “Early Medieval Port Customs,” 315; Sawyer, “Kings and Merchants,” 143.

¹⁵⁰Middleton, “Early Medieval Port Customs,” 319–29; Pirenne, *Medieval Cities*, 18–19.

or control points traces from antiquity.¹⁵¹ The law codes, for example, reflect the kings' (presumably economic) interest in protecting border-crossing traders.¹⁵²

¹⁵¹Middleton, "Early Medieval Port Customs," 329.

¹⁵²Sawyer, "Kings and Merchants," 150–51; see the codes of Aistulf, Ine, and Alfred.

Chapter 6

The Law: A Study in Adoption, Adaptation, and Innovation

Having gone through some of the more conceptual aspects of institutional change in the late antique/early medieval period, I will now turn to a specific case study of the sorts of ways that the early medieval kingdoms both borrowed from and added to existing Roman institutions: the legal system. As an item-by-item comparison of each code is impractical, I chose to screen the laws for particular subject matter: structure of the judicial system, treatment of violence, family and inheritance law, and the treatment of foreigners. Additionally, I will cover only the laws the barbarians issued for themselves, not the separate codes sometimes used for their Roman subjects, as these were largely just repackaged versions of the Theodosian Code.¹

6.1 The Influence of Roman Law

To begin with, Roman law was—like the laws of the barbarians that would supplant it roughly a thousand years later—the province of kings. Roman tradition credits the

¹See Watson, *Roman Law*, 86.

semi-legendary seven kings of Rome, traditionally held to have ruled 753–509 BC, with issuing what Alan Watson calls a “surprisingly large” body of law.² In roughly 450 BC, Roman law was codified in the so-called “Twelve Tables.” This code itself, like many of the early medieval codes, was not actually comprehensive; it provided for what might be considered special cases rather than more straightforward matters of law, which were presumably to be taken for granted.³ After the Twelve Tables, custom was no longer enforced as law. Instead the law evolved through statutes passed by popular assembly or through edicts issued by the elected *praetors* (magistrates). (Although they could not *de jure* change the law, their edicts established how they would rule in a hypothetical case, which worked out to the same thing.)⁴

Under the Empire, the law-giving role evolved away from the assemblies and *praetors* to semi-professional jurists—essentially legal analysts whose published opinions carried great weight—and eventually to the emperors themselves. Sometime around 160, under the rule of either Antoninus Pius or Marcus Aurelius (both of whom took a noted interest in the law), an otherwise unknown jurist named Gaius wrote what was to become the *de facto* textbook of Roman law for nearly 400 years. His *Institutes* survive in more copies than any other classical writing, and served as the template for Theodosius’s and Justinian’s later works.⁵

Roman law was originally personal—it applied to Romans only—and remained so well into the Empire; this personal nature was a feature in common with barbarian legal traditions and the subsequent early medieval laws.⁶ However, as the Empire

²Watson, *Roman Law*, 3.

³Watson, *Roman Law*, 9–13; Drew, introduction to *Laws of the Salian Franks*, 12–13.

⁴Watson, *Roman Law*, 15–23. The details of the republican popular assemblies are complex and not particularly relevant here. See also Drew, introduction to *Laws of the Salian Franks*, 12–15, for a general discussion of this topic.

⁵Watson, *Roman Law*, 15–26; Drew, introduction to *Laws of the Salian Franks*, 14–15.

⁶For a contrasting viewpoint see P. S. Barnwell, “Emperors, Jurists and Kings: Law and Custom in the Late Roman and Early Medieval West,” *Past and Present* 168 (2000): 7–8, who criticizes the idea of personal law; despite Barnwell’s claims that personal law has “in recent times been subject to increased scrutiny,” however, his is the only work I have found to espouse this view.

grew, Romans took their law with them, until finally in 212 Caracalla extended Roman citizenship (and law) to essentially everyone in the Empire. Although still notionally personal, Roman law became from this point effectively territorial, and later edicts of the emperors were taken to have territorial force.⁷

As the size of the body of law grew, jurists recognized the need for compilations to ensure, essentially, that everyone was working from the same material. There were two unofficial collections made in the late third century, neither of which has survived. Beginning in 429, with additional instruction in 435, however, the emperor Theodosius II appointed a commission to make a compiled edition of all valid imperial statutes; the result was published in 438. Although the emperor Justinian would issue a similar recompilation in 534, it would not be as influential in the West as the *Codex Theodosianus*; see discussion later in this section.⁸

* * *

Trial by jury was first established in the Republic. The format was amended over time, but remained essentially the same: a body of sworn jurors, witnesses (who could be compelled to testify), and representation by attorneys, all roughly following the format of evidence and persuasive speeches familiar to a modern audience. Character evidence was very important, however; it was provided by so-called *laudatores*, who seem to have functioned much like the later oathhelpers; oath-taking as a means of litigation continued to be referenced under Justinian's *Digests*.⁹ Under the Empire, however, the emperors acquired formal jurisdiction with life and death power; procedure in imperial trials had no formal rules: the emperor's ruling was law. By the later Empire, emperors began to delegate some of their judicial and appellate functions to the praetorian prefects,¹⁰ a development which should perhaps be seen

⁷Drew, introduction to *Laws of the Salian Franks*, 12–13; Watson, *Roman Law*, 25.

⁸John Matthews, "The Making of the Text," in Jill Harries and Ian Wood, eds., *The Theodosian Code* (Ithaca, NY: Cornell University Press, 1993), 19–30, and Watson, *Roman Law*, 83.

⁹O. F. Robinson, *The Criminal Law of Ancient Rome* (Baltimore, MD: Johns Hopkins University Press, 1995), 1–5.

¹⁰Robinson, *Criminal Law*, 9–11.

as the forerunner of the early medieval devolutions of power discussed in Section 3.2.

As mentioned briefly in Section 4.1, Roman law continued to differentiate between classes—the “distinguished” (*honestiores*) and the “humble” (*humiliores*)—even after the extension of citizenship provided everyone access to common civil law. Even ‘barbarians’ were now citizens (or at least could become citizens). This was not absolute; some classes of “stigmatized” outsiders (captives, etc.) were prevented from being citizens, and there were ways in which one could lose citizenship and some of its incumbent privileges.¹¹ Roman law always differentiated between slaves, freemen, and freedmen.¹²

Murder, the intent to murder, or furnishing the means for murder were all punished; vendettas were never allowed. The punishment was always by the state: officially exile and forfeiture of all property, but Marcian stated that the death penalty was common in the fifth century.¹³ The crime of *iniuria* covered offense against honor, reputation, dignity or “physical integrity,” fining both verbal and physical assault. This fine was originally a scaled compensation (akin to the *wergeld*), but was changed to a case-by-case assessment in the third century BC.¹⁴ Self-defense was a permissible excuse, even for homicide, but at least by the time of Justinian the law required minimal force be used.¹⁵

Marriage technically required only the consent of both parties and both heads of house; there was no formal ceremony or permission, and while dowries were socially expected they were not required.¹⁶ However, not all marriage was legal: marriage between classes (especially freedmen and former mistresses) was forbidden;

¹¹Mathisen, “*Peregrini, Barbari, and Cives Romani*,” 1015, 1019–20.

¹²Watson, *Roman Law*, 39–43.

¹³Robinson, *Criminal Law*, 41–43, 45, 46. Killing a slave was initially treated only as damage to property; under the Empire it was considered murder.

¹⁴*Iniuria*: Robinson, *Criminal Law*, 49–51; compensation: Watson, *Roman Law*, 72.

¹⁵Robinson, *Criminal Law*, 20, 45.

¹⁶Judith Evans Grubbs, *Law and Family in Late Antiquity: The Emperor Constantine’s Marriage Legislation* (Oxford: Clarendon Press, 1995), 54–55, 141–43.

Christians could not marry Jews (but, interestingly, could marry pagans); Romans were forbidden to marry barbarians.¹⁷ Divorce went through several fluctuations; by the late fourth century unilateral divorce was essentially only allowed on moral grounds, though mutual divorce remained permissible until 542 under Justinian.¹⁸ Judith Evans Grubbs notes that while Christianity advocated for (and under Justinian achieved) almost total prohibition of divorce, it had little other impact on marriage.¹⁹

Men and women could make wills, with essentially no restrictions on content. In intestate succession, there was no distinction of the eldest child, and males and females of the same agnatic degree inherited equally.²⁰ Constantine greatly altered intestacy law: Women became entitled to a one-third inheritance of a child's estate, and if left out of the will they could sue.²¹ Constantine also expanded freedom of gifts between parents and children; this was later expanded to greatly simplify Roman gift law in general.²²

* * *

Roman and subsequent 'barbarian' law seem to have undergone parallel evolutionary tracks (uncharitably, we might say the barbarians reinvented the wheel). The balance between royal or imperial authority and the use of councils (of elders, aristocrats, etc.) seems to have shifted at least four times. Roman law saw the preeminence first of kings and then the senate, before legislative authority settled on the emperor. Under the early kingdoms we likewise see kings first issuing law in

¹⁷Robinson, *Criminal Law*, 57. It is not clear what effect this last ban had, as Caracalla had extended Roman citizenship to the whole Empire in the third century. Mathisen, "*Peregrini, Barbari, and Cives Romani*," 1030–31, suggests that it was a ban on marrying barbarians in the military, not barbarians *per se*.

¹⁸Watson, *Roman Law*, 31–32; Evans Grubbs, *Law and Family*, 225–37.

¹⁹Evans Grubbs, *Law and Family*, 65; see also Evans Grubbs, *Law and Family*, 15–16, 74–77, and Watson, *Roman Law*, 32.

²⁰Watson, *Roman Law*, 77–79, 81. "Agnatic" means pure male-line relation; Justinian removed this requirement.

²¹Evans Grubbs, *Law and Family*, 116–17.

²²Evans Grubbs, *Law and Family*, 117–22.

coordination with councils and subsequently on their own.²³ Similarly, just as Roman law evolved from ‘personal’ to ‘territorial’, the barbarian laws did the same.²⁴ Finally, both assumed at least some state responsibility for legal matters, administered by a royally-appointed “judicial system.” Just as the emperors devolved some of their juridical authority down to local magistrates, the barbarian systems likewise included increasingly local *duces* and *comites*, and sometimes bishops, as judges.²⁵ One potentially significant difference was that the medieval codes envisioned law as private suits between parties; Harold Berman claims that this adversarial view of law harks back to an underlying “Germanic” (even Indo-European) world-view wherein the point of law and justice was winning, not being right *per se*.²⁶

As Martin Grimmer notes, this was a critical area for their success: “It was important in the years following the decline of the Western Empire for so-called barbarian kings to ape Roman legal precedent and to promulgate something that *looked like* a written law code, irrespective of its actual judicial value.”²⁷ It was not all appearances, however: the content of the Roman and medieval codes was likewise similar. “Today we are more aware of the considerable overlap between the contents of these so-called ‘barbarian’ codes, and can see the debt they owed to late Roman law.”²⁸ Some of the specific inheritances and similarities will be discussed in the next section.

While it was Roman private law that most influenced the later law codes, which treated all law as private civil suits, the distinction between civil and criminal law

²³Tacitus, *Germania*, chapters 11–3; *LC*, preamble; Berman, “Background of the Western Legal Tradition,” 573; Drew, introduction to *Laws of the Salian Franks*, 232nn2–3; “Rothair’s Edict,” in Drew, *The Lombard Laws*, title 386; Hunter Blair, *Anglo-Saxon England*, 216–17; Bede, *Ecclesiastical History*, chapter II.5.

²⁴Drew, introduction to *The Burgundian Code*, 4.

²⁵Drew, introduction to *The Lombard Laws*, 7–11.

²⁶Berman, “Background of the Western Legal Tradition,” 565–67.

²⁷Martin Grimmer, “Britons in Early Wessex: The Evidence of the Law Code of Ine,” in Higham, *Britons in Anglo-Saxon England*, 111, emphasis original.

²⁸Fouracre, “Cultural Conformity,” 156.

was also blurred in the late Empire; whether this paralleled or influenced the later medieval development is unclear.²⁹ Certainly, the Theodosian Code would “never be effectively superseded [in the West] until the twelfth century.”³⁰ Even though only official copies of the Theodosian Code were allowed, it was sufficiently widespread that roughly eighty percent of it survives in fragments and as inclusions within the near-contemporary Alaric’s *Breviary* and the later Justinian Code.³¹

Although I have been citing Justinian above, the impact he had on barbarian law is obscure, and probably minimal. The first significant post-imperial law codes—those of the Visigoths, Burgundians, and Franks, including in the first two cases specific laws for Romans—were issued after the Theodosian Code of the mid-fifth century but before the Justinian *Corpus Juris Civilis* of the mid-sixth. Yet even after the issue of the *Corpus Juris Civilis*, Stuart Madden notes that “only the shortest of its three parts, the *Codex*, enjoyed continuous use, if not application, after the fall of the Western Empire.” The remainder of the *Corpus* was “lost or simply ignored until [its] reintroduction in the mid-twelfth century,” even in Spain and Italy, where the Byzantines had the most influence.³²

6.2 The Establishment of New Legal Codes

Major law codes were issued by the Visigoths, Burgundians, Franks (Salian and Ripuarian), Lombards, and Anglo-Saxons. There were laws for other peoples—the Frisians, Alemanni, Saxons, and Bavarians—but, on the one hand, these were all

²⁹Romans: Robinson, *Criminal Law*, 24; barbarians: Drew, introduction to *Laws of the Salian Franks*, 12; Robinson, *Criminal Law*, ix, 1.

³⁰Quotation from Drew, introduction to *Laws of the Salian Franks*, 15; see also Matthews, “Making of the Text,” 19–30, and Watson, *Roman Law*, 83.

³¹Matthews, “Making of the Text,” 19; Boudewijn Sirks, “The Sources of the Code,” in Harries and Wood, *The Theodosian Code*, 64–65.

³²M. Stuart Madden, “Paths of Western Law after Justinian,” *London Law Review* 1 (2005): 370.

outside the former boundaries of the Empire, and on the other were all issued by the hegemonic Franks, rather than by the peoples themselves.³³ Each of these kings responded differently, “to some degree in accordance with the time of their entry into the Empire, but . . . more in accordance with the part of the Empire in which they settled.”³⁴ Grimmer calls the laws of the Franks, Lombards, and Alemanni closer to image than reality, though noting this is not true of the Visigothic and Burgundian laws, which reflected real, on-going lawmaking. Grimmer also believes that Ine’s code fits the pattern of actual lawmaking, and therefore probably more or less represents conditions as they actually were.³⁵

The Visigothic kings were, in P. D. King’s words, “indefatigable” legislators. At least twelve, and possibly fourteen, issued either laws or full legal codes between Theodoric I (reigned 418–451) and Egica (687–702). The first Visigothic law code was issued by Theodoric himself, date uncertain (it is known only by reference). No manuscripts of this code survive, and it is unknown how much of the content survives in later codes. “The earliest surviving laws issued by a Germanic king that can be regarded as constituting a true code are fragments of a code issued by the Visigothic king Euric (466–485) about 481.” Though it applied only to the Visigoths themselves, King calls it the most Romanized of the early Germanic law codes.³⁶ In 506, Alaric II issued the *Lex Romana Visigothorum*, also called the *Breviary*, which applied to the Roman subjects of the Visigothic kings. Alaric’s *Breviary* used much of the *Theodosian Code*, Paul’s *Sentences*, Gaius’s *Institutes*, and “some less important Roman law sources,” and was thus “a very respectable statement of vulgar Roman law.” The *Breviary* was supplanted in Visigothic Spain by the *Lex*

³³Drew, introduction to *The Lombard Laws*, 13.

³⁴Drew, introduction to *Laws of the Salian Franks*, 21.

³⁵Grimmer, “Britons in Early Wessex,” 111–12; on the Franks, Lombards, and Alemanni he is citing Patrick Wormald.

³⁶Drew, introduction to *Laws of the Salian Franks*, 22–23; King, *Law and Society*, 7, gives the year of issue as 476; see also P. D. King, “King Chindasvind and the First Territorial Law-code of the Visigothic Kingdom,” in James, *Visigothic Spain*, 131–32.

Visigothorum Reccesvindiana.³⁷ S. P. Scott called the Visigothic Code “the most remarkable monument of legislation which ever emanated from a semi-barbarian people, and the only substantial memorial of greatness or erudition bequeathed by the Goths to posterity.”³⁸ Floyd Lear notes that “there is little doubt that the [later] Visigothic codes illustrate the transition from a Roman to a Germanic legal basis and the fusion of Roman and Germanic law with greater precision and detail than any other examples in the *leges barbarorum*.”³⁹

Burgundian law consisted of two codes: one for barbarians, commonly referred to as the *Liber Constitutionum*, and one for Romans, called the *Lex Romana Burgundionum*. The conflict between Roman and barbarian legal traditions was particularly strong in Burgundy due to the heavy, long-established Roman presence in the area (previously part of Gallia Narbonensis), but this also allowed the Burgundians to exploit the Roman bureaucracy which survived in the area as they created their laws.⁴⁰ The Burgundian code was almost simultaneous with the *Codex Euricianus* but “clearly follow[ed] Visigothic precedent.”⁴¹ The *Liber Constitutionum* represents a transitional stage of law, and was what Katherine Fischer Drew called the “earliest fusion of the Germanic and Roman law.”⁴² The *Liber Constitutionum* was written in stages, probably between 474 and 516 by the king Gundobad and his son Sigismund. The later additions have a more theoretical or rhetorical style, and seem to be new

³⁷King, “King Chindasvind,” 131; Drew, introduction to *Laws of the Salian Franks*, 23.

³⁸S. P. Scott, preface to *The Visigothic Code* (Boston: Boston Book Company, 1910), xxiv.

³⁹Floyd Seyward Lear, “The Public Law of the Visigothic Code,” *Speculum* 26 (1951): 1. Scott likewise credits four sources, “first, those based on ancient Gothic customs; second, such as were adopted from the Roman jurisprudence; third, the acts of ecclesiastical councils; fourth, edicts of kings, promulgated at different times, according to the various exigencies that arose; all of which seem to have had equal validity”: Scott, preface to *The Visigothic Code*, xxix.

⁴⁰Drew, introduction to *The Burgundian Code*, 4–5.

⁴¹Drew, introduction to *Laws of the Salian Franks*, 24.

⁴²Drew, introduction to *The Burgundian Code*, 7–8. This is in contrast to the essentially Roman Visigothic law: see Lear’s comment above.

law, showing a “trend toward the establishment of a body of royal legislation.”⁴³ The *Lex Romana Burgundionum* was written after the first part of the *Liber Constitutionum*, sometime between 501 and 517, and did not last long, being superseded by Alaric’s *Breviary* on the Burgundians’ defeat in 534.⁴⁴ The *Liber Constitutionum*, however, was “one of the most influential of the barbarian codes,” and it continued to be in force as the personal law of the Burgundian people into the ninth century.⁴⁵

As a result of extensive connections with Rome, the Burgundians, and the Visigoths, the Frankish law—the so-called *Lex Salica*, issued between 507 and 511—demonstrates the influence of Visigothic and Burgundian models. Curiously, however, Roman influence is severely lacking in its content, though Drew says it is “evident that the Frankish rulers had the service of a legally trained Roman bureaucracy.”⁴⁶ In fact, “the Frankish legislation has been recognized for many generations to be the most Germanic of all the barbarian legislation except that of the Anglo-Saxons.”⁴⁷ This may be because Clovis was almost certainly not yet Christian (or at least Catholic) when he first issued his code.⁴⁸ The Franks issued no Roman law, and in fact the Salic law is unusual in that in the areas it provided guidance, it superseded Roman law.⁴⁹ Since little Roman law was actually contradicted (and the Church was wholly unaddressed), however, Roman law must have operated in some capacity, but its nature and administration are unclear.

The first Lombard laws were issued in 643, nearly 80 years after their arrival in Italy, by Rothair. Rothair was an Arian, and anti-Roman in sentiment. He

⁴³Drew, introduction to *The Burgundian Code*, 8–10.

⁴⁴Drew, introduction to *The Burgundian Code*, 5–6; Drew, introduction to *Laws of the Salian Franks*, 24.

⁴⁵Drew, introduction to *The Burgundian Code*, 5–7.

⁴⁶Drew, introduction to *Laws of the Salian Franks*, 7–8, 24–25.

⁴⁷Drew, introduction to *Laws of the Salian Franks*, viii.

⁴⁸Drew, introduction to *Laws of the Salian Franks*, 7. This is also tacitly implied by Shanzer, “Dating the Baptism of Clovis,” 56, which gives a conversion date of Christmas 508; the code was most probably issued in 507.

⁴⁹Drew, introduction to *Laws of the Salian Franks*, 29; Drew, introduction to *Laws of the Salian Franks*, 8.

nevertheless issued a law code which, while consisting “almost entirely [of] Germanic custom,” still reflects Roman influence in its very existence.⁵⁰ Following a series of minor changes, Liutprand issued a “professionalization” of the law between 713 and 735, giving sometimes sophisticated legal reasoning rather than simple statements of action.⁵¹ The Lombards issued no Roman law but recognized existing law as still operational, although Drew also says that the Lombard law courts initially “took no cognizance of Roman law,” so it is not clear how this was handled.⁵² Although Rothair’s Edict was essentially a purely Lombard document, subsequent laws were greatly influenced by Roman law and by the church.⁵³

The laws of the Anglo-Saxons were somewhat uniquely situated and may preserve a stronger original tradition than can be found elsewhere. The major barbarian legal codes on the Continent were not issued until 476 at the earliest, *after* the arrival of the Saxons.⁵⁴ Any influence of these codes on the Anglo-Saxons would have to have happened by communications with the Continent, and although there were some such contacts (Æthelbert himself was married to the Frankish Bertha⁵⁵), the extent of any Continental impact on Anglo-Saxon law is unclear at best. Drew additionally believes that any influence from the surviving Roman culture was weaker than might have been expected because of the retreat of the Romano-British population following the invasion.⁵⁶ She argues that there was thus “no need to retain Roman-law courts or Roman law in Germanic Britain.” One is left with the conclusion that the Anglo-

⁵⁰Drew, introduction to *The Lombard Laws*, 21. Quotation is from Drew, introduction to *Laws of the Salian Franks*, 26.

⁵¹Drew, introduction to *The Lombard Laws*, 17–18, 21; “The Laws of Liutprand,” in Drew, *The Lombard Laws*, 253n13.

⁵²Drew, introduction to *Laws of the Salian Franks*, 26.

⁵³Drew, introduction to *Laws of the Salian Franks*, 26–27.

⁵⁴The Visigothic *Codex Euricianus*, although see King, *Law and Society*, 7: there may have been earlier laws from Theodoric.

⁵⁵Bede, *Ecclesiastical History*, chapter I.25.

⁵⁶While Drew may be correct about the extent of influence, it is highly unlikely to be due to Anglo-Saxon demographic dominance. Thomas et al., “Apartheid-Like Social Structure,” suggest a realistic Anglo-Saxon population as low as 5 percent of the total—see 2653–54 especially.

Saxon laws, in Drew's words, "more closely approach pure Germanic custom than any other early Germanic legislation." In this respect they are most closely related to the Frankish laws, but there is something less Roman about Anglo-Saxon law than any of the laws on the Continent.⁵⁷ At the most superficial level, the Anglo-Saxons were the only barbarian people to use their own language, not Latin, to promulgate their laws. Furthermore, it is worth noting that the Roman abandonment of the island predated any of the major legal developments on the Continent in the fifth and sixth centuries, so that any legal development, Anglo-Saxon or not, would probably have followed a divergent trajectory.

Although there is the "strong possibility that . . . the Ostrogoths under their great king Theodoric . . . participated in the early Germanic legislative activity," with Averil Cameron stating that "the Ostrogothic kingdom had one law for the Goths and another for the Roman population," the Ostrogoths in fact "produced no significant collection of legal materials that has survived."⁵⁸ Any laws that were passed are unlikely to have had much influence due to the short span of the kingdom. However, to judge by the institutions adopted by Theodoric, the Ostrogothic approach to law was likely to have been even more Roman than the Visigothic one. It is worth mentioning the Vandals only to point out that although they possessed a kingdom for roughly 90 years we know very little about their legal work. As with the Ostrogoths, it is likely that they issued some laws, but none have survived.⁵⁹

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⁵⁷Drew, introduction to *Laws of the Salian Franks*, 25–26. See also Patrick Wormald, *The Making of English Law: King Alfred to the Twelfth Century* (Oxford: Blackwell, 1999), chapter 2, which lays out the case for a heavy Frankish influence on English law.

⁵⁸Quotations from Drew, introduction to *Laws of the Salian Franks*, 25, and Cameron, *The Mediterranean World*, 43, respectively; see also Drew, introduction to *Laws of the Salian Franks*, viii. Cameron may have been misled by the common misattribution of the early laws of the Visigothic Theodoric to the Ostrogothic king: see Burns, *History of the Ostrogoths*, 82, and Drew, introduction to *Laws of the Salian Franks*, 22.

⁵⁹Drew, introduction to *Laws of the Salian Franks*, viii, 25. Drew thinks it unlikely that any Vandal laws would have been influential due to the brief span of their kingdom, but note that the *Liber Constitutionum* was one of the most influential early codes and only lasted for 30 years or so as the law of an independent kingdom.

As with the Roman laws, I will survey the various ‘barbarian’ legal codes for the structure of their judicial systems, treatment of violence, family and inheritance law, and the treatment of foreigners. The cultural implications of similarities and differences between the codes will be discussed in the next section.

There were regional *judices* (judges or justices), usually also *duces* or *comites*, with subordinates who filled a sort of officer-of-the-court function.⁶⁰ “Courts” could consist of a single justice or more. Although Burgundian law was personal, it still required cases to be heard by two judges (counts, or *comites*), one Burgundian and one Roman.⁶¹ Among the Franks, a council or jury of seven *rachimburgi* sat on cases and passed judgment; they were required to know and to abide by the law.⁶² In England, Alfred references the rulings of law courts in his preamble, and the laws of Hlothhære and Eadric refer both to accusations before an assembly or meeting and to certain “judges of Kent.”⁶³ The Anglo-Saxons may also have had something that looked rather like the Frankish inquests or juries; whether this was a native innovation or a Frankish, Norman, or Scandinavian import is controversial.⁶⁴

Unlike in Roman courts, guilt was determined by a balance of sworn oaths, by ordeal (usually of boiling water), or by judicial duel.⁶⁵ In the first case, the accused

⁶⁰*Visigothic Code*, chapter II.1.3, 13–6, 18–23; *LC*, preamble.3, I.12; *PLS*, chapters LVI.1–3; “Rothair’s Edict,” title 20, 25; “The Laws of Ratchis,” in Drew, *The Lombard Laws*, chapters 1–2; see also Drew, introduction to *The Lombard Laws*, 8; Drew, introduction to *Laws of the Salian Franks*, 35.

⁶¹*LC*, preamble.13.

⁶²*PLS*, chapters LVI.1–3, LVII. The word itself is peculiar and the origin of the custom unclear, but see Jacob J. Rabinowitz, “The Influence of Jewish Law upon the Development of Frankish Law,” *Proceedings of the American Academy for Jewish Research* 16 (1946): 205–06. See also *PLS*, Capitulary VI, II.5, for something that looks like an inquest of freemen.

⁶³“The Laws of Hlothhere and Eadric,” in F. L. Attenborough, ed., *The Laws of the Earliest English Kings* (Cambridge: Cambridge University Press, 1922), title 8. The identity of these judges is not clear.

⁶⁴Ralph V. Turner, “The Origins of the Medieval English Jury: Frankish, English, or Scandinavian?” *The Journal of British Studies* 7 (1968): 1–10, especially 9–10; “Laws of Hlothhere and Eadric,” title 5.

⁶⁵Drew, introduction to *The Lombard Laws*, 9.

could clear themselves by swearing an oath of innocence, an ostensibly barbarian custom, although note that the Roman emphasis on character witnesses was not wholly different.⁶⁶ Like the Romans, the Visigoths allowed representation by an attorney, and it is implied that such representation existed among the Burgundians as well.⁶⁷ In extreme cases, trial by ordeal was allowed.⁶⁸ The Burgundians and Lombards also made provisions for judicial combat.⁶⁹

Capital punishment was allowed for certain “moral” crimes (Tacitus cites treason, desertion, cowardice, shirking, sodomy) and some extreme instances of murder.⁷⁰ For “lesser” crimes the penalty was a proportionate payment, some to the victim or family (*wergeld* or compensation) and some to the king (a fine); this was to avoid the blood feud, which eventually became prohibited.⁷¹ For slaves, the punishment could include beating, and they could be killed with a lower penalty.⁷² Most of the laws recognized various mitigating and aggravating circumstances. There was generally clemency for accidental death; death in a quarrel resulted in an intermediate punishment.⁷³ In England, Alfred provided no punishment for injury resulting from defending one’s lord or relatives; the Lombards gave explicit immunity for violence on the king’s orders.⁷⁴ On the other hand, pleading ignorance of the law resulted not only in the

⁶⁶*PLS*, chapter XIV.2–3; “Rothair’s Edict,” title 153 et al.; “Rothair’s Edict,” title 366, in turn repealed by “Laws of Ratchis,” chapter 5; “Laws of Hlothhere and Eadric,” titles 9–10; “The Laws of Wiltred,” in F. L. Attenborough, ed., *The Laws of the Earliest English Kings* (Cambridge: Cambridge University Press, 1922), titles 17–24, which required this oath be taken on an altar; “The Laws of Ine,” in Attenborough, *The Laws of the Earliest English Kings*, titles 14–17 and various others.

⁶⁷*Visigothic Code*, chapter II.3.3; *LC*, chapter XXI.

⁶⁸*PLS*, boiling water: chapter XIV.2; *Visigothic Code*, chapter II.1.32; “Laws of Ine,” titles 37, 62. Like the Romans, the Visigoths also allowed torture: *Visigothic Code*, chapter II.3.4; VI.1.2.

⁶⁹*LC*, chapter XLV; “Laws of Liutprand,” title 71.

⁷⁰Tacitus, *Germania*, chapter 12; Drew, introduction to *The Lombard Laws*, 11.

⁷¹Tacitus, *Germania*, chapter 21.

⁷²Tacitus, *Germania*, chapter 25, which states that slaves could be killed with no penalty; Drew, introduction to *The Lombard Laws*, 11.

⁷³*Visigothic Code*, chapter VI.5; *LC*, chapter II.2, XVIII.2; “The Laws of Alfred,” in Attenborough, *The Laws of the Earliest English Kings*, titles 13, 36.

⁷⁴“Laws of Alfred,” titles 42.5–6; “Rothair’s Edict,” title 2.

normal punishment but, at least among the Visigoths, 100 lashes and a scalping!⁷⁵ Among some peoples, concealing a murder made the penalty worse.⁷⁶ There was also a more general notion of breach of the peace; the Burgundians fined entry with violent intent, and the Lombards forbade breach of peace in a church.⁷⁷ The Anglo-Saxons also levied a fine to be paid to the individual whose *mundbyrd* (roughly “protection”) had been violated.⁷⁸

In all kingdoms, the *wergeld* payment varied depending on the person killed, but how it varied was different in every case. Among the Visigoths, Burgundians, and Lombards, it varied by social status; among the Franks, however, it varied by gender and age.⁷⁹ It is worth noting that these correspond to more and less Romanized areas, respectively. The Visigoths had an extensive list of laws (twenty) concerning homicide in various degrees; a slave was worth one-third of a freeman (or half, there is some internal disagreement).⁸⁰ Among the Burgundians and Lombards there were three tiers of freemen, the highest worth twice the lowest, and various grades of slaves.⁸¹ The Franks had a fixed payment for the death of any freeman, but tripled the penalty for a “king’s man.”⁸² Like the other barbarian legal systems, the Anglo-Saxon laws for death and injury were based on compensation paid to the victim or his family. Unlike the Continent, at least initially, *wergeld* was the same for all freemen but varied for freedmen; a more structured class system only emerged over

⁷⁵ *Visigothic Code*, chapter VI.4.5.

⁷⁶ *PLS*, chapter XLI, various titles; “Laws of Ine,” title 35.

⁷⁷ *LC*, chapter XXV; “Rothair’s Edict,” title 35.

⁷⁸ “The Laws of Æthelberht,” in Attenborough, *The Laws of the Earliest English Kings*, titles 5, 8, 13, and 15; “Laws of Ine,” titles 6 and 71; “Laws of Alfred,” titles 3 and 7.

⁷⁹ Tacitus, *Germania*, chapter 12; Drew, introduction to *The Lombard Laws*, 8, 11.

⁸⁰ *Visigothic Code*, chapter VI.5; slaves: chapter VI.4.1 and VI.5.9. In the following discussion I am omitting any specific numbers as there is no basis for comparing the value of money between kingdoms or across time.

⁸¹ *LC*, chapters II.2 and X for slaves of various skills; “Rothair’s Edict,” title 11; “Laws of Liutprand,” title 13. Liutprand’s reasoning is interesting: only men could receive *wergeld*, as it bought off the feud; since women couldn’t feud, they couldn’t receive payment (title 13).

⁸² *PLS*, chapters XV.1 and XLI.1.

time.⁸³

Physical assault was similarly punished by a sliding scale of compensation depending on how severe the resulting injuries were (short of death, as noted above). The titles prescribing these payments frequently made up the bulk of law; in the Lombard and Anglo-Saxon laws, the scope was almost absurd—there were different penalties for breaking different fingers, for instance.⁸⁴ The idea of *wergeld* is an interesting one, and represents one of the biggest differences with later Roman law. Berman notes that “the institution of fixed monetary sanctions payable by the kin of the wrongdoer to the kin of the victim was a prominent feature of the law of all the peoples prior to the twelfth century, and indeed of every Indo-European people at some stage of its development, including the peoples of India, Israel, Greece, and Rome. It is also an important part of the law of many contemporary primitive societies.”⁸⁵

Tacitus wrote that the barbarians of his time had a strict marriage code, and that extramarital sex was punished.⁸⁶ Indeed, marriage seems to have been considered more binding among the barbarians than it was for Romans, at least on the Continent, and in many cases divorce was forbidden completely.⁸⁷ Interestingly, marriage was somewhat less sacrosanct for the Anglo-Saxons and divorce was implicitly al-

⁸³“Laws of Æthelberht,” titles 21, 26. Per Attenborough, *The Laws of the Earliest English Kings*, 177n26.1, the various levels of freedman were unique among the Anglo-Saxons. Æthelbert’s law was also unique in requiring timeliness, with some payment before the funeral and the whole within 40 days: title 22. 75 years after Æthelbert, noblemen were worth three times the value of a commoner; by the time of Ine there were three tiers: “Laws of Hlothhere and Eadric,” title 1; “Laws of Ine,” title 70.

⁸⁴*LC*, chapter V, XXVI, etc.; *PLS*, chapter XVII; “Rothair’s Edict,” title 43–152; *Visigothic Code*, chapter VI.4.1; “Laws of Æthelberht,” titles 33–72; “Laws of Alfred,” titles 44–77.

⁸⁵Berman, “Background of the Western Legal Tradition,” 557–59. He further states that the system of *wergeld* cannot have been purely utilitarian in origin, but reflected the deeper ideological world-view that a man’s honor was bound up in the things he had accumulated (or specifically taken from others): *wergeld* was therefore essentially punitive, not compensatory.

⁸⁶Tacitus, *Germania*, chapters 18–19.

⁸⁷*Visigothic Code*, III.6.2–3; *LC*, XXXIV.2–4.

lowed.⁸⁸ Under Alfred there was some added enforcement of marriage,⁸⁹ although we do not see, as on the Continent, a move towards the total prohibition of divorce. Contrast this with the Romans, where either party had the option of unilateral divorce for moral reasons, and mutual divorce was not restricted. In all cases, women could remarry after the death of their husband.⁹⁰ The status of women could be quite different in barbarian societies. At one extreme, Visigothic women were considered to be legally self-competent: they could represent themselves in court (but could not represent others); husbands could not represent their wives without their permission.⁹¹ Among the Lombards, on the other hand, a woman's freedom was specifically controlled by *mundium*, passed from father to husband and thence to his heirs.⁹² Among the Anglo-Saxons something similar must have obtained, given that marriage was treated as a purchase from the woman's guardian.⁹³ This was similar to the Roman practice, although after her husband's death a woman either reverted to her father's *mundium* or became legally self-competent—under the Lombards, women could not be self-competent.⁹⁴

Sexual misconduct could result in punishment for the man or woman. Among the Burgundians, the cost for sleeping with a woman was her bride price, although subsequent marriage was not necessary. In England, the woman was the one fined.⁹⁵ Adultery was prohibited, although in England it was apparently not based on any Christian morality.⁹⁶ Apparently uniquely among the Anglo-Saxons, and possibly

⁸⁸“Laws of Æthelberht,” titles 77, 82–84; “Laws of Ine,” title 31; “Laws of Æthelberht,” titles 79–81.

⁸⁹“Laws of Alfred,” title 18.

⁹⁰*Visigothic Code*, chapter III.2.1; *LC*, chapter XXIV,1; *PLS*, chapter XLIV,1; “Rothair's Edict,” title 182.

⁹¹*Visigothic Code*, chapter II.3.6.

⁹²“Rothair's Edict,” title 182 et al.; “Laws of Liutprand,” title 120.

⁹³“Laws of Æthelberht,” titles 77, 82–84; “Laws of Ine,” title 31.

⁹⁴“Rothair's Edict,” title 204.

⁹⁵*LC*, chapter LXI; “Laws of Æthelberht,” title 73.

⁹⁶*Visigothic Code*, chapter III.4. *LC*, chapters XXXVI, XLIV. Cf. “Laws of Æthelberht,” title 10, 31: The adulterer had to pay the woman's husband her *wergeld* and pay to furnish another wife—this last requirement was later dropped, but the fine was kept.

on the Continent as well, Alfred provided penalties for various degrees of sexual assault.⁹⁷ Recceswinth's law and later also revisions prohibited what may be called "carnal offenses": originally only pederasty, but under Egica (c.610–c.700) the prohibition was expanded to sodomy more generally. Both were punished by castration of the guilty parties.⁹⁸ The provisions seem to be unique in barbarian law, nor do they trace to ancient Roman law; it is unclear why the Visigoths included this prohibition, unless it demonstrates Byzantine influence (Justinian had outlawed these actions as well). As with Roman law, incest was widely forbidden, but the definition of incest was not clear.⁹⁹

Inheritance law differed among the kingdoms, sometimes dramatically. All of the Continental kingdoms passed laws on inheritance, some of them extensive, but there is essentially no mention of inheritance in the Anglo-Saxon laws. Wills were allowed by the Visigoths, Burgundians, and Lombards; the Franks allowed a pre-death "donation" ceremony that achieved the same effect.¹⁰⁰ There does not appear to have been any restriction on the provisions of Visigothic wills, and heirs could not contest them.¹⁰¹ Burgundian men could not will away the land grants from the original Roman settlement; women could not will away their marriage gift.¹⁰² Lombard women could not will property at all without the consent of their guardian, and neither fathers nor mothers could disinherit a son.¹⁰³

Intestate succession also varied, but usually followed a pattern. Like the Romans,

⁹⁷"Laws of Alfred," title 11. Note that non-virgins were only half as valuable (11.3).

⁹⁸*Visigothic Code*, III.5.5–6. Note that Tacitus also said the barbarians punished sodomy by death: *Germania*, chapter 12.

⁹⁹*Visigothic Code*, chapter III.5.1; *PLS*, chapter XIII.11; "Rothair's Edict," title 185.

¹⁰⁰*Visigothic Code*, chapter II.5.11; *LC*, chapter XIV.7; "Laws of Liutprand," titles 6, 102; *PLS*, chapter XLVI.

¹⁰¹There are no restrictions per *Visigothic Code*, chapter IV.2.20, if there are no children, except this is immediately contradicted by chapter IV.5, so the result is unclear. No contest: *Visigothic Code*, chapter II.5.4.

¹⁰²*LC*, chapter I, and I.1 esp.; XXIV.1.

¹⁰³"Rothair's Edict," titles 204, 169, and 103 respectively.

Visigothic inheritance was equal regardless of gender.¹⁰⁴ Among the other barbarians, the pattern was generally sons-daughters-sisters (the Franks put parents before siblings).¹⁰⁵ As noted, women could generally inherit,¹⁰⁶ with one famous exception: Salic land was forever prohibited from female inheritance (which, as noted in Section 3.3, may have been a specific restriction on allodial land intended to support military service).¹⁰⁷ Citing ancient law, inheritance then flowed to more distant relations.¹⁰⁸

As noted, barbarian law was largely personal. This can be seen explicitly in the Burgundian requirement that Romans be judged by Roman law, and implicitly in the Lombard stipulations that women who marry Romans “become” Roman and that those who become priests follow a different law.¹⁰⁹ Later laws tended to become territorial, mooting the question. The Burgundians treated barbarian and Roman alike, legally speaking.¹¹⁰ Under the Franks, Romans required more oathhelpers than barbarians did, and had only half the *wergeld* value.¹¹¹ Romans were still being called out as late as 596, when Childebert decreed they be fined only half as much as Franks for sabbath-breaking.¹¹² The Lombards never specified the particular differences between Roman and barbarian. This legal separation also meant, for example, Burgundians were forbidden from advocating for Romans in court, and were supposed to stay out of Roman–Roman property disputes,¹¹³ although the remainder

¹⁰⁴ *Visigothic Code*, chapter IV.2.1–2.

¹⁰⁵ *LC*, chapters XIV.1–2, XIV.7; *PLS*, chapter LIX; “Rothair’s Edict,” titles 154, 158–60.

¹⁰⁶ *LC*, chapters XIV.7, XXIV.3; “Rothair’s Edict,” titles 158–60; “Laws of Liutprand,” titles 1–4.

¹⁰⁷ *PLS*, chapter LIX.5; Anderson, “Roman Military Colonies,” especially 143–44.

¹⁰⁸ *Visigothic Code*, chapter IV.2.3–11; *LC*, chapter XIV.2; “Rothair’s Edict,” title 153, which provided for inheritance up to the seventh degree of legitimate kinship—but all were obligated to know their ancestry if they sought inheritance.

¹⁰⁹ *LC*, chapter I.8; *Constitutiones Extravagantes*, in Drew, *The Burgundian Code*, chapter XX; “Laws of Liutprand,” title 127, the first specific mention of Romans in the Lombard laws; “Laws of Liutprand,” title 153.

¹¹⁰ *LC*, chapters II, V, X, XXVI, etc.

¹¹¹ *PLS*, chapters XIV.2 and XLI, respectively.

¹¹² *PLS*, Capitulary VI III.7.

¹¹³ *LC*, chapter XXII, LV.

of the law code speaks to a reasonably well-integrated society. The Franks did not have any legislation preventing contact with the Romans. The Anglo-Saxon laws that address non-Anglo-Saxons (*'wealas'* and *'læts'*) do not seem to have legally segregated these peoples from the English. Perhaps the most extreme reaction to Romans, or foreigners in general, was the Lombard punishment for even doing business with a Roman.¹¹⁴

In fact, the Lombards appear to have held a peculiar distrust of foreigners. Leaving Lombard territory or inviting in outsiders carried the death penalty under Rothair; Ratchis extended the penalty to encompass even sending a representative across the border.¹¹⁵ All merchants were required to have a letter of permission from the judge or king (there were similar restrictions on merchants in England).¹¹⁶ Contrast this with the more benign assumptions of Frankish malfeasance in the Burgundian *Constitutiones Extravagantes*: Franks were not to be trusted when selling slaves, and there appears to have been asylum for Goths fleeing Frankish persecution.¹¹⁷ Even more liberally, the Visigoths explicitly recognized foreign nationality in allowing merchants to be judged by their own laws.¹¹⁸

Despite the differences, there were also some integrating tendencies in most kingdoms. Roman and Burgundian *comites* were commanded to keep justice together. In some cases Roman law was actually set above Burgundian custom.¹¹⁹ Rothair's law was intended to be territorial and all foreigners from outside Lombard territory had to submit to Lombard law.¹²⁰ The later revisions of the Visigothic Code were

¹¹⁴“The Laws of Aistulf,” in Drew, *The Lombard Laws*, title 4.

¹¹⁵“Rothair's Edict,” titles 3, 4; “Laws of Ratchis,” chapter 9.

¹¹⁶“Laws of Aistulf,” title 6. It is not clear whether this applied to all merchants or just foreign ones. See also “Laws of Ine,” title 25, and “Laws of Alfred,” title 34, which strongly imply the subject in the English is foreign traders.

¹¹⁷*CE*, chapters XXI.9 and 4 respectively.

¹¹⁸*Visigothic Code*, chapter XI.3.2.

¹¹⁹Joint justice: *LC*, chapters I.3, 5, and 8; *CE*, chapter XXI.11. Preference for Roman law: *LC*, chapter XVIII.1.

¹²⁰“Rothair's Edict,” titles 386, 367.

also territorial, and unlike the Lombard laws were actually comprehensive enough to have been so in practice.¹²¹ The Visigoths even explicitly allowed Roman-Gothic marriages (the other law codes did not prevent them).¹²² In England, there are no apparent differences between Britons and Saxons after Ine's laws.¹²³

* * *

Legal codes in the post-imperial period began as an attempt at political legitimacy, but evolved over time from kings trying stamping their mark on society into more legitimate (and useful) law. (See Wormald's comment that "Much [early] barbarian legislation, in fact, gives the impression that its purpose was simply to get something into writing that *looked like* a written law-code, more or less regardless of its actual value to judges sitting in court."¹²⁴) As discussed above, where these laws had the chance to be tested by case law and revised by later kings, they evolved into a more practicable legal framework. Not all of these codes got that chance, however, as the fragmented societies and their legal systems began to be consolidated under fewer and fewer kingdoms. Such was the fate, for example, of the Burgundian and Lombard laws: in the best case they survived as the personal law of a conquered people; in the worst (the Burgundian laws, for example) they were simply superseded. Ultimately, Frankish and Visigothic law proved to be the most influential on the Continent.

That Frankish law would be influential is not surprising, given the political hegemony that the Merovingians and Carolingians were able to achieve. Additionally, at the very end of the early medieval period, Charlemagne seems to have conducted

¹²¹*Visigothic Code*, chapter II.1.2.

¹²²*Visigothic Code*, chapter III.1.2. As none of the other codes prevented these marriages—even the anti-Roman Lombards seem to have allowed them—it is not clear why the Visigoths felt it necessary to go out of the way to allow them. Given the more Roman nature of Visigothic law in general, this is perhaps a reaction to the late imperial prohibition on Romans marrying barbarians.

¹²³Grimmer, "Britons in Early Wessex," 114.

¹²⁴Patrick Wormald, "*Lex Scripta and Verbum Regis*: Legislation and Germanic Kingship, from Euric to Cnut," in Sawyer and Wood, *Early Medieval Kingship*, 115, emphasis original.

something of a campaign of lawmaking in parallel with his military conquests. In the twenty years or so around 800, he issued laws for the Frisians and Saxons (the first for either people), consolidated and revised the Salic Law as the *Lex Salica Karolina*, and issued a series of capitularies for the other peoples under his rule, creating what Drew called “a layer of imperial law over the Salic, Visigothic, Burgundian, and east German underneath.”¹²⁵ There are no substantial changes between the Salic law and Charlemagne’s revision.¹²⁶ A separate Frankish code, the *Lex Ripuaria*, was largely based on the *Liber Constitutionum* and the *Lex Salica*. Salic law was also used as the basis for the Frankish preparation of laws for the Alemanni (in the seventh century) as well as the Bavarians, Saxons, Thuringians, and Frisians (in the eighth and ninth centuries).¹²⁷ As a territorial law *Lex Salica* never extended outside northern Gaul, but it survived as the personal law of Franks long enough to be remembered at the time of the French Revolution.¹²⁸

Unlike the Burgundian law, Lombard law survived the Frankish conquest of 774/5.¹²⁹ The Franks went on to supplement these laws until the tenth century; the law remained in effect after the subsequent conquest of northern Italy by the Holy Roman Empire, and was further supplemented by laws issued by emperors from Otto I to Henry II (spanning the years 963–1024). The Lombard laws were finally replaced in the eleventh century by the medieval resurrection of Justinian’s *Corpus Juris Civilis*.¹³⁰ Elsewhere, although the *Lex Visigothorum Reccesvindiana* lost some influence due to the Moorish invasion, it did survive. It was incorpo-

¹²⁵Drew, introduction to *Laws of the Salian Franks*, 10–11.

¹²⁶There are some differences in the penalties assessed—it is unclear whether these represent transmission errors or changes in intent—and a not terribly significant change in inheritance favoring the father’s sisters over the mother’s sisters: *Lex Salica Karolina*, in Drew, *Laws of the Salian Franks*, XXXIV.3.

¹²⁷Wormald, “*Lex Scripta and Verbum Regis*,” 108; Theodore John Rivers, *Laws of the Salian and Ripuarian Franks* (New York: AMS Press, 1986), 9; Drew, introduction to *Laws of the Salian Franks*, 9.

¹²⁸Drew, introduction to *Laws of the Salian Franks*, 30–31.

¹²⁹Drew, introduction to *Laws of the Salian Franks*, 26–27. Drew, introduction to *The Lombard Laws*, 20, prefers the earlier date.

¹³⁰Drew, introduction to *The Lombard Laws*, 21–22.

rated into the thirteenth century *Siete Partidas* of Alfonso X and thus into Spanish national law (by which route it also became part of the law in colonial America). Outside Spain, Alaric's *Breviary* survived in Frankish-controlled areas and became one of the most important sources of Roman law prior to the resurrection of the *Corpus Iuris Civilis* in the eleventh and twelfth centuries. And in England, law took a different track: "Because of its emphasis on development by precedent and in ignoring Roman law, English law came eventually to be unique in Western Europe with different legal rules, divisions of law, legal structures, systematization, and hierarchies of law-makers."¹³¹

6.3 Laws as an Insight into Culture

As Drew noted, "[e]ach of the early Germanic law codes is distinct from the other; and there is a vast difference between the most Romanized of them, the Visigothic, and the most Germanic, the Anglo-Saxon."¹³² Presumably some of these differences trace back to the different evolutionary paths of the law codes, as described above, and as Drew hints at in calling them 'Romanized' and 'Germanic'. Even the personal views of the kings that issued them could have shaped the laws in different ways (the anti-Roman Aistulf is a good example). In their treatment of foreigners (Romans) they perhaps differed the most, the integrated societies of the Visigoths and Burgundians contrasting with the more hostile attitudes of the Franks or Lombards.

Presumably also, however, this cannot be the full explanation. Some of the differences in the laws probably traced back to real cultural differences between the various tribes that founded the kingdoms that introduced them—somewhere, bound up in the laws is an idea of culture that was part of what it meant to be a 'Frank' rather than a 'Lombard'. Unfortunately, distinguishing these types of differences

¹³¹Alan Watson, "The Evolution of Law: Continued," *Law and History Review* 5 (1987): 541.

¹³²Drew, introduction to *Laws of the Salian Franks*, 27.

is most likely an impossible task: *that* differences existed is evident, but *why* they existed is hardly ever clear. To take the example of *wergeld*, for example, it is not terribly surprising to see a status-based structure among the Visigoths, Burgundians, and Lombards. But why were the *wergeld* laws of the Franks and early Anglo-Saxons not status-based? Were these societies truly more egalitarian? Similarly, given persistent discrimination in modern society, it is not hard to imagine a society that values women less than men—but it is hard to envision the differences in social structure that would explain why the Franks and Lombards would value a woman at two to four times more than a man, whereas the Burgundians, Anglo-Saxons, and Visigoths held both sexes to be of equal worth.

* * *

Common exposure to Rome is likely to have smoothed over some of the historical differences between the various peoples (see also Section 4.1). The results of this process can be seen even in Drew’s description of the laws as more or less ‘barbarian’. We may hope to look to differences between these laws—the laws of the Anglo-Saxons or Franks being ‘more barbarian’, for example—for insights into the culture that these peoples (and by extension others) brought with them into the Empire. To pick a particular case, both the Anglo-Saxon and Frankish laws include references to something like a trial by jury. While there were some Roman antecedents, they were generally republican and over five centuries old; the nature of imperial Roman law at the time these laws were drafted indicates that the concept was probably a new introduction (and recall that the Anglo-Saxons probably had little if any direct influence from Roman law).

Differences between them notwithstanding, the early medieval laws also shared a great deal of common culture that did not trace to Roman origins. Their method for handling violence was a payment in lieu of feud, although the value of a person might vary (for several reasons). They typically placed a higher value on marriage and family than did the Romans, and most of the laws had a detailed concept of

inheritance that was decidedly different from the Roman model. All the laws showed an increasing impact of Christianity as they evolved (on which see the next chapter).

Of course, the early medieval laws *do* owe much to their Roman heritage: At a high level, all of these codes were issued by a king, sometimes with the help of a council. All assumed some state judicial function and described, to varying degrees, courts and court procedures. At a more technical level, the details of many laws, particularly the Visigothic ones, trace directly to Rome—many laws in the Visigothic Code are denoted as “*antiqua*” (ancient), meaning Roman.¹³³

This commonality with Roman law, particularly apparent after the kingdoms began to recombine the earlier personal ‘barbarian’ and Roman codes, illustrates the extent of barbarian adoption of Roman institutions.¹³⁴ However, equally extensive changes, including the existence of separate ‘barbarian’ codes in the first place, indicates that the early medieval kingdoms were also innovating and/or adapting Roman institutions to meet their needs.

¹³³Scott, preface to *The Visigothic Code*, xxvii.

¹³⁴See Watson, *Roman Law*, 86.

Chapter 7

The Role of Religion

It might seem odd to end this thesis with a discussion of religion, particularly as this material might ostensibly belong in Chapter 4. However, the deep interconnections between the subjects of the preceding chapters—political institutions, social organization, economics, and the law—are shown nowhere more clearly than in the history of Christianity and the Church in the early medieval period. Religion, and specifically the role of the Church, is therefore a topic worth treating separately.

7.1 The Form and Practice of Religion

In the Roman Empire, public religion evolved from state paganism to increasing support for, and finally enforcement of, Christianity. The actual nature of the transition, and the Empire's relationship to Christianity, was of course more complex. Christianity had been a private, largely underground, religion for the first three centuries of its existence. Only a few years after Diocletian's infamous persecutions, Constantine mandated full tolerance for all religions after his victory the Battle of the Milvian Bridge in 312. In fact, following Constantine, Christianity became the norm in the Empire: all the emperors (except Julian, called the Apostate, ruled

355–63) were Christian.¹

The various barbarian peoples tended to follow slightly more convoluted trajectories. Though most of them ended up Catholic, most also went through a period of Arianism. (Arianism, named after its founder Arius, was a heretical form of Christianity that saw Christ as subordinate to God, and was quite popular in the fourth and fifth centuries among both barbarians and Romans.²) In particular, one of the effects this had, at least initially, was to keep separate the religious structures—organizational as well as theological—of the barbarians and the Romans.³ The major exception is Anglo-Saxon England; the Anglo-Saxons remained pagan alongside the (presumably still Christian) Romano-Britons for well over a century. They did not convert *en masse* until Augustine’s mission of 597.⁴

The Franks, probably still pagan when they entered the Empire, were late in this development. As noted in Chapter 4, Clovis’s conversion is controversial, and he probably first converted from paganism to Arianism. The important fact remains that, despite some early Arianism, the Franks became Catholic; this allowed cooperation with Gallo-Roman bishops who opposed the other, Arian, barbarian groups.⁵

The Goths were certainly Arian; they had been converted before the tribal division by Ulfilas in the fourth century.⁶ The Ostrogoths governed Italy as Arians (and indeed the late capital of Ravenna has many Arian houses of worship).⁷ The

¹Geary, *Before France and Germany*, 12; Joseph H. Lynch, *The Medieval Church: A Brief History* (London: Longman, 1992), 10–17.

²Cameron, *The Mediterranean World*, 16.

³Mathisen, “Barbarian Bishops,” 690–95.

⁴Bede, *Ecclesiastical History*, chapters I.23–33. In fact the conversion of the Anglo-Saxons is an interesting affair, given multiple missions and the controversy between Roman and Celtic forms of worship. It had little bearing, however, on Continental development (until the Anglo-Saxon missions to Germania in the eighth century) and was a result of the unique circumstances of the island.

⁵Drew, introduction to *Laws of the Salian Franks*, 7; see also Shanzer, “Dating the Baptism of Clovis,” and Daly, “Clovis,” especially 623, 639–41.

⁶Wolfram, *History of the Goths*, 75–84.

⁷Wolfram, *History of the Goths*, 325–6.

Visigoths were still Arian when they settled in the Iberian peninsula, and in fact had some difficulty with the local Catholic clergy on account of this.⁸

Not all barbarians were so resolutely Arian, however. Despite previous assumptions of a strong Arian tradition (in Gregory of Tours, among others), Burgundians are attested as practicing Catholicism as well. The last significant king, Sigismund, converted after a pilgrimage to Rome; members of his family had been Catholic before that. Interestingly, even the Arian king Gundobad maintained amicable relations with the Catholic clergy.⁹

The writings of early medieval historians like Gregory of Tours and Bede are full of references to a wide range of Christian heresies, against which these authors spend a great deal of time and invective.¹⁰ Nevertheless, despite these accounts, and despite the prohibitions against heresy in the vast majority of the early medieval legal codes (see Section 7.2), there is no evidence that heretics or heresies played a major role in this period of western European history. Although there were significant theological disputes in the Eastern Empire, the West seemed largely ignorant of these.¹¹

* * *

Chris Wickham notes that “There is no precise date at which we can say with assurance that the ancient church ended and the medieval church began. The transition from one to the other was not an event but a long process.”¹² He similarly argues that both the practice of Christianity and the hierarchy of the Church as an institution survived from the late Empire through to the medieval period “without a break.”¹³

⁸Collins, *Early Medieval Europe*, 153; see also Wolfram, *History of the Goths*, 232.

⁹Gregory of Tours, *History of the Franks*, II.32; Shanzer and Wood, *Avitus of Vienne*, 18–20.

¹⁰Gregory of Tours, *History of the Franks*, and Bede, *Ecclesiastical History*, *passim*.

¹¹Wood, “Gregory of Tours and Clovis,” 269; Shanzer and Wood, *Avitus of Vienne*, 89–91.

¹²Lynch, *The Medieval Church*, 19.

¹³Wickham, *The Inheritance of Rome*, 171, 175.

This continuity carried with it the cultural heritage of the Roman Empire. Paul Fouracre argues that “Catholic continuity was for these centuries the chief conveyor of Roman ideas and institutions to all parts of Europe.”¹⁴ Joseph Lynch likewise cites “normative Christianity, *embodied in sturdy structures* such as the office of the bishop . . . the patriarchates and the conciliar tradition,” as a touchstone for early medieval society.¹⁵ Certainly the Church (particularly the bishopric) became the new refuge of the aristocracy.¹⁶

The role of the Church in this period is debated. Henri Pirenne, and later Peter Brown, saw a more secular Roman society becoming more religious: In some sense late antiquity could initially be characterized by its (partial) separation of church and state power. Particularly the later medieval kingdoms would be more overtly religious in nature.¹⁷ In fact the situation was more nuanced, with Brown noting that the end of “civic paganism” began at the end of the third century, and Pirenne calling the Church “the most striking example of the continuity of Romanism.”¹⁸

In terms of its role in barbarian society, however, the Spanish historians Luis García Moreno and José Orlandis Rovira argue that religion was highly influential, particularly among the Visigoths.¹⁹ Herwig Wolfram finds a middle ground: many barbarians followed the Arian sect of Christianity, and while it may not have been a

¹⁴Fouracre, “Cultural Conformity,” 157.

¹⁵Lynch, *The Medieval Church*, 18, emphasis mine.

¹⁶Cameron, *The Mediterranean World*, 63.

¹⁷Pirenne, *Mohammed and Charlemagne*, 136, 265–66; Brown, *The Making of Late Antiquity*, 11. ‘Separation of church and state’ is an admittedly anachronistic framework.

¹⁸Brown, *The Making of Late Antiquity*, 28–29; Pirenne, *Mohammed and Charlemagne*, 124.

¹⁹García Moreno, “Las invasiones y la época visigoda,” has numerous examples: see 249 for his suggestion that Arianism gave the Goths an identity in the first place (given their otherwise not entirely cohesive nature, it is an interesting suggestion, if hardly provable); 270–71 for the Arian Gothic conflict with Catholic bishops in the late fifth/early sixth centuries; and 321–23 for the impact of religion on Visigothic control of the kingdom in the seventh century. Orlandis, *La iglesia*, goes farther, seeing religion as a deliberate means first of keeping Goths and Romans apart and then of integrating them into one society: 20, 97–98.

defining feature of their culture, it was certainly one which set them apart from the Romans. In general, I am inclined towards something of Pirenne's cynicism, seeing the late antique Church in a primarily organizational capacity rather than a spiritual one.

As much as the Church was the cultural inheritor of Rome, however, the continuity it offered was not absolute, at least with the Eastern Empire. Already in the early sixth century doctrinal disputes were driving a wedge between Rome and Constantinople. Following the catastrophic Gothic Wars, the Church in Italy began aligning itself increasingly with the western powers and Africa against the Eastern Empire, finally severing ties between the two.²⁰

7.2 Emerging Theocracies?

One of the effects of the rise of Christianity in both the Empire and early medieval kingdoms was the imposition of Christianity *per se*. Christianity was made the only legal religion under Theodosius I in 391/2, and the later emperors all ruled on various interpretations of Christian doctrine.²¹ (With respect to Arian Christianity the law is unclear. Arian worship was explicitly allowed in 386 by a ruling of Valentinian II;²² as noted, paganism was outlawed by his successor, but Valentinian's law was included in the code of Theodosius II, so it may have still had force, or Theodosius I may not have intended to outlaw Arianism with paganism. Justinian, however, used the Arianism of the Ostrogoths as a pretext to enlist the Catholic Franks against them.) The effectiveness of this official status is less than certain: a century and a half later, Justinian was still legislating against heretics and Jews—against whom he also instigated what can only be called pogroms—and there are various hints in the acts

²⁰Cameron, *The Mediterranean World*, 122; Wood, "Gregory of Tours and Clovis," 269.

²¹Cameron, *The Mediterranean World*, 64–69; Lynch, *The Medieval Church*, 10–17; see also Mathisen, "Barbarian Bishops," 664.

²²Matthews, "Making of the Text," 37.

of later councils that paganism continued for centuries afterward.²³

Most of the law codes were explicitly Christian in origin, though not always in nature. There are references to God, usually as a lawgiver or benefactor, in virtually all the codes. The Visigoths were the most compulsive about it, but other references appear in the laws of the Burgundians, Franks, Lombards, and Anglo-Saxons. Alfred's preamble leaves no doubt as to the nature of his law, beginning with a long introduction meditating on law throughout Christian history and the growth of church law.²⁴

Because the codes of Euric and Leovigild do not survive in their own right, we do not know how overt their Christianity was, but the later Visigothic Code, as issued by Recceswinth, Erwig, and Egica, was a blatantly Christian document. Christian practice was required, and, for example, all business was legally prohibited on the sabbath, on feast days, etc.²⁵ In fact, the later Visigothic laws demonstrate a unique persecution of heretics and Jews. Heretical practice was punished by the forfeiture of all one's property, and permanent exile;²⁶ Jewish practice was punished by execution.²⁷ Moreover, Jews were cut off from society. A Christian doing business with a Jew suffered a financial penalty; actually defending or supporting a Jew resulted in excommunication and the loss of most or all of one's property.²⁸ All of these persecutions were initiated by Recceswinth, but were reiterated and reinforced by Erwig

²³Cameron, *The Mediterranean World*, 143 and 69, respectively. See also Robinson, *Criminal Law*, 13, citing *Codex Theodosianus* 16.10.4, 16.9.1, 9.7.5, and 16.5.1.

²⁴*LC*, chapter I.1. *PLS*, Capitulary II LXLII. "The Laws of Grimwald," in Drew, *The Lombard Laws*, preamble; from Grimwald all the Lombards did the same. The preambles of all the Anglo-Saxon laws after Æthelbert are similar; see especially Alfred's. See also F. L. Attenborough, ed., *The Laws of the Earliest English Kings* (Cambridge: Cambridge University Press, 1922), 34; Wormald, *Making of English Law*, 481–82.

²⁵*Visigothic Code*, II.1.10.

²⁶*Visigothic Code*, XII.2.2.

²⁷*Visigothic Code*, XII.2.3–12.

²⁸*Visigothic Code*, XII.2.18, XII.2.15, respectively. These prohibitions seem to imply that Jews could live in Visigothic territory so long as they did not actually (or at least openly) practice their religion.

in his re-issuance of the Visigothic Code.²⁹ S. P. Scott saw in them “the foundation of the Spanish Inquisition and its diabolical procedure.”³⁰

Contrast this with the other barbarian kingdoms, whose law codes, with one exception, make no mention of Jews (the Burgundians singled out Jews only in the case of assault on a Christian³¹). In fact, the other law codes may have derived in part from interaction with the Jews: at least one scholar, Jacob Rabinowitz, saw some striking similarities with Jewish law in the later laws of the Franks and Lombards, particularly in the areas of contracts, purchases, and specifically mortgages.³² Rabinowitz even saw the origins of the otherwise singularly Frankish council of *rachimburgs* in a similar Jewish construct.³³

In England, Bede credits the first imposition of Christianity *per se* to Eorcenberht, c.640.³⁴ Under Ine, merely being a Christian gave one a legal advantage: non-Christian oaths only counted half as much.³⁵ However, Ine also required baptism.³⁶

In addition to imposing the religion itself, early medieval laws also legislated on Christian practice and the Church. At the most basic level many of the laws provided some protection for churches, either physically or as a place of sanctuary. The Franks penalized burning a basilica; no other people seems to have felt this prohibition necessary, but the Lombards and Anglo-Saxons protected the church’s

²⁹*Visigothic Code*, XII.3.

³⁰Scott, preface to *The Visigothic Code*, xv.

³¹*LC*, CII.

³²For the Franks see Rabinowitz, “Influence of Jewish Law,” and for the Lombards Jacob J. Rabinowitz, “Jewish and Lombard Law,” *Jewish Social Studies* 12 (1950): 299–328.

³³Rabinowitz, “Influence of Jewish Law,” 205–06. His argument is based on similarities in the name, function, and number of the *rachimburgs*.

³⁴Bede, *Ecclesiastical History*, chapter III.8; this code has not survived.

³⁵“Laws of Ine,” title 15. The word Attenborough actually uses in his translation is “communicant,” which I interpret as “Christian.”

³⁶“Laws of Ine,” title 2. Baptism was required within 30 days, or the parents owed a fine; if the child died unbaptized, the parents lost all their property. This either represents a concern for the well-being of souls totally unique in early medieval law, or a shrewd excuse to grab property in a high-death-rate society.

property and fined the breach of peace.³⁷ The Franks likewise enforced the sabbath, as did the Anglo-Saxons (who also required Lent).³⁸ All three also prohibited the violation of sanctuary.³⁹

On the other hand, the Burgundians made no mention of Christian practice, and the only concession made in the Lombard laws is the requirement to take oaths on the Gospels.⁴⁰ In fact, the anti-Roman Lombard king Aistulf issued a series of laws which seem to reinforce that the Church should not be treated specially in terms of compensation, loss of property, oaths, etc., and may have forbidden priests from entering a Lombard's house without the permission of a judge,⁴¹ but even these laws suggest a more widespread integration of the Church in Lombard society.

In England the kings took a greater interest in the management of the Church than did those on the Continent. There were multiple attempts to control the behavior of the clergy.⁴² Under Ine we see the first required tithing among the barbarians: all were required to pay what F. L. Attenborough translates as "church dues," of an unspecified type or amount.⁴³

* * *

Not only were Christianity and Christian practice required, the Church itself began to acquire enormous power. The Church became legally distinct from the rest of society, with ecclesiastical courts, and clergy recognized as a separate, privileged class. The Church even acquired some power of arbitration.⁴⁴ This development was

³⁷ *PLS*, chapter LXVb; "Rothair's Edict," title 35; "Laws of Æthelberht," title 1; "Laws of Alfred," title 6: theft from a church carried only the standard fine, but did forfeit the thief's hand.

³⁸ *PLS*, Capitulary VI III.7; "Laws of Wihtred," titles 9–13; "Laws of Ine," title 3; "Laws of Alfred," titles 5.5 and 40.

³⁹ *PLS*, Capitulary II LXL; this was overturned by Childebert: *PLS*, Capitulary VI II.1; "Rothair's Edict," title 272; "Laws of Liutprand," 143; "Laws of Ine," title 5; "Laws of Alfred," titles 2 and 5.

⁴⁰ "Rothair's Edict," title 359.

⁴¹ "Laws of Aistulf," titles 16–19, 23; the last may be spurious.

⁴² "Laws of Wihtred," titles 6–7; "Laws of Ine," title 1; "Laws of Alfred," title 21.

⁴³ "Laws of Ine," titles 4, 61.

⁴⁴ Robinson, *Criminal Law*, 12, citing from *Codex Theodosianus* 16.2.12 and 41; 1.27.1-2.

not unlike that of the aristocracy, and in fact the Church and the élites were drawn into the same cultural orbits.⁴⁵ The early medieval laws similarly showed protection or privilege for the institution of the Church. Among the Visigoths, for example, clerics were given preferential treatment over the laity and it was made illegal to impersonate a cleric.⁴⁶

The Church also accumulated wealth and power through its role as a landlord. It was the largest land-owning institution after the Roman Empire—and the largest in the wake of the Empire’s demise. Additionally, churches and monasteries probably also enjoyed greater rights over their land than did lay owners. Certainly they sought to protect their wealth and status, negotiating exemptions from the taxes and feudal duties owed on their land (see also Section 4.3).⁴⁷

“At the same time,” notes Fouracre, “the Church was able to adapt itself to the changing conditions in post-Roman society, one of which was its own social and political importance which everywhere grew, if only by default of other structures. Imbued with wealth and power, church leaders were magnates on a par in wealth and social status with secular leaders. There followed, not surprisingly, an aristocratisation of the church leadership, and because the same families supplied both ecclesiastical and secular leaders, there was a sanctification of some elements of the aristocracy, as there was too of royalty. With one or two exceptions, the saints of early medieval Europe were as much a social as they were a religious élite.”⁴⁸ The same “cultural orbits” binding powerful lay and clerical figures that Wickham cited in late antiquity equally pertained (probably, continued) to the early medieval period.

The cumulative effect was that “The post-imperial aristocracy made increasing

⁴⁵Wickham, “The Other Transition,” 14.

⁴⁶*Visigothic Code*, III.4.18, III.5.3.

⁴⁷Wickham, “The Other Transition,” 14, 21; see also Reynolds, *Fiefs and Vassals*, 60–64. Susan Reynolds does caution that this apparent bias in favor of Church ownership and Church privilege may be skewed by the fact that most surviving early records are from Church lands: 62–63.

⁴⁸Fouracre, “Cultural Conformity,” 157.

use of the Church in maintaining its power.”⁴⁹ This dependence continued a late Roman trend and saw in particular the use of clergy as secular authorities. Bishops had seen their secular power increase even under the late Empire, but the early medieval period saw the development of legal jurisdiction over the laity. Under the Visigoths, bishops were even given supervisory authority over secular justices (how this was received by the Visigothic *duces* who served as justices is not clear).⁵⁰ To some extent, this sort of dependence or cooperation was probably essential, given that the Church remained one of, if not the, biggest power player throughout the early medieval period. (This is not to say the Church could not find itself on the losing side of a power struggle: Charles Martel seized Church lands throughout Francia in the early eighth century; his reasons for doing so are not entirely clear, though they have been linked to the re-appropriation of the land to his military supporters.⁵¹)

As Fouracre put it, “We can now see how dependent political authority was upon legal and religious support. In both fields notions of public authority deriving from the Roman world were kept alive, and the Church in particular provided institutional continuity with that world.”⁵² The influence of the Church was relatively new, and it was pervasive, touching not only on its ostensible domain of religion or theology but also secular governance and law, and spilling over into its considerable economic power. Although the term ‘theocracy’ may be too strong a label, it is perhaps not amiss to see in the early medieval kingdoms at least hints of what Richard Neuhaus dubbed a ‘clerocracy’.⁵³

⁴⁹Halsall, *Barbarian Migrations*, 497.

⁵⁰Cameron, *The Mediterranean World*, 61–64; Reynolds, *Fiefs and Vassals*, 60; *Visigothic Code*, II.1.28.

⁵¹Lynn White, Jr., *Medieval Technology and Social Change* (Oxford: Oxford University Press, 1962), 10–11; Halsall, *Warfare and Society*, 71–75.

⁵²Fouracre, “Cultural Conformity,” 158.

⁵³Richard John Neuhaus, *The Naked Public Square: Religion and Democracy in America*, 2nd ed. (Grand Rapids, Mich.: Wm. B. Eerdmans, 1986), 166.

Chapter 8

Conclusions

8.1 Assessment of the Argument

The barbarians, who had not necessarily arrived in the Empire in a manner conducive to integration, were nonetheless able to fit into the Roman society and class structure. There were elements of Romanization in barbarian culture, and vice versa. As the barbarians were established in kingdoms and grew in strength, they made use of existing administrative and political structures. Around them the economy continued to evolve along the same lines it had been following already for a century. This section will summarize the arguments of the preceding chapters; the next will draw conclusions about the nature of the post-imperial transition.

The way the barbarian peoples were accommodated by the Empire shows a progression from cross-border raiders to settled *foederati* to increasingly autonomous kingdoms. As the systems of power became increasingly decentralized, the barbarian peoples were able to leverage themselves via these structures into late Roman society more broadly. Over the course of late antiquity, the barbarians also began to adapt the administrative institutions they had taken over to their own purposes. The various kingdoms seem to have differing success in successfully employing this

administrative inheritance, but they all relied on it. These kingdoms were hierarchical systems based around kingship backed by a senate or council; while the particular forms varied, and none truly reflected the Roman model after the sixth century, the result exhibits a blending of Roman and barbarian traditions. Keeping in mind that the barbarians were originally settled to provide military service, the transition from late antiquity to the early medieval period also saw the militarization of society, as well as a change in how military service was organized and paid for. Rather than the professional standing armies of the Empire, military service was secured through assignment of either land or cash support, an institutional arrangement that begins to look like feudalism. There was likewise both continuity and change in imperial fiscal institutions. Roman tax structures were adapted to become the basis of the medieval seigneurial system and, as noted, may have been adapted to handle the new military structure. At the same time, the economy transitioned from being primarily tax-based to primarily rent-based.

Just as official administrative institutions became more decentralized, so too culture became more local throughout late antiquity. On the one hand, barbarian and Roman social structures blurred and adapted into each other; on the other, the previous imperial culture began to fragment, leading to increasing regionalization. This “downward” trend created autonomy, ending in some cases with largely self-governing settlements of free peasants. Cities also survived, if in reduced form, and were likewise more independent, but also less influential, retaining in most cases only a local social or administrative role. This localization also resulted in the growth of feudalism, or at least feudal-like structures. As various political and economic pressures drove society away from its traditional arrangement, late antique patronage became something like personal lordship. This combined with a newly dominant system of land use, whereby ownership of land was increasingly ceded to the more powerful, while the less powerful used the land in return for rents or services.

The story of the post-imperial European economy is superficially a negative one.

Like political administration and social structures, the post-imperial economy underwent a period of localization that did not really begin to turn around until the Carolingian era. Unlike government and society, however, the economy is more strictly defined by its interconnectedness, so that such decentralization really may seem to represent a loss. Certainly, decreased or absent central control and thus less coordination meant more localized economic activity, including a return to diversification of agriculture and industrial production. However, this in fact represented the continued evolution of a longer trend. Pirenne was thus both right, in that the economy survived the impacts of the barbarians, and wrong, in that the imperial economy had already been on a downward trend for some time. Trade networks and exchange systems did survive. They may have been reduced, sometimes substantially, in scope, but trading centers were being established and expanded throughout this time. By the Carolingian period international merchants were once again an established class. The major waterways remained important trade routes, with use of the Mediterranean only being lost—perhaps curtailed is a better word—by the rise of Islamic piracy; the major rivers and northern seas remained open.

The laws of the early medieval kingdoms represent an interesting look into the competing and sometimes contradictory influences on the early medieval kingdoms. In that they were issued by more or less central states, under the *imprimatur* of a king and/or legislative council, and ruled on by a judicial system bearing marked similarities to the later imperial magistracy, the laws represent a continuation of Roman administrative institutions. Their content, however, gives a glimpse into newly introduced or emerging social and economic structures. Each law was different, and reflected the norms (or at least the royal intentions) of its kingdom. Despite their differences, the early medieval laws also shared a great deal of common culture. Some of this was obviously inherited from the Romans, and the extent of this heritage identifiable centuries later illustrates the depth of medieval adoption of Roman institutions. Some of the commonalities in early medieval law, however—including the existence of separate ‘barbarian’ codes in the first place—also reflect a real in-

roduction of non-Roman, ‘barbarian’ culture (the concept of blood vengeance and *wergeld* is one notable example). In fact, due to the melding of these two traditions, by the time of Charlemagne the earlier imitations had given way through innovating and/or adaptation into new forms of law. To some extent, this was a natural outcome of the sophistication and organization required to manage increasingly large states, and in many ways, the various early kingdoms had to reinvent the legal wheel (the re-territorialization of law, for instance).

One distinctive feature of this period, first identified by Edward Gibbon, was the increasing influence of the Catholic Church—but whether that was for barbarian cultural reasons, an increasing religiousness, or a relative rise in influence due to the loss of the central state is unclear. What is clear is that the Church became integral to the medieval kingdoms, gaining in power and influence throughout late antiquity and the early middle ages. The barbarians, all of whom had been pagan or Arian on entry into the Empire, converted to Catholicism—in some cases, like the Franks, it seems clear that this was to exploit or at least share in the Church’s power. The Church as an institution shared a cultural history with the aristocracy, and the ties between them led both to the aristocratization of the Church and to the sanctification of secular power. The Church, always a major landholder, became involved in the emerging feudal (or feudal-like) social and administrative structures. Its officials increasingly filled secular roles, particularly in justice.

8.2 Conclusions and Themes

This thesis has proposed that the barbarian kingdoms of post-imperial western Europe were built on and out of the late imperial structural framework. Furthermore, it has argued that the institutions we think of as medieval—more localized power systems and economies and the beginnings of what may be called feudalism—in fact stemmed directly from trends begun under the Empire.

The evolution of social and political systems—the role of the barbarians within the Empire, and how their political and class structures changed—plainly reflects a lengthy and complex adaptation, both before and after the end of the Empire. The barbarians were at least partially integrated into Roman society, which in turn influenced their own cultural self-perception. The barbarians made use of existing administrative and political structures. These changes in themselves are no longer particularly controversial. The full implications of the process are debated; however, it is not always even clear whether the evolution of the Roman system was driven by the barbarians as barbarians, or by the mere fact of the Empire's interaction with external parties.

Economically, we can likewise see high-level continuity. Sometimes this continuity was direct inheritance, sometimes it can only be seen through a continuous process of adaptation. Overall, however, the economic transition can largely be characterized as a process of incremental evolution rather than revolutionary change. It is in the economy, in fact, that we can see the greatest evidence for Roman continuity, and it is perhaps not surprising that those historians like Walter Goffart who have looked at economic issues have also been the ones most prominently arguing for continuity. The issuance of barbarian laws is perhaps the clearest example of the intrusion of a coherent barbarian culture into a Roman past. Though the laws display their differences, they also reflect a clear commonality of barbarian, non-Roman culture. Even here, however, it is clear that the laws owe a large debt to Rome, in both form and substance.

* * *

Though I have in this thesis characterized the transition from late antiquity to the early middle ages as one of essential continuity, that continuity was obviously not absolute. Historians like Wolfram and Walter Pohl have argued that we can trace clear barbarian cultural heritage from literally prehistoric times, and that this culture is what shaped the evolution of Europe after the Roman Empire. This is far from clear. Nonetheless, as noted above, there are clear traces of common 'barbarian'

culture; one theme of the transition is therefore the ‘barbarization’ of the Empire: the Vienna and Toronto Schools are both right, to an extent.

In fact, as Katherine Fischer Drew observed, regarding the survival of the different barbarian peoples, “it is a curious fact that those barbarian kingdoms that went furthest in the direction of compromise and assimilation did not ultimately create a lasting political life, whereas those kingdoms that retained a stronger Germanic flavor and made fewer concessions or none at all to the Roman population were longer lasting.”¹ The Ostrogoths and Burgundians, who settled closest to the heart of the empire and made the most significant accommodations, lasted the briefest, both kingdoms being defunct by the middle of the sixth century. The Vandals, Lombards, and Visigoths all made varying degrees of concessions, and lasted somewhat longer. The Franks and Anglo-Saxons, both pagan at entry, settling farther from Rome, and making little if any accommodation, lasted substantially longer as political entities and significantly shaped the countries that became France and England. (We should not necessarily draw too strong a conclusion from Drew’s observation: The Ostrogoths and Vandals were crushed by the Eastern Empire even as they attempted to retain much of the western imperial structure, and of course the Visigoths had built a fairly robust kingdom before they, too, were defeated by the Moors in the early eighth century.)

‘Barbarization’ notwithstanding, another theme that we may see is that the elements we now see as medieval were almost entirely present within the Empire itself. Within the context of the barbarian invasions, the weakening of the central imperial state, and the economic trends of the fourth and fifth centuries, Romans and barbarians alike worked to adapt imperial institutions but also, when necessary, replace them. This trend holds true in the political, social, economic, legal, and religious domains—though, as above, in some areas more than others.

The final two related themes that appear are the trends first towards localiza-

¹Drew, introduction to *The Lombard Laws*, 13–14.

tion or regionalization of society at all levels, and second towards the sorts of social relationships that we can call feudalism. Although the traditional concept of feudalism is perhaps too specific to be truly applicable, especially in light of recent scholarship, understood more broadly feudalism remains the most useful framework for understanding this transformation. Specifically, feudalism remains the best way to understand the coordinated (or at least interlocking) processes of the local consolidation of power by the aristocracy (both lay and clerical); the localization of governmental functions, including in the extreme a type of personal lordship; and the replacement of taxes and cash payments with rents and payments in kind or in service. Particularly when we consider the tying of land grants (or rent revenues from land grants) with the provision of military service, it is hard to deny the association with the traditional understanding of feudalism—and we need look no further than the original settling of barbarians as *foederati* in the fifth century to see the beginnings of this process.

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