

A Germanic People Create a Code of Law

The Law of the Salian Franks (ca. 500-600)

As the institutions of Roman government in the West faltered and then crumbled, the power and the reach of Roman law also declined. This is not to say that Roman law disappeared in the West or that the West descended into utter lawlessness. The Germanic people, whose migration played such an important role in precipitating Rome's fall, brought with them their own systems of law and justice. As Germanic peoples settled in the West and established kingdoms, those systems were written down and codified. Such was the case of the Salian Franks, first published in written form in the early 16th century at the order of Clovis I (ca. 466-511). As you read this excerpt, consider what it reveals about Frankish society. What kinds of problems did the laws address? How did ideas, social status, and gender shape the laws?

Title I. Concerning Summonses

1. If anyone is summoned before the "Thing"⁶ by the king's law and does not come, he shall be sentenced to 600 denars, which make 15 shillings (solidi.)
2. But he who summons another and does not come himself shall, if a lawful impediment has not delayed him, be sentenced to 15 shillings to be paid to him whom he summoned.
3. And he who summons another shall walk with witnesses to the home of that man, and, if he is not at home, shall bid the wife or any one of the family to make known to him that he has been summoned to court.
4. But if he is occupied in the king's service, he cannot summon him.
5. But if he shall be inside the hundred⁷ seeing about his own affairs, he can sum-mon him in the manner explained above.

Title II. Concerning Thefts of Pigs, etc.

1. If anyone steals a sucking pig, and it is proved against him, he shall be sentenced to 120 denars, which make three shillings.
2. If anyone steals a pig that can live without its mother, and it is proved on him, he shall be sentenced to 40 denars-that is, 1 shilling...
3. If anyone steals 25 sheep where there were no more in that flock, and it is proved on him, he shall be sentenced to 2500 denars- that is, 62 shillings.

Title III. Concerning Thefts of Cattle

1. If anyone steals that bull that rules the herd and has never been yoked, he shall be sentenced to 1800 denars, which makes 45 shillings.
2. But if that bull is used for the cows of three villages in common, he who stole him shall be sentenced to three times 45 shillings.
3. If anyone steals a bull belonging to the king, he shall be sentenced to 3600 denars, which makes 90 shillings.

Title IV. Concerning Damage Done Among Crops or in Any Enclosure

1. If anyone finds cattle, or a horse, or flocks of any kind in his crops, he shall not at all mutilate them.
2. If he does this and confesses it, he shall restore the worth of the animal in place of it and shall himself keep the mutilated one.
3. But if he has not confessed it, and it has been proved on him, he shall be sentenced, besides the value of the animal and the fines for delay, to 600 denars, which make 15 shillings.

Title XI. Concerning Thefts or Housebreakings of Freemen

1. If any freeman steals outside of the house, something worth 2 denars, he shall be sentenced to 600 denars, which makes 15 shillings.
2. But if he steals, outside of the house, something worth 40 denars, and it is proved on him, he shall be sentenced, besides the amount and the fines for delay, to 1400 denars, which make 35 shillings.
3. If a freeman breaks into a house and steals something worth 2 dollars, and it is proven on him, he shall be sentenced to 15 shillings.
4. But if he shall have stolen something worth more than 2 denars, and it has been proved on him, he shall be sentenced, besides the worth of the object and the fines for delay, to 1400 denars, which make 35 shillings.
5. But if he has broken, or tampered with, the lock and thus has entered the house and stolen anything from it, he shall be sentenced, besides the worth of the object and the fines for delay, to 1800 denars, which make 45 shillings.
6. And if he has taken nothing or has escaped by flight, he shall, for the house-breaking alone, be sentenced to 1200 denars, which make 30 shillings.

Title XII. Concerning Thefts or Housebreakings on the Part of Slaves

1. If a slave steals, outside of the house, something worth two denars, he shall, besides paying the worth of the object and the fines for delay, be stretched out and receive 120 blows.
2. But if he steals something worth 40 dollars, he shall either be castrated or pay 6 shillings. But the lord of the slave who committed the theft shall restore to the plaintiff the worth of the object and the fines for delay.

Title XIII. Concerning Rape Committed by Freemen

1. If three men carry off a free-born girl, they shall be compelled to pay 30 shillings.
2. If there are more than three, each one shall pay 5 shillings.
3. Those who shall have been present with boats shall be sentenced to three shillings.
4. But those who commit rape shall be compelled to pay 2500 denars, which makes 63 shillings.
5. But if they have carried off that girl from behind lock and key or from the in-ning room, they shall be sentenced to the above price and penalty.
6. But if the girl who is carried off is under the king's protection, then the "firth" (peace money) shall be 2500 denars, which makes 63 shillings.
7. But if a bondsman of the king or a leet should carry off a free woman, he shall be sentenced to death.
8. But if a free woman has allowed a slave of her own will, she shall lose her freedom.

9. If a freeborn man shall have taken an alien⁸ bondswoman, he shall suffer similarly.
10. If anybody takes an alien spouse and joins her to himself in ma trim ~ _ -, be sentenced to 2500 denars, -which make 63 shillings.

Title XIV. Concerning Assault and Robbery

1. If anyone has assaulted and plundered a free man, and it is proved on him,
2. he shall be sentenced to 2500 denars, which makes 63 shillings.
3. If a Roman has plundered a Salian Frank, the above law shall be observed.
4. But if a Frank has plundered a Roman, he shall be sentenced to 35 shillings.
5. If any man should wish to migrate and has permission from the king, and shall have shown this in public "Thing": whoever, contrary to the decree of the
6. king, shall presume to oppose him, shall be sentenced to 8000 denars, which make 200 shillings.

Title XV. Concerning Arson

1. If anyone sets fire to a house in which men were sleeping, as many freemen as were in it can make a complaint before the "thing"; and if anyone has been burned in it, the incendiary shall be sentenced to 2500 denars, which make 63 shillings.

Title XVII. Concerning Wounds

1. If anyone has wished to kill another person, and the blow has been missed, he on whom it was proved shall be sentenced to 2500 denars, which makes 63 shillings.
2. If any person has wished to strike another with a poisoned arrow, and the arrow has glanced aside, it shall be proved on him: he shall be sentenced to 2500 denars, which make 63 shillings.
3. If any person strikes another on the head so that the brain appears, and the three bones which lie above the brain shall project, he shall be sentenced to 1200 denars-which make 30 shillings.
4. But if it has been between the ribs or in the stomach so that the wound appears and reaches to the entrails, he shall be sentenced to 1200 denars-which make 30 shillings-besides five shillings for the physician's pay.
5. If anyone shall have struck a man so that blood falls to the floor, and it is proved on him, he shall be sentenced to 600 denars, which makes 15 shillings.
6. But if a freeman strikes a freeman with his fist so that blood does not flow, he shall be sentenced for each blow-up to 3 blows-to 120 denars, which make 3 shillings.

Title XVIII. Concerning Him Who, Before the King, Accuses an Innocent Man

- If anyone before the king accuses an innocent man who is absent, he shall be sentenced to 2500 denars, which makes 63 shillings.

Title XIX. Concerning Magicians

1. If anyone has given herbs to another so that he dies, he shall be sentenced to 200 shillings (or shall surely be given over to fire).

2. If any person has bewitched another, and he who was thus treated shall escape, the author of the crime, who is proved to have committed it, shall be sentenced to 2500 denars, which makes 63 shillings.

Title XXIV. Concerning the Killing of Little Children and Women

1. If anyone has slain a boy under 10 years up to the end of the tenth-and it shall have been proved on him, he shall be sentenced to 24000 denars, which make 600 shillings ...
2. 3. If anyone has hit a free woman who is pregnant, and she dies, he shall be sentenced to 28000 denars, which makes 700 shillings...
3. If anyone has killed a free woman after she has begun bearing children, he shall be sentenced to 24000 denars, which makes 600 shillings.
4. After she can have no more children, he who kills her shall be sentenced to 8000 denars, which makes 200 shillings.

Title XXX. Concerning Insults

1. If anyone, man or woman, shall have called a woman harlot and shall not have been able to prove it, he shall be sentenced to 1800 denars, which make 45 shillings.
2. If any person shall have called another "fox," he shall be sentenced to 3 shillings.
3. If any man shall have called another "hare," he shall be sentenced to 3 shillings.
4. If a man shall have brought it up against another that he had thrown away his shield, and shall have not been able to prove it, he shall be sentenced to 120 denars, which make 3 shillings.
5. If any man shall have called another "spy" or "perjurer" and had not been able to prove it, he shall be sentenced to 600 denars, which makes 15 shillings.

Document Questions:

1. **What do the laws tell us about the status of women in Frankish society?**
2. ~~Laws are prescriptive, meaning they reflect the concerns and desires of those who write them. Based on these laws, what seemed most important to Frankish lawmakers, who were members of the elite?~~

⁶Thing: A governing assembly made up of the freemen of the community.

⁷hundred: Part of a county.

⁸alien: Non-Frankish.