

MAKING AGREEMENTS
IN MEDIEVAL CATALONIA

Power, order, and the written word, 1000–1200

ADAM J. KOSTO



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INTRODUCTION

On 6 July 985, the armies of the Cordoban dictator al-Manṣūr breached the walls of Barcelona and sacked the city. The Arabic chroniclers give the impression that this was just another successful raid, and there is no reason to believe that al-Manṣūr thought any differently. It was, after all, his twenty-third campaign in just nine years.¹ From the perspective of Barcelona, however, the event was of capital importance, not only because of its effect on the city itself, but for its impact on the imagination of her inhabitants. An early and strong historiographical tradition sees in the events of 985 a formative step in the creation of a Catalan national identity. After the Carolingian reconquest of Barcelona in 801, Charlemagne organized the region between the Conflent and the Ebro River into the Spanish March. Over the course of the ninth and tenth centuries, Barcelona came to predominate over the other counties in the region. While the counts remained loyal to the faltering Carolingian house, they began to operate in an ever more independent fashion. The last Frankish military expeditions into the area took place in the 820s; Guifré I “the Hairy” of Barcelona (878–97) was the last count to be appointed by a Frankish king, Guifré II of Besalú (941–57) the last to swear fidelity. Following al-Manṣūr’s attack, Borrell II of Barcelona, reversing his earlier policy, appealed to the Frankish court for aid. By 988, when an offer of assistance in return for renewed promises of fidelity finally arrived, Borrell had lost interest. The Catalan counties went their own way; 985 was the last straw.²

¹ Manuel Sánchez Martínez, “La expedición de Al-Manṣūr contra Barcelona en el 985 según las fuentes árabes,” in *Catalunya i França*, 293–301; Luis Molina, ed., “Las campañas de Almanzor a la luz de un nuevo texto,” *Al-Qantara* 2 (1981), 249–50. Muḥammad ibn Abī ‘Āmir, or al-Manṣūr, was from 978 to 991 the *hadjib*, or chancellor, to the powerless caliph Hišām II (976–1009, 1010–13). He turned the title over to his son ‘Abd al-Malik, though he continued to rule until his death in 1002. ‘Abd al-Malik, in turn, ruled in the name of Hišām until his own death in 1008.

² Bisson, *Medieval Crown*, 19–23; Josep Maria Salrach, *El procés de formació nacional de Catalunya (segles VIII–IX)*, 2 vols. (Barcelona, 1978); Ramon d’Abadal i de Vinyals, *Els primers comtes catalans*, *Història de Catalunya*, Biografies catalanes, 1, [3rd ed.] (Barcelona, [1980]); Paul H. Freedman, “Symbolic Implications of the Events of 985–988,” in *Symposium internacional*, 1:117–29, and works cited there. In 1988, the autonomous government of Catalonia held millennial commemorations.

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We may discount parts of this tradition as court propaganda, but it is harder to ignore a document from within two years of the event that attests to its immediate impact:

In the year of the Lord 986, the thirty-first year of Lothar's rule, on the kalends of July, a Wednesday [1 July 985], Barcelona was besieged by the Saracens and, with God's leave, and with our sins hindering [the defense of the city], it was captured by them in the same month, on the sixth, and all of the inhabitants of the city – and those of its county, who had entered the city on the order of the lord-count Borrell, for the purpose of guarding and defending it – all died or were taken captive; and all of their property was destroyed, whatever they had assembled there . . .³

Though recovery was in fact relatively rapid – Borrell II's son led a raid on Córdoba in 1010 – in the closing years of the tenth century Barcelona remained an abandoned frontier outpost of a fragmenting Carolingian empire. The principal city of the region lay in ruins, and Catalonia did not as yet exist.

On 12 September 1213, Borrell II's direct descendant Pere I suffered another defeat, losing his life in the battle of Muret while leading forces against Simon de Montfort and the knights of the Albigenian Crusade. But by now the count of Barcelona was no longer just one of many in a loosely organized frontier region; he had become the ruler of a confederation of counties that had for a century been called Catalonia. Furthermore, this confederation had been united since 1137 with the realm of Aragón: the count was also a king. Pere's ancestors had long pursued interests north of the Pyrenees and had played a major role, alongside the kings of Castile, in the *Reconquista*. The political community had recently begun the process of organizing the assemblies known as the Corts. And the city that lay in ruins in 985 was now a Mediterranean commercial capital of the greatest importance. Much had changed in two and one-quarter centuries.⁴

This dramatic growth of the power of the count of Barcelona, the influence of his region, and the importance of his city in the eleventh and twelfth centuries rested on fundamental changes in Catalan society. These changes were in the first instance economic: Catalonia took part in the general expansion of the European economy in this period, and

³ *DBarcelona* 172: “Annus Domini DCCCCLXXXVI, imperante Leuthario XXXI anno, die kalendas iulii, IIII feria, a sarracenis obsessa est Barchinona et, permittente Deo, impediante peccata nostra, capta est ab eis in eadem mense, II nonas, et ibidem mortui uel capti sunt omnes habitantibus de eadem ciuitate uel de eiusdem comitatu, qui ibidem introierant per iussionem de dompno Borrello comite, ad custodiendum uel defendendum eam; et ibidem periit omnem substantiam eorum, quicquid ibidem congregauerant . . .” See also Michel Zimmermann, “La prise de Barcelone par Al-Mansûr et la naissance de l’historiographie catalane,” *Annales de Bretagne et des pays de l’Ouest* 87 (1980), 194–201.

⁴ Bisson, *Medieval Crown*, 23–57.

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its location on the sea and on a frontier gave it a particular advantage.⁵ More important, however, was the ability of Catalonia to capitalize on its new prosperity. This required a restructuring of the social order to allow the ruling classes to transform prosperity into power. The history of power and social order in the eleventh and twelfth centuries is likewise a European, rather than a particularly Catalan problem.⁶ That history is best examined in different ways in different regions, by taking advantage of the peculiar characteristics of the available evidence. What Catalonia offers for evidence is a wealth of archival records. This material can often seem lifeless, especially because the documentary riches of the region are not matched by a similar abundance of narrative sources. Nevertheless, certain highly descriptive records can compensate for the absence of narrative accounts, allowing studies to move beyond the presentation of patterns without context. For questions of power and social order in this period, one subset of these records is particularly rich: the written agreements known as *convenientiae*.

The phrase “Hec est convenientia . . .” (“This is the agreement . . .”) opens hundreds of documents from the eleventh and twelfth centuries preserved in the archives of Catalonia. The substance of the documents and the status of the persons they concern vary widely: agreements detailing the terms of tenure of a castle from a count, or of a simple plot of land from a monastery; peace treaties between great lords, or settlements between brothers concerning division of an inheritance; promises to be faithful, or grants of right of first refusal of purchase of a property. Despite this variety, or perhaps because of it, *convenientiae* determined a social and political order.

This study developed from the detailed examination of approximately 1,000 of these *convenientiae*. The documents themselves prompted a first series of questions. When did the *convenientia* first appear in the Catalan counties? What were its sources? What were the reasons for its appearance and the rhythms of its diffusion? How did the various types of agreements to which scribes applied the label *convenientia* develop, and how and why did the distinctions among these various types gradually dissolve amidst a breakdown in formulae? The answers to these questions form an interesting story in themselves. They provide a window on the inner workings of scribal culture and a case study of semantic and diplomatic development and change. Such a study, however, would be incomplete; these narrower questions about documentary typology and language

⁵ Robert Fossier, *Enfance de l'Europe, X^e-XII^e siècles: Aspects économiques et sociaux*, 2nd ed., 2 vols., Nouvelle Cléo 17, 17bis (Paris, 1989), 2:615–799.

⁶ E.g., Thomas N. Bisson, ed., *Cultures of Power: Lordship, Status, and Process in Twelfth-Century Europe* (Philadelphia, 1995).

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must serve only as a foundation for a broader examination of the changing associations of individuals and communities over time. Thus a second series of questions focuses not on the documents themselves, but on the legal, social, political, and economic structures for which they provide detailed evidence. What explains the appearance, development, and spread of the institutions and relationships described in these agreements? How did these structures persist over time? How did they change? How did they operate within various segments of society? How may they be seen as providing the bases of social and political order? These are the larger historical problems that justify the close scrutiny of the *convenientiae*. This second story, however, is inseparable from the first, for in reconstructing the history of a society, it is essential to understand the nature of the evidence that was generated by and, in turn, helped to shape that society.

CATALONIA AND ITS NEIGHBORS

Regional studies run the risk of isolating an area under consideration from its wider context. This observation is particularly true for studies of late- and post-Carolingian Europe, where regions, rather than nation-states and empires, are increasingly seen as the proper units of analysis. The muses of regional historiography in the twentieth century always saw the method as a means to an end, however, and if regional studies are to prove useful, they must remain conscious of what lies beyond.⁷ By accidents of geography and politics, Catalonia's context in this era was particularly complex.⁸ Histories of the region point to a turn away from the Carolingian dynasty toward Rome and Córdoba as the principal development of the period. The appearance of the Venetian doge-turned-saint, Pietro Uresol, and his companion Romuald at Sant Miquel de Cuixà in the 970s; Gerbert d'Aurillac's contemporary residence at Santa Maria de Ripoll; embassies to Córdoba in 950, 956, 961x66, 971, and 974; meetings of Catalan counts with the Ottonian emperors at Rome: these are all indicators of Catalonia's "opening up to the world."⁹ The travels of Sunyer, monk of Cuixà (950), and then of Bishop Guisad of Urgell, Abbot Arnulf of Ripoll, and Count Sunifred of Cerdanya (951) to the papal court marked an important opening on a different front, and the relationship between Catalonia and the papacy became a crucial

⁷ E.g., Marc Bloch, "Pour une histoire comparée des sociétés européennes," *Revue de synthèse historique* 46 (1928), 45-47; Georges Duby, *La société aux XI^e et XII^e siècles dans la région mâconnaise*, 2nd ed. (Paris, 1971; repr. 1988), 7.

⁸ For a concise survey of physical and human geography, see Freedman, *Origins*, 20-25.

⁹ Bonnassie, *La Catalogne*, 1:325-61; Abadal i de Vinyals, *Els primers comtes*, 305-38.

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factor not only in the religious history of the region, but also in its political development.¹⁰ While valid, this approach views the Catalan counties as a peripheral region, dependent on distant power centers.¹¹ The relations between the counties and their immediate neighbors, both across the Pyrenees and on the Iberian Peninsula, were in fact much more significant for the fate of the region.

The establishment of the Spanish March assimilated the Catalan counties into the Carolingian empire. Connections to the North were not new, as Visigothic rule had straddled the Pyrenees, and the Catalan counties shared with their neighbors in Septimania a traditional adherence to Visigothic law. From a Parisian perspective, they remained technically a part of the West Frankish and then French kingdom until 1258, when Louis IX abandoned his claims to the counties of Barcelona, Urgell, Besalú, Rosselló, Empúries, Cerdanya, Conflent, Girona, and Osona in the Treaty of Corbeil.¹² From Barcelona, as suggested above, the situation looked rather different; Capetian rights were long moribund, if not extinguished, by the millennium. If juridically independent, however, the Catalan counties remained nevertheless a part of the late- and post-Carolingian world, more closely attached to that milieu than to their Iberian neighbors. The notarial habits of Catalan scribes provide an apt symbol of the region's position. Despite the de facto political break from the Carolingian and Capetian dynasties, dating clauses refer to the regnal years of French kings until 1180; scribes in the rest of the peninsula, including Aragón after the union, employed the Spanish Era.¹³

¹⁰ Paul Kehr, *Das Papsttum und der katalanische Prinzipat bis zur Vereinigung mit Aragon*, Abhandlungen der preussischen Akademie der Wissenschaften, Jahrgang 1926, Philosophisch-historische Klasse, no. 1 (Berlin, 1926); Thomas Deswarte, "Rome et la spécificité catalane. La papauté et ses relations avec la Catalogne et Narbonne (850–1030)," *Revue historique* 294 (1995), 3–43.

¹¹ Julia M. H. Smith, *Province and Empire: Brittany and the Carolingians*, CSMLT, 4th ser., 18 (Cambridge, 1992), and Smith, "Fines imperii: The Marches," in Rosamond McKitterick, ed., *The New Cambridge Medieval History*, vol. 2, c. 700–c. 900 (Cambridge, 1995), 169–89, are particularly insightful on this issue.

¹² Alexandre Teulet et al., eds., *Layettes du Trésor des chartes*, 5 vols. (Paris, 1863–1909), no. 4411 (3:405–8). France reacquired Rosselló and part of Cerdanya through the Treaty of the Pyrenees (a. 1659); see Peter Sahlins, *Boundaries: The Making of France and Spain in the Pyrenees* (Berkeley, 1989), 25–60. The president of France, as the political "heir" of the count of Foix, maintains a foothold in the Pyrenees as joint head of state, alongside the bishop of Urgell, of the Principality of Andorra. The sovereignty of Foix/France and Urgell, rooted in treaties of 1278 and 1288 (the *Pariatges*), was extinguished only with the adoption of the Andorran constitution of 4 May 1993 and a trilateral treaty of 3 June 1993. See Jorri Duursma, *Fragmentation and the International Relations of Micro-States: Self-Determination and Statehood*, Cambridge Studies in International and Comparative Law 2 (Cambridge, 1996), 316–73.

¹³ Anscari M. Mundó, "El concili de Tarragona de 1180: Dels anys dels reis francs als de l'Encarnació," *Analecta sacra Tarraconensia* 67:1 (1994), xxiii–xlili; Alvaro d'Ors, *La era hispánica*, Mundo antiguo 1 (Pamplona, 1962), 8 n. 5. The allegiance implied here is more cultural than political. Cf. Heinrich Fichtenau, "'Politische' Datierungen des frühen Mittelalters," in Herwig

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The northern orientation of the Catalan counties is evident, too, in palaeography; while Aragonese documents maintain strong Visigothic influence, the *escritura condal* of tenth- and eleventh-century Catalan documents is a purer caroline minuscule.¹⁴ Catalonia also followed a particular path in linguistic development, both in terms of the vernacular and Latin. As Roger Wright observes, “For practical purposes it can be regarded as a part of the Frankish and European area,” meaning that in contrast to the rest of the Iberian Peninsula, Romance and Latin became distinct well before 1100.¹⁵

The ecclesiastical history of the region explains these palaeographical, linguistic, and notarial traditions. After the fall of the Romano-Visigothic metropolitan see of Tarragona in 714, and despite premature attempts at its restoration, the dioceses of the Catalan counties – Barcelona, Urgell, Vic, and Girona – became subject to the jurisdiction of the archbishop of Narbonne; these ties only became stronger with the notorious purchase of that office by the count of Cerdanya for his ten-year-old son sometime before 1019.¹⁶ Administrative and cultural links were thus to the Carolingian church, rather than to the remnants of its Visigothic counterpart; while the western Pyrenean kingdoms resisted Benedictine monasticism and Roman liturgy until the late eleventh century,¹⁷ these took root in Catalonia from the ninth century. Although Cluny lacked direct jurisdiction in the region, leading abbots established monastic con-

footnote 13 (*cont.*)

Wolfram and Anton Scharer, eds., *Intitulatio*, 3 vols., Mitteilungen des Instituts für österreichische Geschichtsforschung, Ergänzungsband 21, 24, 29 (Graz, 1967–88), 2:453–548; Michael Borgolte, *Geschichte der Grafschaften Alemanniens in fränkischer Zeit*, Vorträge und Forschungen, Sonderband 31 (Sigmaringen, 1984), 29–77; Jean Dufour, “Obédience respective des Carolingiens et des Capétiens (fin X^e siècle–début XI^e siècle),” in *Catalunya i França*, 21–44; Michel Zimmermann, “La datation des documents catalans du IX^e au XII^e siècle: Un itinéraire politique,” *AM* 93 (1981), 345–75.

¹⁴ Zacarías García Villada, *Paleografía española* . . . , 2 vols., Publicaciones de la Revista de filología española 6 (Madrid, 1923), 1:243–57.

¹⁵ Roger Wright, *Late Latin and Early Romance in Spain and Carolingian France*, ARCA Classical and Medieval Texts, Papers and Monographs 8 (Liverpool, 1982), 146–50; and below, pp. 152–56.

¹⁶ Élisabeth Magnou-Nortier, *La société laïque et l’Église dans la province ecclésiastique de Narbonne (zone cispyrénéenne) de la fin du VIII^e à la fin du XI^e siècle*, Publications de l’Université de Toulouse–Le Mirail, ser. A, 20 (Toulouse, 1974), 463–65; *HGL* 5:251. Independent bishops appear in the western counties of Pallars and Ribagorça from 888, and in 956 the archbishop of Narbonne recognized an independent diocese at Roda. Roda was destroyed in 1006; it was restored in 1068 under the protection of the king of Aragón. See Ramon d’Abadal i de Vinyals, “Origen i procés de consolidació de la seu ribagorçana de Roda,” trans. Gaspar Feliu i Montfort, in Abadal i de Vinyals, *Dels Visigots als Catalans*, ed. Jaume Sobrequés i Callicó, 3rd ed., 2 vols., Col·lecció estudis i documents 13–14 (Barcelona, 1986), 2:57–139; Bisson, *Medieval Crown*, 14.

¹⁷ The cultural impact is explored in Bernard F. Reilly, ed., *Santiago, Saint-Denis, and Saint Peter: The Reception of the Roman Liturgy in León-Castile in 1080* (New York, 1985); for Aragón, see Bisson, *Medieval Crown*, 13–14.

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federations along the Burgundian model that included monasteries on both sides of the Pyrenees.¹⁸ The marriage practices of the Catalan comital families confirm these northern leanings. The families all descended from Bello, a count of Carcassonne under Charlemagne, and after a brief period of endogamy, they looked back across the Pyrenees for marriage partners. Between 930 and 1080, twenty-two of thirty Catalan countesses came from outside the region, mostly from Languedoc, Auvergne, La Marche, Provence, and Burgundy; marriage alliances with the Christian kingdoms of the peninsula, while they did occur, were rare.¹⁹

Catalonia's strongest ties were to the North, but it also looked to the South. The relationships between the counties and peninsular Islamic powers passed rapidly through five distinct stages.²⁰ From the establishment of the frontier in 801 to the mid-tenth century, contact was limited to the occasional visit and the slightly more frequent raid; the politics of interest for the Catalan counties in this period were not so much the central powers in the South as the independent and occasionally rebellious governors of the northern marches, such as the Banū Qasīm of Zaragoza. The establishment of the caliphate under 'Abd al-Raḥmān III (912–61) eliminated these buffer areas, and from 950, the counts of Barcelona established direct diplomatic, economic, and cultural contacts with Córdoba. The dictatorships of al-Manṣūr (978–1002) and his son, 'Abd al-Malik (1002–8), ruptured whatever political ties had developed; Catalan sources report devastating raids in 985, 1000–1001, and 1003. From c. 1010, the political dynamic changed once again, with the dissolution of the caliphate into the *taifa* realms. The Catalan counties entered into and broke alliances with various Islamic and Christian factions in the subsequent years; their closest ties were with the coastal kingdoms of Málaga and Dénia and the adjacent polities of Zaragoza, Huesca, Lleida, and Tortosa. While this fluid situation continued into the late eleventh century – the Cid ruled in València until 1099, for example – from c. 1060 Castilian policy, papal intervention, the conquest of Toledo (1085), and the Almoravid response transformed the peninsular world once again; in the twelfth century, Catalonia was increasingly part of a united Christian front in the *Reconquista*. Despite these vicissitudes, throughout much of this period Catalonia's southern frontier remained very stable: Carolingian

¹⁸ Anscari M. Mundó, "Moissac, Cluny et les mouvements monastiques de l'Est des Pyrénées du X^e au XII^e siècle," *AM* 75 (1963), 551–70.

¹⁹ Aurell, *Les noces du comte*, 38–64.

²⁰ Bonnassie, *La Catalogne*, 1:340–59; Abadal i de Vinyals, *Els primers comtes*, 183–208, 327–44; José María Lacarra, "Aspectos económicos de la sumisión de los reinos de taifas (1010–1102)," in *Homenaje a Jaime Vicens Vives*, 2 vols. (Barcelona, 1965–67), 1:255–77.

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forces withdrew from Tarragona in 809; the city was definitively restored only in the first decades of the twelfth century.²¹ Another constant in Catalonia's relationship with the South, at least from 950, was economic contact. Mercenary wages, ransoms, piracy, and the regime of tribute payments (*parias*) kept money and goods flowing even during times of conflict; Islamic gold fueled Catalonia's first economic takeoff.

With the exception of the often independent western counties of Urgell, Pallars, and Ribagorça,²² Catalonia's involvement in Iberian politics before the twelfth century was almost entirely defined by these relationships with the Islamic South. The progress of the *Reconquista* created closer ties between Catalonia and the Christian kingdoms, but only slowly; such contacts leave few traces before the twelfth century. Alliances, whether military or matrimonial, were few and far between.²³ Religious contacts operated solely through the occasional pilgrimage or pious bequest to Santiago de Compostela; Catalan bishops rarely met or even corresponded with their peninsular counterparts.²⁴ Castilian fabrics listed in the inventory of a Catalan baron attest to economic contacts, but these, too, were limited; Catalonia's trading interests looked north, south, and east. Most importantly, the counts of Barcelona resisted submission to potential hegemons, whether Sancho III Garcés of Navarre (1000–1035), Alfonso VI of León-Castile (1065–1109), or his grandson Alfonso VII (1126–57).²⁵ This independence allowed for Catalonia's less consistently belligerent stance toward her *taifa* neighbors. Counts and barons of the western regions were the first to be drawn into Aragonese and Castilian adventures from the 1060s.²⁶ Berenguer Ramon II of Barcelona followed, joining Aragón, Navarre, and the *taifa* states of Lleida and Tortosa in attacking the Zaragoza of the Cid in 1082. The marriage of the future Ramon Berenguer IV of Barcelona (1131–62) to Petronilla of Aragón sealed not only the formation of the Catalano-Aragonese confederation, but also Catalonia's deeper involvement in peninsular politics. Ramon Berenguer IV's collaboration with Alfonso VII in expeditions against Murcia (1144) and the conquest of Almería (1147), followed by his own capture of the remaining Islamic outposts of Tortosa (1148), Lleida (1149), and Fraga (1149), signaled the end of

²¹ Lawrence J. McCrank, "Restoration and Reconquest in Medieval Catalonia: The Church and Principality of Tarragona, 971–1177" (Ph.D. diss., University of Virginia, 1974).

²² *Pallars i Ribagorça*, pp. 71–224; Ferran Valls i Taberner, "Els orígens dels comtats de Pallars i Ribagorça," *Estudis universitaris catalans* 9 (1915–16), 1–101; Fernando Galtier Martí, *Ribagorça, condado independiente: Desde los orígenes hasta 1025* (Zaragoza, 1981).

²³ Bonnassie, *La Catalogne*, 1:135; Aurell, *Les noces du comte*, 61–64.

²⁴ Bonnassie, *La Catalogne*, 1:332–34; Nathaniel L. Taylor, "The Will and Society in Medieval Catalonia and Languedoc, 800–1200" (Ph.D. diss., Harvard University, 1995), 328 (Figure 5.1).

²⁵ Bonnassie, *La Catalogne*, 2:707, 795–96, 839–47.

²⁶ Bonnassie, *La Catalogne*, 2:665 n. 61, 789, 864–65.

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an era. From then on, frequent treaties and squabbles with the Christian kingdoms marked Catalonia as a full partner in the *Reconquista*.²⁷

Further expansion in southern France in the twelfth century brought Catalonia into contact with such distant powers as England, the German empire, Italian city-states, and even Byzantium.²⁸ The most important influences on Catalonia, however, were always closer at hand. Administrative ties to Septimania and the strength of Carolingian traditions have encouraged the study of Catalonia as an extension of the empire, rather than as one of the Christian kingdoms of the peninsula.²⁹ Still, the region was not simply an appendix to Languedoc. The separate linguistic developments of Catalan and Occitan provide one proof; the distinct relationships between the papacy and the Catalan counties, on the one hand, and the other dioceses of the province of Narbonne, on the other, show this as well.³⁰ Furthermore, Catalonia shared the pressures and opportunities of the frontier with the Christian kingdoms in a way that it could not with lands north of the Pyrenees. Institutions, such as the archaic social structures of mountain enclaves, and movements, such as the repopulation of the plains below, are better understood in an Iberian context.³¹ Thus Catalonia falls between two well-defined historical (and historiographical) frameworks. A third – the Mediterranean world – is rapidly establishing itself as an alternative model. All three must be kept in mind in following the region's internal development.

FEUDALISM IN ELEVENTH- AND TWELFTH-CENTURY CATALONIA

The aspect of that internal development studied here is the changing role of written agreements in Catalan society in the eleventh and twelfth centuries. This is not in the first instance a study of feudalism in Catalonia.

²⁷ Andrea Büschgens, *Die politischen Verträge Alfons' VIII. von Kastilien (1158–1214) mit Aragón-Katalonien und Navarra: Diplomatische Strategien und Konfliktlösung im mittelalterlichen Spanien*, Europäische Hochschulschriften, Reihe 3, Geschichte und ihre Hilfswissenschaften, 678 (Frankfurt am Main, 1995).

²⁸ Ernest Marcos Hierro, *Die byzantinisch-katalanischen Beziehungen im 12. und 13. Jahrhundert unter besonderer Berücksichtigung der Chronik Jakobs I. von Katalonien-Aragon*, *Miscellanea Byzantina Monacensia* 37 (Munich, 1996), esp. 57–76, offers a survey of Catalano-Aragonese involvement in “international” politics in the second half of the twelfth century.

²⁹ In addition to Roger Wright's observation above, n. 15, see Roger Collins, *Early Medieval Spain: Unity in Diversity, 400–1000*, 2nd ed. (New York, 1995), 263: “Catalonia . . . was patently distinguishable from the rest of the peninsula.” He rightly goes on to note, however, that “this should not obscure the fact that it was one amongst several parts of a greater whole.” Cf. Jean Dunbabin, *France in the Making, 843–1180* (Oxford, 1985), 78.

³⁰ Antoni M. Badia i Margarit, *La formació de la llengua catalana: Assaig d'interpretació històrica*, 2nd ed. (Barcelona, 1981); Deswarte, “Rome et la spécificité catalane.”

³¹ Bonnassie, *La Catalogne*, 1:77–78, 129.

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Yet the subject matter and particularly the sources of this study implicate it in two heated controversies over the topic. The first of these is the debate concerning the “transformation of the year 1000” (*mutation de l’an mil*) or the “feudal revolution.” This model stems primarily from the studies of Georges Duby. Duby’s earliest work demonstrated the persistence in Burgundy until the year 1000 of a system of justice based on a Carolingian public order. Between 1000 and 1030, this jurisdiction collapsed, giving way to the private exercise of formerly public powers. In his landmark *thèse* on the Mâconnais (1953), Duby showed that additional changes occurred around the year 1000: the end of ancient slavery, the proliferation of castles and oppressive regimes of lordship, the rise of a knightly class, the suppression of a once free peasantry, and the reorganization of aristocratic families into lineages. Duby’s initial findings have been confirmed and extended, with minor chronological variations, in a number of important French regional studies.³² Challenging this model of rapid and radical change, proponents of continuity argue that “mutationism” exaggerates the notion of public order before the year 1000 and the extent of the violence after that date. The distinction between a monolithic ancient slavery and an equally monolithic free peasantry before the millennium oversimplifies a highly complex situation. Likewise, the idea of the rise of the knightly class is spurious. Too much of the argument rests on reading changes in language as evidence for changes in institutions, and changes in the nature of documentation as evidence for changes in society.³³ The *convenientia* has attracted the attention of partisans of both sides of the debate. Pierre Bonnassie described the *convenientia* as one of the three elements with which counts and princes throughout southern Europe reconstituted public authority after the millennial crisis.³⁴ On the other hand, Dominique Barthélemy,

³² Georges Duby, “Recherches sur l’évolution des institutions judiciaires pendant le X^e et le XI^e siècle dans le sud de la Bourgogne,” *Le Moyen Âge* 52 (1946), 149–94; 53 (1947), 15–38; Duby, *La société aux XI^e et XII^e siècles*. A synthesis and bibliography may be found in Jean-Pierre Poly and Eric Bournazel, *La mutation féodale: X^e–XII^e siècle*, 2nd ed., Nouvelle Clio 16 (Paris, 1991).

³³ Dominique Barthélemy, *La mutation de l’an mil a-t-elle eu lieu?: Servage et chevalerie dans la France des X^e et XI^e siècles* (Paris, 1997); Barthélemy, *La société dans le comté de Vendôme de l’an mil au XIV^e siècle* (Paris, 1993). This rather spirited debate may be followed in the pages of the *Revue historique de droit français et étranger* (Jean-Pierre Poly and Eric Bournazel, “Que faut-il préférer au ‘mutationnisme’? ou le problème du changement social,” 72 [1994], 401–12; Dominique Barthélemy, “Encore le débat sur l’an mil!” 73 [1995], 349–60; Jean-Pierre Poly and Eric Bournazel, “Post scriptum,” 73 [1995], 361–62) and *Past & Present* (Thomas N. Bisson, “The ‘Feudal Revolution,’” 142 [1994], 6–42; Dominique Barthélemy, Stephen D. White, Timothy Reuter, Chris Wickham, and Thomas N. Bisson, “Debate: The ‘Feudal Revolution,’” 152 [1996], 196–223; 155 [1997], 177–225).

³⁴ The other two were vassalic engagement and the fief. Pierre Bonnassie, “Du Rhône à la Galice: Genèse et modalités du régime féodal,” in *Structures féodales et féodalisme dans l’Occident méditerranéen (X^e–XIII^e siècles): Bilan et perspectives de recherches: École française de Rome, 10–13 octobre 1978*, Colloques internationaux du Centre national de la recherche scientifique 588 (Paris, 1980), 37–38.

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whose study of the Vendômois is the strongest statement to date against Duby's model, has written, "That the 'private' convention, in apparent rupture with the law, flourished in the eleventh century is, to my mind, a purely documentary fact." His statement drew a rather pointed response from the other side: "this is to fly in the face of the evidence."³⁵ A study of the *convenientia*, therefore, necessarily contributes to the debate over the year 1000.

Bonnassie's masterly study of tenth- and eleventh-century Catalonia apparently established the region as the strongest example of the mutationist model, as even opponents of that model acknowledge. Bonnassie posited the continuity of public order, based on traditions of comital authority and Visigothic law, up to *c.* 1020; slavery persisted, as well, while the free population comprised an independent peasantry and nobles who recognized the count as their leader. The latter were bound to the count by fidelity (not vassalage or homage), which was a natural obligation, rather than one formed by agreement; the fief (*fevum*) existed only as a grant of public lands or revenues in return for service. For Bonnassie, around the year 1000, there was nothing feudal about Catalonia. From the late tenth century, economic growth, based on increased agricultural production, but encouraged, as well, by an influx of Islamic gold, generated a scramble for profits, with aristocratic lineages fighting each other, groups of peasants, and the counts for control. It is in these years of crisis (1020–60) that there appeared private armed clienteles (*milites*), remunerated with private fiefs, and bound to their superiors by homage and oaths of fidelity. This same period witnessed the enserfment of the once free peasantry, now laboring under the impositions of rapacious lords (*seigneurie banale*). Comital justice collapsed and was replaced by private pacts between lineages (*convenientiae*). From 1060, Ramon Berenguer I of Barcelona recovered, reestablishing comital authority, but he did so by using the elements that had developed among the aristocracy in the period of crisis. The count now granted fiefs, accepted homage and oaths of fidelity, and entered into pacts. In doing so, he abandoned the peasantry, his responsibility under the old order, to the whims of the aristocracy. As Bonnassie concluded, "by 1100, Catalonia has the appearance of a fully feudal society."³⁶

A quarter century of research has inevitably revised portions of this picture. Josep Maria Salrach has studied how the establishment of the new "feudal order" of the eleventh century was preceded by and linked to the gradual breakdown of the "ancient order" over the course of the

³⁵ Dominique Barthélemy, "La mutation féodale a-t-elle eu lieu? (Note critique)," *Annales: Économies, sociétés, civilisations* 47 (1992), 773; Bisson, "The 'Feudal Revolution,'" 41.

³⁶ Bonnassie, *La Catalogne*; summarized in Bonnassie, "Du Rhône à la Galice," 19–23 (quotation at 23).

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ninth and tenth centuries. Gaspar Feliu has challenged a number of aspects of Bonnassie's model of the socioeconomic order of Catalonia in the tenth century, especially with respect to the personal status of the peasantry and the role of independent farmers in the process of agricultural expansion. Jeffrey Bowman argues for elements of continuity in disputing practice of the tenth and eleventh centuries. Martin Aurell's periodization of the marriage practices of the Catalan counts posits breaks at 930 and 1080, ignoring the *an mil*. Working in the other direction, Paul Freedman shows that Bonnassie's period of crisis is only a "point of origin" for the enserfment of the peasantry, a process he describes as occurring in distinct stages over the course of the eleventh to fourteenth centuries. Stephen Bensch highlights an economic decline in the period 1090–1140, demonstrating that the eleventh century was not the key period in the commercial and urban development of Barcelona.³⁷ This research, while not denying the fact of significant change, extends its chronological framework; a new order did replace an old one, but not overnight.

This more nuanced position is less dramatic, but it is certainly a better reflection of reality. The more we learn about the tenth and earlier centuries throughout Europe – and not simply in France, which has been the focus of the debate – the more it is clear that there were elements of continuity, whether of court cultures, literacy, or modes of dispute settlement. On the other hand, there is ample evidence for significant change in the early eleventh century, whether in self- and group perception, the proliferation of violent lordship, or responses to that violence such as the Peace of God.³⁸ The ideas of mutation, revolution, transformation, adjustment, and persistence reasonably apply to certain developments in certain regions in certain decades of the tenth and eleventh centuries. In other words, the changes during this period, while widespread, were neither monolithic nor unidirectional. General interpretations of the period must attempt to address that heterogeneity and embrace the fundamental complexities of medieval societies. The debate over the year 1000 – and it is a worthwhile one – will best be served by

³⁷ Gaspar Feliu i Montfort, "Societat i economia," in *Symposium internacional*, 1:81–115; Josep Maria Salrach, "Entre l'estat antic i el feudal. Mutacions socials i dinàmica político-militar a l'Occident carolingi i als comtats catalans," in *Symposium internacional*, 1:191–252; Bowman, "Law"; Aurell, *Les noces du comte*; Freedman, *Origins*; Bensch, *Barcelona*.

³⁸ C. Stephen Jaeger, *The Origins of Courtliness: Civilizing Trends and the Formation of Courtly Ideals, 939–1210* (Philadelphia, 1985); Rosamond McKitterick, ed., *The Uses of Literacy in Early Medieval Europe* (Cambridge, 1990); Wendy Davies and Paul Fouracre, eds., *The Settlement of Disputes in Early Medieval Europe* (Cambridge, 1986); Patrick J. Geary, *Phantoms of Remembrance: Memory and Oblivion at the End of the First Millennium* (Princeton, 1994), esp. 178; Thomas Head and Richard Landes, eds., *The Peace of God: Social Violence and Religious Response in France around the Year 1000* (Ithaca, 1992); Bisson, "The 'Feudal Revolution.'"

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research that transcends its current polarized state. This study is conceived with that ultimate goal in mind.

In the face of this complexity, studies of the tenth to twelfth centuries must be careful in using the language of change and continuity in order to avoid assimilation into one of those opposed and potentially totalizing constructs. Much of this study focuses on transformations in structures of power, particularly comital power. Here there is no question that there was change. Crisis is not too strong a characterization of the internal political developments of the house of Barcelona in the mid-eleventh century. Ramon Borrell died in 1017, leaving a minor heir, Berenguer Ramon I; no fewer than five major political disputes erupted in the period 1018–23. Berenguer Ramon's own death in 1035 inaugurated another minority, that of Ramon Berenguer I; within a decade of his accession, rebels were lobbing missiles from the clock tower of the cathedral against the comital palace, barons were deserting the comital host, and a frontier lord was attempting to carve out a county of his own from the territory of Barcelona. The turmoil lasted until 1058. This crisis of comital power was not limited to Barcelona, though comital troubles in Pallars and Cerdanya began later and lasted longer.

These internal political crises did not, however, reflect or lead to a wholesale collapse of the social order. In contemporary *external* political developments, to consider just one aspect of the region's history, Berenguer Ramon I's reign witnessed victories and advances on the frontier, and the regime of *parias* that provided Ramon Berenguer I with the funds to solve his internal problems began with his assaults on Lleida and Zaragoza around 1045.³⁹ The problems of the counts did, of course, have consequences for their ability to exercise power and dispense justice, and those problems in turn had ramifications beyond the comital court and host. Those ramifications must be understood, however, in terms of more gradual changes in the nature of justice and comital power that had been occurring from before the millennium, changes that fit uncomfortably with the abrupt terminology of crisis. The interaction of scribal culture with these changes makes the *convenientia* an illuminating source, but its appearance corresponds to these developments – both crisis and more gradual change – in a more complex fashion than has been suggested. Extracting the *convenientia* from the master narrative of millennial mutation makes possible a more complex reading of Catalonia's history.

Intertwined with this debate over periodization is another, even more intricate discussion of various concepts of feudalism, both as a set of institutions regulating relationships between lords and men, and as a broader

³⁹ Sobrequés, *Els grans comtes*, 27–28, 62–64.

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set of social and economic structures characteristic of medieval Europe.⁴⁰ The debate has progressed on three fronts. First, some have attacked the utility of the “historical construct” of feudalism, arguing that vassalage and the fief as they are discussed by modern historians have little relationship to medieval realities. Modern notions of these institutions, as well as ideas about their historical development, are based on an academic law that was not an organic outgrowth of earlier medieval customs.⁴¹ Few would deny the artificiality of feudalism or its status as a generalization; opinions differ widely on the damage done by reference to the model. The present study, dealing as it does in specifics and in building rather than imposing models, can afford to sidestep the purely semantic aspects of this question.

A second polemic addresses notions of public order, especially as opposed to private exercise of power, and the transition from one situation to the other.⁴² Here too, modern constructs are in question. The modern statist public/private distinction in early medieval Europe is an anachronism, but ideas of legitimacy, openness, accessibility, law, and their opposites are not. Still, in most cases, these notions seem hopelessly intertwined. What does it mean to suggest that former agents of public authority began to act in a private capacity when there is no change in their behavior? Is a bishop from a family of counts presiding over a tribunal that decides in favor of one of his relatives acting as a public or a private figure?⁴³ What about a king donating land to a monastery in return for prayers for his soul? Even in such situations, however, the terms “public” and “private” serve to highlight aspects of a composite whole; no one has yet developed a suitable alternative language with which these ideas might be expressed. Here, too, avoiding totalizing frameworks is helpful. A principal problem with the debate over the *mutation de l’an mil* is the assumption that public is equivalent to order, while private is equivalent to violence and chaos.⁴⁴ If this were in fact the case, it would be impossible for the *convenientia* (seen as private) to contribute to order (seen as public). But this is precisely what it did.

⁴⁰ Francophone scholars distinguish *féodalité* from *féodalisme*.

⁴¹ Elizabeth A. R. Brown, “The Tyranny of a Construct: Feudalism and Historians of Medieval Europe,” *American Historical Review* 79 (1974), 1063–88; Susan Reynolds, *Fiefs and Vassals: The Medieval Evidence Reinterpreted* (Oxford, 1994).

⁴² See the works cited above, n. 33, and Fredric L. Cheyette, “The Invention of the State,” in Bede Karl Lackner and Kenneth Roy Philp, eds., *Essays on Medieval Civilization*, The Walter Prescott Webb Memorial Lectures 12 (Austin, 1978), 143–78. Matthew Innes offers a particularly useful discussion of the issue in *State and Society in the Early Middle Ages: The Middle Rhine Valley, 400–1000*, CSMLT, 4th ser., 47 (Cambridge, 2000), 254–59.

⁴³ Adam J. Kosto, “Oliba, Peacemaker,” in Imma Ollich i Castanyer, ed., *Actes del Congrés internacional Gerbert d’Orlhac i el seu temps: Catalunya i Europa a la fi del 1r mil·lenni: Vic-Ripoll, 10–13 de novembre de 1999*, Documents 31 (Vic, 1999), 135–49.

⁴⁴ Bowman, “Law,” 349–60.

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Third, there is the debate about the nature of “Mediterranean feudalism.” The dominant models of feudalism, enshrined in the classic works of Marc Bloch and François-Louis Ganshof, were developed on the basis of evidence from the lands between the Loire and the Rhine; when institutions did not appear in the same forms in evidence from the southern lands, the feudalisms of this latter region were labeled incomplete or “skin deep,” pale imitations of their northern analogues. More recent research has examined Mediterranean social structures on their own terms and has identified a rather vital and distinctive set of institutions, leading some to claim that it is the northern model that must now be viewed as incomplete.⁴⁵ Others argue for a widespread survival of Roman traditions in the South, delaying the appearance of any type of Mediterranean feudalism until well into the twelfth century. Among the latter, Élisabeth Magnou-Nortier stands out for her descriptions of completely nonfeudal Occitania, a vision that stands in stark contrast to Bonnassie’s fully feudal Catalonia of c. 1100.⁴⁶ The agenda for this line of research is suggested by recent trends in urban historiography, where a new focus on Mediterranean towns is recasting older models based on the northern European experience.⁴⁷ An examination of the evidence for the “classical model” of feudalism, informed by a deeper awareness of southern phenomena, will lead to a fuller understanding of social structures and institutions throughout Europe.

Just as the *convenientia* is central to the debate over mutationism, it must also play a leading role in these discussions of feudalism, for the topics addressed by many of these written agreements are precisely those with which much historical scholarship on feudalism has concerned itself: mutual bonds of subordination and dependence, homage, fidelity, jurisdiction, and contracts of military service. Descriptions of feudo-vassalic

⁴⁵ Pierre Toubert, “Les féodalités méditerranéennes: Un problème d’histoire comparée,” in *Structures féodales*, 1–13, and the other studies collected in that volume; *Les structures sociales de l’Aquitaine, du Languedoc et de l’Espagne au premier âge féodal: Toulouse 28–31 mars 1968* (Paris, 1969); Josep Maria Salrach, “Les féodalités méridionales: Des Alpes à la Galice,” in Eric Bournazel and Jean-Pierre Poly, eds., *Les féodalités* (Paris, 1998), 313–88; A. Malpica and T. Quesada, eds., *Los orígenes del feudalismo en el mundo mediterráneo*, 2nd ed. (Granada, 1998). The nature of Iberian feudalism has been the subject of its own vigorous polemic; see, e.g., Abilio Barbero and Marcelo Vigil, *La formación del feudalismo en la Península Ibérica*, 2nd ed. (Barcelona, 1979).

⁴⁶ Magnou-Nortier, *La société laïque*; Magnou-Nortier, “La terre, la rente et le pouvoir dans les pays de Languedoc pendant le haut Moyen Âge,” *Francia* 9 (1981), 79–115; 10 (1982), 21–66; 12 (1984), 53–118.

⁴⁷ Bensch, *Barcelona*, 6–12; Philip Daileader, *True Citizens: Violence, Memory, and Identity in the Medieval Community of Perpignan, 1162–1397*, *The Medieval Mediterranean* 25 (Leiden, 2000); Martin Aurell, “La chevalerie urbaine en Occitanie (fin Xe–début XIII^e siècle),” in *Les élites urbaines au Moyen Âge: XXVIF Congrès de la S.H.M.E.S. (Rome, mai 1996)*, Collection de l’École française de Rome 238, Publications de la Sorbonne, Série histoire ancienne et médiévale, 46 (Rome and Paris, 1997), 71–118.

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institutions, especially in this early period, have generally been reconstructed from narrative texts, law codes, and phrases taken from scattered charter evidence. In the case of the Catalan *convenientia*, on the other hand, the historian can work with hundreds of documents from a small area that reveal the details of these arrangements as nowhere else. Origins, lines of development, and microregional peculiarities become clear. A detailed understanding of how these agreements functioned in a society in which the relationships they record were so well documented and widespread will shed further light on the evidence for similar ties in regions where the context is less abundantly clear.

THE SOURCES

The wealth of charter evidence from Catalonia is now well known to medieval historians. Common estimates of the holdings of Catalan archives claim approximately 5,000 individual records from the tenth century and 10,000 from the eleventh. No one has hazarded a guess at the figure for the twelfth century, though a survey found documents from that period in half of the 173 archives polled.⁴⁸ Aside from their volume, the Catalan holdings are distinguished by two facts. The first is the number of records preserved as single-sheet originals. Several important ecclesiastical cartularies survive, most notably those of the cathedral chapters of Barcelona and Urgell, and the monastery of Sant Cugat del Vallès, but the abundant survival of documents outside cartularies allows for the correction of some of the bias inherent in those compilations.⁴⁹ The second – and more crucial for the purposes of this study – is the number of nonecclesiastical records. The “Cancelleria” series of the Archive of the Crown of Aragón (ACA) contains an impressive run of documents of the counts of Barcelona, but it also includes independent “archives” incorporated over the years, such as documents of the counts of Urgell and Pallars Jussà, as well as a number of family collections. The comital cartulary, the *Liber feudorum maior* (*LFM*), is of singular importance. The ecclesiastical archives, too, contain many nonecclesiastical documents, such as records of previous sales handed over to an institution at the time of a donation of property.

⁴⁸ Pere Puig i Ustrell, *Els pergamins documentals: Naturalesa, tractament arxivístic i contingut diplomàtic*, Col·lecció normativa arxivística 3 (Barcelona, 1995), 155–57. For what follows, see Bonnassie, *La Catalogne*, 1:22–32. Accurate estimates of holdings are notoriously difficult to calculate because of archivists’ tendencies toward exaggeration on the one hand, and nonresponse to surveys on the other.

⁴⁹ LA; ACU, *Liber dotaliorum ecclesie Urgellensis* (see DACU); *CSCV*. The question of why so many originals were preserved requires study; elsewhere in Europe, originals were destroyed or discarded after the compilation of cartularies (Geary, *Phantoms of Remembrance*, 82).

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This wealth of evidence for the functioning of the lay world permits partial correction of the distorted picture offered elsewhere by purely ecclesiastical evidence. Furthermore, this lay evidence counters criticisms that certain feudo-vassalic institutions are known solely from ecclesiastical documentation.⁵⁰

While working with charters is in some ways less treacherous than basing history on contemporary historical accounts, it presents its own problems. Most of the documents adhere to standard laconic formulae of donation, sale, exchange, and pledge, with the only variation found in the names of the actors, the location of the property, and the amount of money involved. These are ideal for investigations of economic cycles, the formation of domains, and onomastic patterns, but satisfying social history relies either on deviations from the formulae or on other types of evidence. The latter is not a possibility, as the historian of Catalonia can turn to only a handful of terse annals, regnal lists, *vitae*, mortuary rolls, letters, and commemorative verses, a half-legendary dynastic history, and a highly problematic law code.⁵¹ Unlike most other contemporary acts, however, *convenientiae* do not adhere strictly to formulae. Their often highly descriptive texts can compensate for the absence of narrative accounts; when combined with similarly informative documents, such as records of judgment and testaments, it is possible to reconstruct the course of events.

This study departs from much earlier work on Catalonia in its historiographical approach. First, it crosses a traditional chronological boundary. The development, diffusion, and decline of the *convenientia* as an important element in Catalan society is a phenomenon of the eleventh and twelfth centuries. Studies of these two centuries together are surprisingly rare; this analysis of the *convenientia* therefore reveals elements of continuity and change that have been overlooked. Second, this study is trans-regional, cutting across geographical and archival boundaries. When Ramon de Caldes undertook in the late twelfth century the project of reorganizing the archives of Barcelona, he found the documents “in ordinatione confussa.”⁵² Ramon’s successors as archivists at the comital court and elsewhere have been attempting to sort out that confusion for eight centuries. Their decisions over the years have had an impact on the nature of Catalan historiography.⁵³ One consequence has been the edition of documents in collections reflecting their modern distribution. Editions organized by person or office are rare, while those organized

⁵⁰ Reynolds, *Fiefs and Vassals*, 62–64.

⁵¹ Thomas N. Bisson, “Unheroed Pasts: History and Commemoration in South Frankland before the Albigensian Crusades,” *Speculum* 65 (1990), 281–308; *Doliba*, pp. 301–432.

⁵² *LFM* prologue. ⁵³ Benito-Kosto-Taylor, “Approaches,” 44–46.

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around a particular place or institution often overlook relevant documents not found in the principal archive. Research projects mirror this phenomenon; they tend to be local, based on documents of many types found primarily in a single archive. The documents on which the present study is based were gathered in the course of a search, more or less systematic according to circumstances, of the pre-1200 holdings of the major repositories in Catalonia. The total number of *convenientiae* is approximately 1,000.⁵⁴ The largest number are housed in the ACA, principally in the series “Cancellaria” and the *LFM*, but also in many of the less prominent divisions of that archive. The other major sources of documents are the cathedral archives of Urgell, Vic, and Barcelona, and the archives of the Abbey of Santa Maria de Montserrat and the Biblioteca de Catalunya. For the period 1050–1200, *convenientiae* form roughly 10 percent of the “Cancellaria” series; in other collections the figure is closer to 5 percent. Given the variety of documentary forms, 5–10 percent is a substantial proportion for one type.

Finally, this study stands apart in that it is based on the extended examination of a single type of document, rather than of an institution or an individual. There is some precedent for this methodology, although it is usually found in introductions to editions of documents, rather than historical analyses based on the documents. This approach poses a problem: notwithstanding the fact that Catalan scribal practice presents a ready-made typology of documents (“hec est convenientia”; “hec est carta donationis”; “hec est vinditio”), the *convenientia* is a difficult type to define. From a purely formal standpoint, *convenientiae* overlap with other types of acts, particularly oaths of fidelity. Furthermore, documents that begin with the phrase “hec est convenientia” concern a wide range of topics, while some of these same topics are addressed by documents that do not begin with that phrase. Thus I have attempted to consider as wide as possible a range of written agreements, whether or not scribes chose to label them *convenientiae*. In addition, transactions and relationships in eleventh- and twelfth-century Catalonia often involved several documents. A *convenientia* might be associated with a separate written oath and a separate charter of donation. In focusing on a single type of document, closely associated documents may be missed, both in the initial stages of gathering evidence, and in the later stages of analysis. Again, in discussing particular events and situations, I have attempted to adduce as many relevant documents as possible, whatever the diplomatic type. In general, however, the *convenientia* holds center stage. A study based on a single type

⁵⁴ Other series consulted include the Baluze and Doat collections at the Bibliothèque nationale (Paris), Série J of the Archives nationales (Paris), the holdings of the ADPO, and the Alart manuscripts at the Bibliothèque municipale in Perpignan.

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of document can only present a partial picture of a society. Yet knowledge of the history of a type of document is an essential preliminary to a proper understanding of its value as evidence. To achieve the latter, we must ask the right questions of the selected documentation. In the case of the *convenientia*, these are questions concerning social structures built around networks of individual agreements.

HISTORIOGRAPHY OF THE *CONVENIENTIA*

For many years, the institution and indeed the term *convenientia* only attracted the attention of German and Italian legal historians. Their efforts focused on several related questions: Was the *convenientia* a purely Lombard institution, or did it have links to Roman practice? Was it a consensual or formal contract? What relationship did it have to the *stantia* and *wadiatio*? The conclusions of this earliest scholarship rested on the few mentions of these institutions in the Lombard law codes and their later commentaries. Francesco Calasso, in contrast, turned to Lombard charters for answers. He concluded that the *convenientia* was a purely consensual contract that gradually forced out the formal elements of Lombard contractual practice. He argued that this would have been perfectly in line with Church doctrine and even with what Justinian wanted to accomplish in the sixth century, but could not.⁵⁵

Calasso's study was limited to Italian sources. With the exception of the authors of manuals of diplomatics,⁵⁶ historians of regions outside Italy hardly seemed to notice the *convenientia* – until Paul Ourliac. Ourliac succinctly presented the problems and questions – and provided some answers and images – upon which later scholars have constantly drawn. After acknowledging the previous scholarship on the Lombard *convenientia*, he presented the following ideas. The force of the *convenientia* was independent of a written document, oath, or other formal element; its essence was the “accord de volonté.” Yet it was not a simple consensual contract; it encompassed notions not to be found in either Roman or Germanic practice. Its terms often involved future generations, creating links between lineages and eventually developing into custom. These terms were often unequal, making the *convenientia* at once a promise and

⁵⁵ Francesco Calasso, *La “convenientia”: Contributo alla storia del contratto in Italia durante l’alto medio evo*, Biblioteca della Rivista di storia del diritto italiano 9 (Bologna, 1932); previous scholarship summarized at 9–18.

⁵⁶ Alain de Boüard, *Manuel de diplomatique française et pontificale*, vol. 2, *L’acte privé* (Paris, 1948), 97 n. 1; Arthur Giry, *Manuel de diplomatique*, new ed. (Paris, 1925), 466 n. 1; Harry Bresslau, *Handbuch der Urkundenlehre für Deutschland und Italien*, 2nd ed., 2 vols. (Leipzig, 1912–31), 1:62 n. 2; Cesare Paoli, *Diplomatica*, new ed., ed. G. C. Bascapè, *Manuali di filologia e storia*, 1st ser., 1 (Florence, 1942; repr. 1969), 53.