

THE LOCUS IN THE CONTEXT OF LATE ANTIQUE SPAIN

Abstract: At a conference some years ago, I briefly examined the relationship between local power and wine production in Visigothic Spain. On that occasion, I mentioned the transformed legal nature of the locus, a topic I now wish to explore further, in the same geographical scope. The hypothesis is twofold. First, I argue that some recently excavated timber structures are not representative of a change in rural settlement patterns. Second, that despite its terminological ambivalence, the locus evolved from a legal definition to a broader use, and would have been commonly applied to villages in the 6th century. A connection between archaeological evidence and literary sources is suggested..

Keywords: *Visigothic law, loci, villages, rural settlement, continuity.*

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1. OVERVIEW

The last two decades have seen an exceptional increase in the archaeological study of rural settlement during late antiquity in the Spanish provinces. Indeed, many current research premises have become quasi-ideological, and favor a methodological apriorism that takes the fragmentation of social order as a given fact. The caricature of landlords running for their lives while autonomous peasant communities build self-sustaining villages transpires in a number of recent texts on this period. However, it is today clear that Marxist portrayals of a slave economy do not really apply to peasant labor in, say, late Roman Spain, or do so only as gross oversimplifications of what serfdom correctly entailed¹. While acknowledging important post-imperial transformations, as well as regional specificities, there is a case to be made for less abrupt reorganizations of the social, hence economic landscape between the late 5th and the very early 7th centuries. One may do so through the lens of production units, and more specifically by the definition of the *locus*.

Throughout late antiquity, the essential success factor for settlement remained entirely agrarian, based on continuities in techniques and even production channels. According to certain theories that seem currently mainstream, it was agency that changed dramatically, with village communities obtaining important degrees of autonomy. In fact, the impression that the Visigothic monarchy would have found indirect support in such communities does not look illogical on paper. Certainly, urban complexity in the immediate post-imperial setting was much harder to manage, as easily inferred from purportedly comprehensive sources such as Hydatius, for an earlier period, or Isidore of Seville. In addition, an alternative or a partially complementary theory, at least some new rural central places would have been *Visigothic*,

¹ ESMONDE CLEARY 2013, 264-302.

either ethnically or in a sort of freeriding movement of acculturation. No substantive support is available for such a picture, although a migration process did occur, and initial settlement does not seem to have been heavily city-based. The often mentioned *sortes Gothicae* are necessarily to be seen as fiscal transpositions, which legitimate Theodosian, then Justinian norms. In addition, the correlated figure of the *tertia Romanorum* configures proof of taxes and rent arrangements, not of actual Germanic colonization, and land ownership often remained in Roman hands². This is however not an entirely closed case, and when revisiting LV 10.1.8 and following laws, the fiscal dimension applies as much to Goths as it does to Romans. An abundance of data is furthermore available regarding initial Germanic indifference towards city dwellers and political intricacies involving the Hispano-Roman clans, namely some local families competing against each other to gain legitimacy. This seems the most plausible interpretation, for instance, for the Cantabri of Conimbriga, whose abduction, and three years later the destruction of the entire city, was written down in such dramatic terms by bishop Hydatius of Aquae Flaviae (*Chron.* 223 and 241³) that one can only interpret this description as a result of some private drama or personal attachment to the until then dominant faction. It fits the overall catastrophist tone of the chronicle well, yet the exceptional nature of the episode, and especially the inexistence of any clear disturbance in the archaeological record during late antiquity, would suggest that daily life was not much affected by the Cantabri leaving the city. What is rather perceptible is a change in urban topography, and an increasing use of perishable and reused building materials. This well documented reality⁴ may be a good starting point for interpreting similar shifts outside the city walls, not only in *villae* but in other types of construction too.

This physical observation relates directly to explanations about weakening of imperial authority, and transitions to *new powers* administrating the countryside, potentially even village communities, in addition to, or substituting urban elites (Chavarría Arnau⁵ wrote a clear synopsis on the subject). Not much information is currently available on these non-urban dynamics, and the potentially self-regulating internal management of what one might call hamlets, that is, the modest agglomerations of perishable structures that have been excavated in the Spanish provinces. Vigil-Escalera⁶ was arguably the first to attempt a comprehensive systematization on the configuration and typology of these *sunken huts* in Spain, based on two then recently excavated sites (La Indiana-Cacera del Valle, in Pinto, and Gótzquez de Arriba, San Martín de la Vega, both in the southern Madrid area). The material similarities with a few other sites, in building techniques, organization of space, artifacts, and especially radiocarbon-dated evidence pointing at the 6th century, led to a suggestion of Slavic and Germanic equivalences. Although chronologically not open for discussion, the ethnic and cultural discussion is outlined in conjectural terms, and the paper remains

extremely cautious about the non-material (i.e. historical) inferences. Two decades later, archaeological data has become more coherent, with several other units excavated, which led to the image of a profound transformation of the landscape, in which villagers faced a new environment, more prone to animal husbandry, and -- very much underlined -- without supra-local authority⁷. These perspectives are summarized as emanating from a small network of villages along the 6th and 7th centuries, which would then have quickly disintegrated and disarticulated, before re-concentrating as larger, more stable and cohesive villages in the first half of the 9th century⁸. A large part of such a reasoning stems from academic considerations⁹ on egalitarian forms of settlement, abandoning existing framework and creating new collectivities.

2. VILLAGES AND LOCI

I initially based several of my own thoughts on this model¹⁰, then started to question some angles¹¹, and a reactionary disclaimer is now probably in order. One major objection is that the model assumes a full retraction of rural aristocratic pretensions, which would be a unique, and therefore odd situation, from a comparative historical perspective. No doubt change did occur, and drastically so; material and written sources indicate, for instance, a marked reduction of mid-sized *villae*, or at least their residential use. Whether this traces back to a collapse (Chris Wickham is a central source for this point of view¹²) remains to be proven for the entire Hispanic territory, though. No evidence of consistent *latifundia*-style land arrangements is available to the best of my knowledge¹³, and it is plausible that, in this particular period, a disappearance of *villae* actually results from better management and territorial concentration of landownership, in which divided parcels end up absorbed in increasingly larger units, through marriage, agreements, or simply the financial ruin of many smaller estates. There is plenty of evidence, both archaeological and written, of extremely wealthy owners with very divided property. The donation and will of Vincent of Huesca are a wonderful 6th century case study, with references to portions of lands and vineyards inside *loci*, on different estates¹⁴. It is moreover quite clear (e.g. *C.Th.* 12.3.2) that in the early to mid-5th century governments had faced a pervasive problem of *curiales* trying to sell their farmlands to wealthy aristocrats, presumably in an attempt to avoid paying taxes on their properties. Legislation was repeatedly put into place to counter this, e.g. by barring *curiales* from seeking *patrocinium*¹⁵, hence avoiding taxation on what typically would have been very parceled, disperse, modest property. Even assuming some regional variance, the expression of the excavated very early medieval villages is geographically

² GOFFART 2010, 65-98.

³ TRANOY 1974, 171-175.

⁴ DE MAN 2011, 514-527.

⁵ CHAVARRÍA ARNAU 2013, 131-166.

⁶ VIGIL-ESCALERA 2000, 223-252.

⁷ MARTÍN VISO *et alii* 2017; VIGIL-ESCALERA 2007, 2009; QUIRÓS CASTILLO 2013.

⁸ CARVALHO 2016, 416.

⁹ FRANCOVICH/HODGES 2003.

¹⁰ DE MAN 2012a, 151-168.

¹¹ DE MAN 2014, 13-20.

¹² WICKHAM 2005.

¹³ DE MAN 2012b, 101-108.

¹⁴ CORCORAN 2003, 215-221.

¹⁵ KEHOE 2007, 165-173.

much more reduced than that of the known surviving *villae*, and concentrated around Madrid and a few other locations. What sites such as Gózneque, El Pelicano, La Huelga ou La Vega have in common is a sub-rectangular form, a Visigothic chronology, and an occasional use of an irregular stone base. Insisting on the potential exception (that is, peasant self-organization, disappearance of land-based aristocracy, or severe episcopal retraction in the cities) and not on the rule (maintenance of rural *potentes* and a system of servant dependency) is certainly debatable. The remarkable care of the Toledan kingdom in stipulating fiscal collection procedures through local *numerarii* chosen by bishops instead of through *curiales*¹⁶ tackles the issue of the latter's corruption, not the breakdown of the rural tax collection system. No doubt a new decentralization took place, but not at all unlike that of the later empire, and still tied together through annony channels. Even in apparently secondary hilltop locations one finds reference to *annonarii* and *erogatores annonae*. In addition, forms of stability are also visible when looking at the private boundaries of the lands. Apart from anecdotic evidence on the survival of imperial *termini*, some toponymical persistence of *fundi* or *villae* (e.g. *Marciliana*, *Gomedei*, *Curmiano*, among others¹⁷) remains clear along late antiquity, and there is little factual evidence to support further land division. In fact, LV 10.3 starts with a clear statement: *We hereby decree that all ancient landmarks and boundaries shall stand as established in former times, and that they shall not be disturbed or removed*. The subsequent laws on property disputes (LV 10.3.2-5) insist in great detail on the recovery of ancient landmarks, and on the boundaries from the time of the Romans.

Though acknowledging social and legal evolutions, and the material reality mentioned above, it might be worthwhile exploring some structural endurances, rather than discontinuities. I wish to do so by framing the *locus* in this late antique landscape. The working hypothesis is that of a correspondence with rural dwellings such as the ones mentioned above, but in a fundamental incompatibility with independent communities. The main premise is an obvious one, namely the fact that Visigothic legal and descriptive sources do not waste any effort on things foreign to daily life; it is closely followed by a less obvious postulation, that of 6th century social adjustments having produced much lower impacts than some current narratives assume. Isidore of Seville's Etymologies are an interesting source yet need to be read in their proper perspective, as they configure not a direct account of the time in the Spanish regions, but instead, as indicated by the title itself, an attempt at explaining and categorizing words and concepts, many of which of classical, non-Hispanic origin. With regard to the rustic settlement, the text mentions the *casa* (Etym. 15.12.1), a structure made with timber, sticks and branches; basically, a type of construction with an unsurprisingly widespread tradition, especially in rural areas. Arce referred to these *casae* when elegantly confronting the idea of a sudden Germanic import¹⁸. There is certainly no need to look for diffusionist explanations for these agglomerations, even when local

coarse wares echo some degree of supra-local evolution. In short, the fact that one finds 6th century pottery in a 6th century hut is but logical. An overlapping matter is that ceramic cultures evolve in such a crisscross of influences, preferences, and technological limitations that there is no such thing as a Hispano-Germanic disruption in their production methods, rather original regional evolutions presenting new solutions, especially for the late antique and early medieval contexts¹⁹. This is of course a generic statement that does not take into account the many local subtleties that transform the matter of pottery studies in an exciting research field. The rule of thumb should however be that of stability in the most modest constituents of rural life, such as manufacturing, agriculture, hut building, and legal stipulations on both property and people.

This material reality fits an administrative background in which small villages are sometimes mentioned, not as critical subjects but indirectly, namely via the qualification of humble figures of authority. Legal sources make profuse reference to individuals identified as *seniores loci*. These *village elites* are on occasion portrayed as destitute, and in addition such *seniores* seem to have been paradoxically young²⁰. Radical autarkic perspectives understand them as a yet another confirmation of village autonomy. Yet they seem very articulated with (and in permanent administrative dependency of) central power. I do even wonder if the *seniores loci* are not in fact the old landowners themselves, instead of sanctioned/elected representatives of a local community. At least on one occasion, Leovigild took captive a *senior loci* (the *eminent person of the region*, in Ferry's 1990 translation²¹), his family, his riches and his lands, according to John of Biclar (*Chron.* 575.2). Although admittedly many other *seniores* could have been peasants, it seems unlikely that there would have been much space for autonomic village communities to thrive, especially under Leovigild's centralizing policies. Local aristocracy survived, on the other hand, not based in *villae* with mosaic floors but in some other format. Justice was served by them, as *iudices loci* or *territorii*, which from the late 6th century onwards became clearly articulated with the bishops in terms of tax collection; the 3rd Synod of Toledo even stipulates that the *iudices locorum* would have to convene yearly, together with clergy, fiscal and legal officials, to discuss matters of administration²². Apart from the pervasive mentions to these judges, the *Forum Iudicum* is illustrative in terms of paralegal or policing attributions to *seniores* and *priores*. Both book 6 and 8 mention how to proceed with indicted and fugitive slaves. In the case of 6.1.1 (*Ut domino vel senioribus loci ...*), Scott's translation is *officials of the district*, and in that of 9.1.8 (originally Recared's; 9.1.9 in the manuscript used by Scott²³; *prioribus loci illius, villicis adque prepositis...*), *neighbors and authorities of the district*. It is perhaps suitable to consider the original text here, and point out that in the extra-urban Spanish territories certain competencies were attributed to indisputably local actors. Furthermore, the translation as *district* is a debatable option,

¹⁹ DE MAN/TENTE 2014.

²⁰ CARRIÉ 2005, 269-312.

²¹ FERRY 1990, 79.

²² CHURCHIN 2018, 225-240.

²³ SCOTT 1910.

¹⁶ CHURCHIN 2018, 225-240

¹⁷ DE MAN 2014, 13-20.

¹⁸ ARCE 2015, 211-217.

and these *loci* might be better understood as inhabited units, villages that is, especially as these *villici* and *praepositi* are also more easily understandable as delegates, officials, or estate managers, and plausibly a combination these. They are elements of the local community, maybe a tenant endorsed by the landowner, and in any case confirmed or else directly appointed by the tax collecting authorities.

Though such an abundance of genitives is revealing, the ambiguity of the term *locus* needs to be acknowledged, and even its polysemy, as it is used in a wealth of meanings, from unremarkable references to a place or a location, or a room, to the purely legalistic uses of the word, which is to be explored here. It is unreasonable to take all the magistrates *loci/-orum* in an undefined sense, that is, *from the place(s)*, and they instead qualify a small residential area, for which said officials are accountable. This suggests a tangible evolution, as the late Roman *locus* refers to a clear and different concept. It corresponds to a unit of parceled land, inside a *fundus*, from which it differs by not containing any buildings, in an equivalence with the area in urban context (Dig. 50.16.211; *Flor. 8 Inst.*; *vide Mommsen*²⁴). Although it is sometimes taken as synonym of the *ager*²⁵, the *locus* remains unstipulated by its very nature, as it may either form part of a *fundus*, or comprise more than one, and legal disputes involving *loci* are always about boundaries, not property²⁶. Indeed, a second feature of the *locus* has to do with the lifespan of its circumscription: it is contextual, adaptive and temporary, as one infers from the source above (Dig. 50.16.60 *pr.*, *Ulp. 69*), which directly points to land leasing procedures through the creation of *loci*²⁷. The integration of Ulpian does not mean that there was a linear transposition between the late empire and the late antique compilation of the *Digesta*, but as the Visigothic *loci* are essentially manifestations of a legal context (e.g. LV 15. 3.4. or 9.1.21), this transposition certainly looks as the least farfetched. Florentinus' definition referring an absence of *aedificia* needs probably to be taken in contrast with the *villa*, not as an absolute restrictive rule against any sort of secondary rural construction. The 5th century colonate did not dwell in the immediate adjacency of the main residence, and could therefore perhaps be connected to some of the early medieval *villages*, in other words, to the *loci* mentioned in the Visigothic sources, hence the terminological and legal evolution. This scenario needs also to be seen in the light of servitudes. Since the classical period, rights of use for farming purposes seem to have been regulated first and foremost through communal cooperation. Ownership, counterintuitively perhaps, mattered less than it did in other forms of property management, such as urban leasing for instance. Indeed, what surfaces through a contrast of imperial laws (e.g. Bannon, on water supply²⁸) is that an entire community of right-holders would be consulted regarding changes. The entire process was locally organized, and not controlled by a single abusive individual, against which legal action could be taken. What this means is that important forms of rural self-organization had

been common in the Roman empire, and that villagers and neighbors shared resources that were considered *res Mancipi* (Dig. 8.3.1.1 *Ulp. 2 Inst.*; *Gaius, Inst. 2.17*).

This theory on settlement dynamics becomes however problematic when contrasted with perspectives on a supposed fragmentation of local powers, disarticulation of *fundi*, and reduction of an imperial inspiration on lower level hierarchical structures. In fact, it entails the exact opposite, namely the maintenance of *locatio-conductio* relationships, meaning that *coloni* would continue to explore a leased *fundus*. It represents the most coherent interpretation, given that the colonate remains profoundly rooted in the Visigothic operational logic. The *adscripticius*, as a rather unfavorable category of *colonus*, does not even emerge before the 5th century²⁹, and becomes fully regulated in the following one (*cf. CJ 11.48.24*). Classical hiring and letting procedures had been most frequently based on annual payments by the *locator*, spread over five years, although other forms were usual, namely in provincial context³⁰. Augustine of Hippo (*Ep. 20.29*) transmits a story involving the lease of a *fundus*, the owner receiving a five-year rent paid in advance³¹. But the entire late Roman legislative action on the rural economy insists on ensuring that landowners could meet their fiscal duties, and a powerful set of laws undermined the mobility of the theoretically semi-servile *coloni*. A more sophisticated census, integrating a differentiated fiscal classification of land³², made it virtually impossible to escape tax liabilities. In short, the government forced tenured cultivators to remain in their village, and at a later stage, in their estates, which became their legal *origo*, a novelty that however had probably been a non-mandatory reality anyway. The formal difference was that an early imperial tenant might decide not to renew a contract and move elsewhere -- again, to which extent this actually happened is a different question. In the western provinces, this is a complex and gradual process that became fully enforceable only in the very late fourth century (indeed in its last months; e.g. *C.Th. 11.1.26*, from 399). The same principle persists in Visigothic law, as seen along the *Forum Iudicum's* entire Book 10. From this perspective, the scenario looks less fertile for arguments about the decomposition of an economical system. On the contrary, it points to strong continuities in a socioeconomically stable relationship between *coloni* and landowners. Such relationships materialize as profoundly advantageous to all, at the formal, consuetudinary and even symbolic levels, which are precisely the ones *seniores* and *iudices loci* find their legitimacy in. The substantiation of late antique villages would therefore be based on conservativeness and loyalty -- not, as often ideologically suggested, on peasant liberation or power vacuums. This should not come as any surprise, and it plugs directly into the historical, and increasingly archaeological reality of widespread settlement with irregular plans and timber buildings, and immense regional variance in the West, since imperial times³³. Timber had obviously been used during the entire Hispano-Roman

²⁴ MOMMSEN 1888.

²⁵ BUCK 1983, 8-16.

²⁶ LONG 1875, 29-31.

²⁷ DE MAN 2017, 107-114.

²⁸ BANNON 2017, 60-89.

²⁹ DOMÍNGUEZ AGUDO 2003, 113.

³⁰ DU PLESSIS 2012.

³¹ KEHOE 2007.

³² DE MAN 2020, 311-324.

³³ ESMONDE CLEARY 2013, 264-302.

period³⁴, and perishable construction materials seem to have become predominant during late antiquity. This chronology may not be archaeologically documented at a convenient scale, due to a fragile and unsophisticated nature, as well as the lack of associated imported materials. But the technique of post-imperial wooden construction is ubiquitous, and widely observable in 5th century levels at the *villae* I am aware of, for instance simply through postholes.

3. CONCLUSIONS

Until at least the very late 6th century, production and maintenance of local agency need to be understood in a balance between the the *villulae* and reinvented *villae*, the curial, episcopal and monastic powers, and still a handful of new central administrative places, both in Suevic and Visigothic context. Could these all be *loci*, again formally defined, instead of in a literary, generic use of the term? As stated above, not in a classical sense, but one wonders if a strict legal equivalence with villages works for late antiquity. Martin³⁵ pointed out that the 12th Synod of Toledo (681) used the word *locus* for *villulae*, *territoria*, and *vici*, and that it therefore simply applies to a rural habitat dependent of a central place. She provides a wide variety of examples from John of Biclar, several Toledan synods, and the *Liber Iudicum*, and a compelling argument for the occasionally clear fiscal nature of the *locus*, even as a sort of equivalent of the *fundus*. This requires a proper chronological evaluation; one needs to bear in mind that an imperial *villa* may very well be ruined and reoccupied, without correspondingly changes in land exploitation³⁶. Generalizations on territorial settlement modifications have become impractical, though, as some late antique rural sites have medieval continuities while others do not. Despite these complicated localisms, some overlapping realities do become visible at regional level, for instance northwestern Lusitania, where a general reduction of both human activity and of forestation occurred from the 7th century onwards (a picture that much later would become heavily transformed again, in the context of medieval urban councils and their use of common areas; see Martín Viso³⁷ for details). For the 6th century, though, it is probably unwise to deliberately ignore institutionalist and solid conservative frameworks, and start constructing bottom-up models on limited, and otherwise explainable, material culture.

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³⁴ MORILLO CERDÁN/HERMANNNS,/SALIDO DOMÍNGUEZ 2019.

³⁵ MARTIN 2003, 17.

³⁶ BROGIOLO/CHAVARRÍA ARNAU 2008, 193-213.

³⁷ MARTÍN VISO 2020, 226-245.

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