

Barcelona, a Society and its Law: 11th-13th Centuries

Tomàs de Montagut*

Universitat Pompeu Fabra, Barcelona

ABSTRACT

The legal system in Barcelona in the Lower Middle Ages — which we regard as a synthesis of rights (usages, customs, privileges, laws, and so on) and organization (municipality, *universitat de prohoms*, consulates, etc.)— had already attained maturity in the 13th century. It was first and foremost the outcome of the self-interested wishes of its leaders, the *prohoms*, or patricians, who directed the growth of Barcelona society, a development which was of clear benefit to them and enabled them to consolidate and perpetuate themselves as a social group by means of legal forms and formulas relating to the individual, family and society, which were suitable for and orientated towards their aim of assuming the political and financial leadership of the city.

The considerable degree of autonomy achieved by Barcelona society in the 13th century thanks to its public and private legal institutions endured until the 18th century, when the new Bourbon dynasty abolished the municipal self-governing institutions.

KEY WORDS: Barcelona municipality, patriciate, market, loan, *pàries*, pledge, commerce, mortgage, *comanda*, merchant, consulate

“Ubi societas ibi ius”: this aphorism, coined by a distinguished Roman jurist, tells us that all societies generate their own law. The correlative, however, is also true — “ubi ius ibi societas” — and reminds us that wherever we find law, it is because a society is in existence.²

In another article³ we undertook a more detailed analysis of the legal system in 13th century Barcelona, which was made up of customs, privileges and some incipient regulations which interacted with the city’s own political and administrative institutions. The latter took shape between 1249 and 1284 in the wake of a series of royal privileges setting up the municipality, or *universitat*, of Barcelona, endowing it with legal personality, and regulating the constitution and functions of its ruling magistrates and its consultative and governmental assemblies.⁴

However, the full significance of this legal system, which was specific to Barcelona, becomes clear only in the context of the society that produced it. The summary offered in this article will be based on a succinct overview of the valuable contributions made by Professor Stephen P. Bensch in his fundamental work *Barcelona and its ru-*

lers, 1096-1291.⁵ His book remains to this day a seminal study of the history of Barcelona from the 11th to the 13th century by virtue of its insightful, penetrating approach, the relevance of the themes addressed, and its congruency and clarity of exposition.⁶

The legal system of 13th century Barcelona can be described, in essence, as primarily the fruit of the self-interested desires of its rulers. Bensch studies the origins of these rulers, or patricians,⁷ the role they played in directing urban expansion, which was of benefit to them, and how they consolidated and perpetuated their own social group by means of family forms suited to their aspiration to assume the social leadership of the city.

The basic clues for interpreting the entire process of formation and evolution of the Barcelona patriciate are to be found, of course, in the geographical, political and economic setting.

The origins of Catalan Barcelona date back to 801, when the Carolingians conquered what was then a Muslim city. Soon the surrounding area under the city’s direct influence began to specialize in producing high-quality crops. This ultimately led to its being referred to as the *horta i vinyet* (garden and vineyard) of Barcelona. The *rec comtal*, a channel following the course of the ancient Roman aqueduct from the Besòs river, became the city’s first source of water power, while the narrowness of the coastal plain forced the townspeople to seek whatever resources

* Corresponding author: Tomàs de Montagut. Departament de Dret. Universitat Pompeu Fabra. Trias Fargas, 25-27. 08005 Barcelona, Catalonia, EU. Tel. +34 935421646. Fax: +34 935421646. E-mail: tomas.montagut@upf.edu

the city lacked and the surrounding area did not provide from across the sea.

From 801 onwards Barcelona was to remain united under a single public jurisdiction and the seats of both the civil authority (the count) and the ecclesiastical authority (the bishop) were in the heart of the city, the *civitas* or *urbs*. The count and the bishop each owned two of the four gates in the Roman walls still encircling the city, which were never split up into private fortresses. Barcelona's weekly market was held beside one of the count's two castle-gates. This market was a prime source of wealth for Barcelona's foremost rulers.

Merchants, moneychangers, craftsmen and shopkeepers generally carried on business in the suburbs, the areas alongside the walls, and the new towns that sprang up beyond the walls between the 11th and 13th centuries. To fortify and protect the new districts to the west, James I started building a second wall to bring the whole area as far as the Rambles into the core of the city.

The interests of the comital dynasty of Barcelona and those of the city were not at odds: on the contrary, many points of convergence and contact were to arise and these afforded joint opportunities that were beneficial to the city, to Catalonia, and to the whole new kingdom of Aragon, which was formed in the mid-12th century.

The population of Barcelona grew fast: the inhabitants numbered 1,500 in the year 1000, about 10,000 in 1200, and approximately 34,000 by 1365. The increase created supply problems which could only be solved by a policy of economic expansion into other parts of Catalonia and across the Mediterranean. In this regard the interests of the rulers of Barcelona and those of their count-kings were clearly in harmony and they acted in coordination. Barcelona offered the monarchy a seat of government and a source of revenue to finance its policies. In exchange Barcelona, by the end of the 13th century, had attained predominance over the other cities in the kingdom, though it never became the imperial capital.

Bensch also analyses the basic problems that affected the organization and coordination of the community: the initial constitution of public authority in Barcelona (9th-11th centuries);⁸ the ensuing crisis (11th century);⁹ and the rebuilding of public authority, which the counts achieved through governmental proceedings (military and fiscal measures), by 'grace and favour' (granting privileges and making appointments to public office), and through justice (by validating *concordies*, or private settlements, and setting up the *tribunal del veguer*, the vicar's court). It is important to stress that cooperation from the rulers of Barcelona had a considerable impact on the political constitution of the Crown of Aragon,¹⁰ Catalonia,¹¹ and the municipality of Barcelona, a process which, as mentioned above, was headed by the count-king.

The very first privilege granted to Barcelona by the Carolingians (801) acknowledged the count's authority over the most serious matters (such as fires, murders and

kidnappings) but respected local custom¹² in other cases. The trend was later formally confirmed by an increase in the count's power as military leader and protector of the possessions of free peasants. The concentration of governmental power in the hands of the Count of Barcelona, Girona and Ausona was confirmed by the Carolingians in 878.

The spiritual power of the Bishop of Barcelona did not restrict the temporal power of the Count of Barcelona. The bishop's legal and fiscal immunity did not extend to political immunity and the solution was found in an alliance between the count and the bishop in which the count's jurisdictional pre-eminence was clear. Thus the bishop never had his own jurisdictional enclave in the city of Barcelona.

Even so the counts' authority was undermined by a power crisis in 1041-1059 when the viscounts, *veguers* and *castlans* (sergeants who administered castles) attempted to seize resources and fiscal rights for themselves. Though they were all officials delegated by the count, they tended to appropriate their public offices and their rights over the administration of justice, the mint, markets and utilities (mills, ovens and water).¹³ In the 11th and 12th centuries Ramon Berenguer III and Ramon Berenguer IV granted favours and undertook reforms which successfully maintained jurisdictional unity in the count's hands and curbed the abuses committed by viscounts and *veguers*, which threatened the urban community that was protected by privileges.

The *veguers* of Barcelona (who are mentioned for the first time in 1094) and the *batlles* (bailiffs) of Barcelona (mentioned in 1144) were to assist the count in the performance of his public duties, notably in the field of taxes and tributes.¹⁴

The first census of Barcelona was drawn up in 1145 for tax-raising purposes. It is possible to state that the Barcelona urban community was identified at this period by means of the *quèstia*, a tax on each family or its assets, which had to be paid to the count.

The first instance in which the townspeople cooperated in the count's projects for territorial expansion is found at this same period (1148), when eleven eminent citizens of Barcelona made him a substantial loan to finance the military conquest of Tortosa. Under this agreement for the financing of a public war, the burghers who put up the loan were to enter the city government and recover their capital and interest through the management of certain rights, taxes and public utilities which the count assigned and ceded to them as a pledge and guarantee of the agreed payments.

Count Ramon Berenguer IV reformed the administration and in 1179 regular accounting procedures were introduced throughout the king's domains. This enterprising conception of government, and the legal security it offered, stimulated burghers to invest their capital in the royal finances.¹⁵ Not only was the royal administration gradually becoming better organized and adopting wide

executive powers, but the economic results achieved and the legality of its management were being submitted to periodical examination. In other words, the demand for accountability introduced the principle of the rule of law according to which the management of royal officials in Barcelona had to be assessed in the light both of traditional Visigothic law and of the privileges and norms that were part of the incipient usages and customs of Barcelona, which would eventually translate the common interests of the citizens into law.¹⁶

The mechanism for solving conflicts and litigation and the competence for doing this underwent a similar evolution in Barcelona and throughout Catalonia.

Until the 11th century the administration of justice was under the exclusive competence of the public authorities and the precepts and procedures followed in each case were those set out in the book of Visigothic legislation (*Liber Iudiciorum*) and handed down since the 6th century. The case was heard by a public court under the chairmanship of professional judges. The proceedings commenced when the defendant was served with a writ and concluded when a sentence applying written law to the facts rationally proved in the case was published.

The power crisis that occurred in the 11th century led to litigation being solved through pacts and agreements between the parties. Thus the sentence — a public legal document — was replaced by various private documents known as *convenientia*, *concordia*, *evacuatio*, *definitio* or *arbitratio*.¹⁷

When the post of *veguer* was created in 1094,¹⁸ public justice was reborn, for the vicar's court was a public tribunal where suits were settled through the application of legal principles (laws and customs) and not through negotiation between the opposing parties. Nonetheless the citizens of Barcelona continued using the latter procedure by applying to the Consell de cònsols i homes honorables de la ciutat (Council of consuls and honourable men of the city — 1094-1140) or the Consell de prohoms or Consell de pròcers (Council of worthy men or of regional notables — 1140-1180). By virtue of their experience and knowledge of the traditions and customs of the city, both helped to establish precedents and to validate the local customs of Barcelona by offering normative criteria and assistance in reaching a negotiated settlement in the cases submitted to them.

Barcelona evolved from a situation in which two systems of justice coexisted (the vicar's public tribunal, or *Cúria del Veguer*, and the Consell dels Prohoms) towards the reinforcement of the jurisdiction of the royal *veguer*. Thus citizen justice was weakened and the attempt to institutionalize the consuls failed (1183-1219).

The reforms introduced between 1249 and 1284 brought this process to a close. A permanent municipal council was set up in Barcelona at this time and the king ordered his *veguer* to take an oath before it, to seek the advice of the assembly, and to carry out the decisions of the municipality (to endorse the proposals of the municip-

pal council), while observing due fidelity and obedience to the monarch and his jurisdiction.

In this way Barcelona's *prohoms* (*probes homines*, or worthy men) succeeded in securing the legal institutionalization of the *de facto* position of political and social authority which their families had acquired over a long period of time as a result of particular set of economic circumstances.¹⁹

In 985 Barcelona had been destroyed by Al-Mansur and its surviving citizens taken captive. This event was followed in the 11th century by an initial phase of urban expansion. Growth was fuelled by a lively land market created by the many properties abandoned by their owners and demand for land was fairly high because of the accumulated capital that needed to be invested. The market at the Old Castle, beside one of the count's gates in the Roman walls, afforded an easy and profitable outlet for the specialized crops that grew on the Barcelona plain (*horta i vinyet*) and part of these profits were invested in land.

Moreover, until the Almoravids reached Al-Andalus (1090), the disintegration of the caliphate of Cordova (1030) permitted the establishment of a tributary economy that was beneficial to the counts of Barcelona: the Catalan *milites* (professional warriors) carried out *razzias* (*ràtzies*) and launched military attacks (*empreniments*) against the Muslim taifas, obliging them to pay tributes in gold (*pàries*) to the Catalan counts in exchange for peace and protection. This caused a shift in wealth from Al-Andalus to Catalonia. However the warriors never joined forces with merchants in agricultural produce from the Barcelona marketplace to launch more far-reaching projects for external trade. When the Almoravids put an end to the payment of *pàries*, the Barcelona economy slumped (1090-1140). This had adverse effects on the real estate market, the volume of credit, liquidity and supplies of coinage.²⁰

It was not the specialized crops of gardens and vineyards that gave rise to the second phase of urban expansion (1140-1160) but long-term loans secured on land. These loans, which aimed at obtaining income in kind through agricultural pledges, were motivated by the fluctuating value of coinage and psychological attachment to land as a source of wealth. This was how Barcelona's first patrician families began to accumulate small amounts of capital. Thanks to the political action of the counts, these families were gradually to fuse into a specific composite group. The monarch, exercising his jurisdiction by 'grace and favour', maintained a balance between the families. By so doing he avoided the destructive effects rivalry could have had on the community as a whole and on the emergence of the new identity which was gradually being built up in Barcelona to fill the power void left by the departure of the urban nobility (1040-1140).

The nobles voluntarily fled the city because they preferred to consolidate their private power over allodial land in the countryside rather than recognizing the count's higher public power in Barcelona and obtaining hypothetical gains in the city that were subject to that authority.

In the mid-12th century Barcelona's *prohoms* did not yet constitute a stable, homogeneous group of pre-eminent burghers. As early as 1140, however, a significant group of them had begun to assert their leadership in the city and to define a set of common economic interests which were gradually evolving into usages and customs. Soon learned jurists, who had been taught the latest trends in Roman and canon law in the universities, were to help reinforce these new economic interests by introducing and disseminating the European *ius commune* they had studied. The introduction of new legal formulas in such fields as family and matrimonial law, real property law and commercial law was to afford effective protection to the new patricians, their families and assets.²¹

Later, in 1203, the first privilege granted by King Peter I was addressed to the "probis hominibus et habitantis Barcinone",²² a formula that implied recognition of the *prohoms* as a group of distinguished citizens who exercised leadership in the city.

The explanation for this significant political and social rise of Barcelona's *prohoms* is to be sought in four main factors: (1) the production of artisans and control over it; (2) urban loans and their functions; (3) the royal finances and urban jurisdiction; and (4) trade and the protection of trade.²³

The new activities pursued by craftsmen constituted a source of wealth which made it possible to attain a modest degree of prosperity. However, major property owners and investors strove to participate in the profits by renting workshops and stalls to artisans and offering credit. Members of the most important crafts sold their products on the local market (hides, iron and foodstuffs) or rendered services (joiners, tailors, innkeepers and butchers). Other equally important occupations, however, were associated with foreign trade (weavers, sailors, merchants and money changers) and flourished thanks to certain star products such as cloth, spices, silver and skins.

In the course of their everyday business artisans developed a collective identity long before most of them formed officially recognized guilds (14th century).²⁴

In the 12th century loans secured on pledges and mortgages were the two legal formulas that enabled creditors to seize encumbered land or receive interest in the form of produce from the land. Thus unpaid loans often became a much cheaper way of acquiring land than by purchasing it.

Two phenomena which also appeared at the same period were the practice of discounting and transferring credit instruments and the creation of loan societies whose members spread out the profits and obligations amongst themselves.

All these legal tools enabled citizens and *prohoms* to invest safely and profitably and encouraged their families to become dependent on one another. The prohibition of usury by the Fourth Lateran Council (1215) and the lack of professional bankers did not stop these privileged — and still limited — credit operations. The ban had to be

dodged, however, by redrafting documents in such a way that the now illicit practice of usury was concealed beneath some licit form of business, which in fact was fictitious, simulated, or indirect.

The royal finances were one of the chief fields of investment for the recently accumulated capital of Barcelona's *prohoms*. In the 12th century the monarchs had raised the capital they needed to fund their policy of expansion into New Catalonia²⁵ and Occitania from the military orders, churches and city financiers. These loans were secured on pledges of tributes, tolls and domains in New Catalonia.

The reign of Peter I (1190-1213) marked the beginning of a new era in the field of credit because the vast scale of the monarch's debts forced him to resort to international operations and raise collective loans for large sums of money.

It was at this period that Barcelona's financiers became a powerful political force thanks to income from these loans: not only were they paid interest but they took part in the ventures launched by the king and barons and acquired urban and seigniorial jurisdictions.²⁶

Thus through the peaceable method of granting loans, Barcelona's patriciate became a public, or jurisdictional, authority in the city. Guillem Durfort, a *prohom* of Barcelona and financier of Peter I, is a representative example of this trend. Durfort formed a society of moneylenders which raised large amounts of capital for the king and consolidated an emerging group of wealthy Barcelona merchants. However, whereas the victory of Las Navas de Tolosa in 1212 sparked off speculative enthusiasm, the defeat at Muret the following year (1213) triggered a large-scale financial crisis, for the monarchy was unable to meet its financial commitments to leading Barcelona families.

The royal treasury did not recover from this collapse until about 1220.²⁷

However, the patricians of Barcelona had now found a method for cooperating with the monarchy and did not renounce this method when it came to reinvesting the substantial profits they made through foreign trade thanks to the imperialistic policies pursued by the Crown of Aragon in the Mediterranean in the 13th century.

Thus the expansionist policy of the comital dynasty and the commercial policy of Barcelona's citizens were not two separate worlds: they were complementary and made Barcelona a part of Mediterranean mercantile circuits, a development which brought wealth and prosperity to the city's merchants.²⁸ A tributary economy fed by gains obtained by the force of arms (piracy and demanding tributes) is not incompatible with a market economy based on the law of supply and demand and on the price differential between the place where a product is bought and the place where it is sold.

The trade protection privileges which Barcelona obtained as a reward for helping the monarchs in their policies of territorial expansion into New Catalonia and Occitania (12th century) and the Mediterranean (13th-14th

centuries) show that the spice route and the route of the islands (the Balearics, Sicily and Sardinia) fulfilled two complementary goals: that of seeking safe routes for trade in lucrative products — with Languedoc, Ifriqiya, the Maghrib, Romania and Alexandria — and that of maintaining the inferiority, or subordination, of foreign military and commercial competition — from Genoa, Pisa and Toulouse — along these same routes.

The overall goal was attained when the gains from foreign trade exceeded those generated by plunder and protection. From this point onwards the monarchs obtained much greater resources by indirect means, through the promotion of overseas trade, which also contributed to the affluence of Barcelona's patricians. To help achieve this they set up an *alfòndec* (compound for foreign merchants) in the city, staged an annual trade fair in July, and granted permits to Barcelona's main financiers for the development of the seafront commercial district of La Ribera.²⁹

The most widespread legal formulas for international transactions and trade were the *canvi marítim* (*cambium maris* or sea loan),³⁰ *comandes* (short-term fiduciary contracts)³¹ and *societats* (investment societies in which the partners contributed both capital and labour).³² Mediterranean customs and usages were destined to evolve into the rules that would facilitate the commercial activities of merchants, navigators and seamen. These rules began to be written down in Barcelona in the 13th century and the process culminated in the 15th century with the publication of the *Llibre del Consolat de Mar*.³³

The first generations of Barcelona patricians who had made their fortunes by investing in crafts, royal finances or foreign trade wanted to perpetuate, consolidate and increase their lineage's prosperity and the position of social leadership it had attained during this period (12th-13th centuries). To achieve this it was necessary to modify family structures and to guarantee specific methods of accumulating and handing down property through marriage and kinship.

We will now consider the most significant aspects of this process: (1) the background; (2) the notion of kinship; (3) inheritance strategies; and (4) the situation of wives and widows with respect to family property.³⁴

For lack of broader perspectives, previous European historiography failed to distinguish between urban family models in the Middle Ages and those of the rural nobility. The traditional view was that kinship structures and domestic institutions were overhauled from the 11th century onwards when a family system dominated by cognate kinship began to give way to a system of agnatic filiation. Under the latter system the line of descent is formed either by all the males, who together exploit the inherited property (land, offices, castles), or by a single male, or heir, who becomes the sole representative of the family and lineage in each generation.

One reason for this change was the Gregorian reform launched by the Church, which conferred on marriage an

indissoluble, sacramental character, thus lending impetus to the nuclear family, defining and prohibiting incest, and legitimating paternity and the status of the heir. But the change also sought to avoid splitting up the rural properties of lords, which now provided the bulk of their revenue since *hosts* and *cavalcades* (armed forays) had ceased to be appreciable sources of wealth.

It is by no means clear, however, that this aristocratic family model, which originated in the countryside and was a feature of societies elsewhere in Europe, was appropriate to the situation of patrician families in Barcelona.

In Barcelona the reformulation of kinship ties described above does not appear to have taken place and awareness of a clear distinction between maternal and paternal relatives, their respective functions and the influence they exerted on the new nuclear family comprising a married couple and their offspring continued to exist. Significantly, many early 13th century notarial conveying documents establish the identity of the parties by referring, not only to the father, but to the mother as well. The very notion of family, or house, refers at the time to an unspecified set of persons, linked by blood, who make up a numerous and diffuse group of kin.

As long as the assets of the family, or house, were not large, inheritance problems did not arise and the provisions of the *Liber Iudiciorum* sufficed to determine how the possessions of the poor were to be shared out after their death. The basic rules of this Visigothic tradition, which was still in force in Catalonia in the High Middle Ages, stipulated the following: that a very large portion of the estate devolved to the descendants; that descendants had precedence over ascendants; that all offspring (male and female) were entitled to an equal share in the inheritance; and that the father had the right to increase by one-third the rightful share that devolved to one of his children and the right to dispose freely of one-fifth of his property (the *part de l'ànima*, or portion of the soul).

However, Professor Bensch, who has examined the wills made by two hundred and sixty-three lay persons in Barcelona between 1100 and 1290, notes significant departures in testamentary practice from the provisions of the *Liber Iudiciorum*. From 1100 to 1140 the strategy followed by testators was to keep family property united by means of joint, indivisible inheritances.³⁵ Thus the principle of dividing the estate into equal shares favoured by the *Liber Iudiciorum* was rejected, though the principle of equality was maintained when establishing the indivisible shares.

Towards 1200, when the monarch was offering the opportunity to make profitable investments in royal finances, the patricians of Barcelona tended to concentrate their most valuable family assets in the hands of a single heir so as to facilitate such investments, which were beneficial to the family.

Joint, indivisible ownership did not disappear, however, but coexisted alongside the single heir formula. The first known testamentary heir was designated in 1227, and

from then on this formula gradually became predominant.

It was not a defensive reaction that led the Barcelona patricians to adopt the formula of the single heir, as in the case of the nobility elsewhere in Europe, for the heir's patriarchal and financial powers were attenuated by the rights of his brothers and sisters to their rightful share in the inheritance and by the position of wives and widows with regard to the family patrimony.

It is true nonetheless that each child's *legítima*, or rightful share in the inheritance, was considerably diminished by custom until finally the privilege of *Recognoverunt Proceres* (1284)³⁶ defined it as eight-fifteenths, instead of fourteen-fifteenths, of the total estate.

The new conception of marriage as a sacrament introduced by the 11th century Gregorian reform viewed the union between husband and wife as part of natural law and considered its goal to be the procreation of new Christians, who were to save their souls within the Church and at the same time, of course, give life to it.

Thus the nuclear family made up of parents and children had to be protected by positive law and above all a conjugal fund was needed to assure the family's earthly viability and independence. This meant that from now on both partners in the marriage had to be taken into consideration.

In the 12th century the first steps were taken to assure the economic protection of the nuclear family. This was done by modifying the provisions of Visigothic law, which set the dower, or marital assign, at one-tenth of the groom's assets, an amount that was justified by the former brideprice paid by the groom to his future wife's family.

In the 12th century the male dower became the *esponsalici*, a guarantee or promise of the wife's future maintenance.

This *esponsalici* gradually evolved until the wife was granted extensive rights over the whole of her husband's property, instead of the husband transferring specific assets to her.

The woman's contractual power, which entitled her to alienate or dispose of the dower or *esponsalici*, *mortis causa*, turned many widows of Barcelona into *majores i senyores* (*domina et potens*, 1192). This involved a degree of joint management of the conjugal fund and therefore of the husband's property.

As early as 1194 we find a contract in which the dowry is the bride's contribution to the conjugal fund. Soon a mathematical relationship was defined between the bride's dowry, or *aixovar*, and the groom's *esponsalici*, or *escreix* (the latter term was in use by 1234) and it became usual for the ratio to be two to one. Thus the groom's dower was considered to increase the bride's dowry by one-half. It was not long before a single legal document was being drawn up to cover the assigns of both groom and bride.³⁷

Often the bride's dowry was deducted from the *legítima* (her rightful share in her father's and mother's estates),

which she renounced. But sometimes the dowry was less than the inheritance to which she was entitled, and part or all of the amount still had to be paid by her family.

The previously widespread custom whereby testators with children appointed their wives as executors and usufructuaries of their entire estate (*senyores i majores*) vanished from 1250 onwards because once the precise amount of the dowry and dower had been defined, it became easy to separate the two and return the corresponding portion to the widow or her family.

From this time on, owing to the frequent designation of a single heir, it was the latter, instead of the widow-usufructuary, who became the head of the family and had the moral obligation to perpetuate the patrimony so as to ensure the biological continuity of the family and its social position in future generations.

To achieve this, however, if the owner of the estate wanted to assure the future actions of new generations, he had to take into account and respect the position and rights of the women, since only with their contributions — both tangible (the dowry) and intangible (family contacts and influences) — was it possible to form a new independent couple capable of assuming the numerous and heavy burdens which were usually their lot.

Barcelona's patrician families preferred to seek alliances with other families rather than reinforcing direct patrilineal descent. Wills, dowries and marriage contracts were the legal tools that helped consolidate the patriciate as a social group, since they enabled them to perfect the formalization of the strategies for the social reproduction of their families.³⁸

To conclude this section it remains to examine, as indicated at the beginning, how Barcelona's patriciate consolidated and perpetuated itself in the period from 1220 to 1300 and to study the family formulas it used to fulfil its aspiration to exert social leadership in the city.

It was during the reign of Peter 'the Catholic' (1196-1213) that municipal councillors began to attend meetings of the Catalan Corts (parliament).

At the parliamentary assembly held in 1228 to prepare the conquest of Majorca, it was decided to finance the operation by levying a tax throughout Catalonia. This was to be done by putting an old tax known as *bovatge* — introduced at the earlier *assemblees de pau i treva* (assemblies of peace and truce) to protect the 'peace of cattle' — to a different use.

Barcelona was to obtain its share in the division of the island as a reward for its contribution. Even more important, however, was the fact that the city's inhabitants were to be exempted from commercial tolls on the island and from *lleudes* (taxes on the transportation of merchandise) throughout the Kingdom of Aragon.

The conquest of Majorca was also to make it possible to dominate the trade route along the south coast of the Mediterranean and this diverted the thrust of maritime trade from Barcelona towards the south and east.

The effect of the creation of Catalonia's empire was a

sharp rise in the country's commercial prosperity. Barcelona was the city that benefited most, as can be seen from the steady economic growth that marked the entire period, the increase in population, and the emergence of new fortunes. All this gave rise to a new urban social stratification which took the form of three socially and economically differentiated estates, known as the *mà major*, *mà mitjana* and *mà menor* (the greater, middle and lesser 'hands').³⁹ They are mentioned for the first time in 1226, though the old distinction between *prohoms* and *ciutadans* (citizens) did not disappear and the *prohoms*, or *pròcers*, retained the *auctoritas* they wielded as the social group of greatest distinction and repute.

The social tension this growth triggered off was not due to friction between the conservative oligarchy (which monopolized municipal offices, lived from rent on urban property, and indulged in property speculation) and the enterprising merchants who were taking advantage of the growth of trade to become *nouveaux riches*.

The struggle between artisans and merchants on the one side and the patricians who sat on the municipal council on the other was the reflection of rivalry between different patrician factions. The patricians, who constituted a very numerous social group, also took part in business ventures. But leadership among them was not easy to define and this sparked off internal clashes to determine which faction was to assume the social and political leadership of the entire community.⁴⁰

Contracts for *comandes* and loans permitted the formalization of international commercial operations in which capital and labour joined forces to obtain maximum profits. The credit market gave rise to the concentration of money in banking associations, which paid interest in cash, not in the form of produce of the land. Following the prohibition of usury by the Fourth Lateran Council (1215), Jews played an important role in this field. Christians continued to take part in moneylending activities nonetheless, though income from this source was not officially revealed.

Double accounting was already in use in the 13th century to conceal — and at the same time to keep track of — loans.

Barcelona's patrician families took part in trade, first with North Africa (the Maghrib) and later with Alexandria and Constantinople. In all these areas *consolats* (trade consulates) were set up to promote and assist in the exporting and importing of merchandise.

Thus local products were exported from Barcelona (fustian and linen cloth, cereals, olive oil, wine, figs and leather), as well as goods from Languedoc (woollen cloth) and from the local black market (weapons, naval supplies and grain). Goods imported to Barcelona included local produce from the Maghrib (cumin, goat hides and fruit) and the East (ginger, cinnamon, pepper, dyes and alum).

The Barcelona patricians also exported products originating in Valencia, Granada and the south of Italy (sugar, cotton and weapons).

Around 1250, thanks to the existence of a complex network of routes made secure by the military and diplomatic protection of the kings of Aragon and the commercial and logistic assistance offered by the first consulates, Barcelona was one of the foremost *emporia* on the Mediterranean.

Trade was beneficial to many entrepreneurs who were not members of the patriciate and to small investors who quietly amassed riches over a period of time. It should be pointed out, in this respect, that patrician houses adopted the strategy of seeking allies among the *nouveaux riches*, rather than excluding them. The latter were often individual merchants whose control over Barcelona's trade networks was quite independent of the patrician families.

Thus everyone in Barcelona — members of the *mà major*, *mà mitjana*, and *mà menor* alike — was in favour of the development of foreign trade.

As trade flourished, property values in the city rose and demographic growth created keen demand for housing and business premises (workshops and stalls). This in turn caused the area beyond the walls to be built up and gave rise to the emphyteutic letting and sub-letting of property.

The hierarchical division of the domain implicit in emphyteutic tenure allowed more people to share in the profits from realty while making premises available to those who needed them to live and work in.

The legal formula of emphyteusis was already in use in Barcelona in 1196 while the *lluïisme* (see below) existed by 1210. Let us recall that the *dominus* (the holder of *dominium eminens* or "ultimate ownership" of the property) retained the following rights: (1) *fadiga* (*fatica* or right of first refusal in the thirty days following an alienation); (2) *dret d'entrada* (*introitum*, the down-payment made by the emphyteuticary on acquiring the *dominium utile* [or "useful ownership"] of the property as a result of the division or sub-division of the domain); (3) *lluïisme* (*laudesimum*, a percentage on the value of the property which was charged when the tenant's rights were transferred to a third party); (4) the annual rent, called a *cens* or *pensió*.⁴¹

The emphyteuticary, or holder of the *dominium utile*, was entitled to the use, enjoyment and possession of the house and had the right to sub-let it.

It was not long before the widespread use of emphyteutic tenure gave rise to a chain of holders of the *dominium utile*. This hierarchy of domains soon generated serious social tension between those who constituted the first and last links in the chain. Ultimately the artisan in his workshop and the labourer in his modest dwelling found themselves under increasing pressure from the ever growing charges they had to bear and could not pass on to anyone else. Thus in the last resort profits and income from property were derived from trade, but this was also conducive to the prosperity of artisans and labourers.

Whereas in the private sphere emphyteusis was used by the patricians to generate valuable income which in the last instance arose from trade, in the public sphere insti-

tutional mechanisms and new forms of taxation had to be found to raise the large amounts of public money needed by the monarchy to carry out its imperialistic policies.

The predominant legal theory at the time⁴² was that no public duty (*munus* or *commune*) could be demanded without a just cause. Such causes were clearly defined under theological-juridical doctrine and the monarch's hands were tied with respect to his power to raise taxes, which was by no means discretionary.

Thus the king depended more heavily on irregular or extraordinary general taxes graciously granted by his subjects than on ordinary taxes and his own patrimonial revenue.

The municipal regime bestowed on Barcelona under a series of royal privileges (1249-1274) arose from the need to legitimize the raising of large sums in tax from the city's inhabitants. *Paers* (*paciaris* or 'peace men') were appointed in 1249 to serve as both city magistrates and royal financiers in charge of collecting large sums of money for the monarch.⁴³ Thus from the outset the king endowed them with powers to levy a *comú* (*comune* or tribute)⁴⁴ from the citizens of Barcelona, who were obliged to pay it because, formally, it was levied by the city council itself.⁴⁵

In 1226, after the citizens of Barcelona had complained because the king had demanded a tax 'without cause', which they considered abusive, James I decided that the tax must be levied on the basis of a formal 'just cause', in other words, that the amount to be paid by each townsman must be proportional to his or her assets (*per solidum et libram*). This meant classifying the population according to wealth, not social status (*mà major, mitjana* or *menor*).

Barcelona's municipal regime was to become a tool for dovetailing the energies and resources of citizens, patricians and the monarchy in an era of economic and political expansion. The municipality was not a tool for keeping civic factions in check or reducing the *de facto* control of the patricians by setting up representative assemblies.

The imperialistic projects of the Crown of Aragon in the 13th century, led by its monarchs, received staunch support from the Barcelona patriciate, who cooperated both *de facto* (from the beginning of the expansion) and *de iure* (from the formal creation of the *universitat* of Barcelona in 1249). However, the intermingling of different forms of mutual assistance (commercial, military, administrative and fiscal) makes it difficult to separate the public dimension from the private.

Barcelona became the centre of naval armaments for the Crown of Aragon and the success of the commercial and political expansion across the Mediterranean led to the formation of a banking consortium through which the citizens of Barcelona could invest in foreign trade.

In 1268 the monarch prohibited the establishment of foreign money-changing tables in Barcelona and after the conquest of Sicily (1282) he was able to pay his creditors with ease by granting them the right to import Sicilian wheat. Moreover in 1293 James II appointed one of the

Crown's chief bankers and moneylenders, the citizen of Barcelona Arnau çà Bastida, *mestre racional* to the court (chief accountant and auditor). This brought all the officials of the Crown of Aragon under the financial and administrative supervision of the major societies of moneylenders to the king.⁴⁶

A clear alliance was forged between the king and the patricians of Barcelona. The patricians had confidence in the monarch and his policies and invested large sums in the royal finances in order to obtain his patronage. However the maintenance of such a widely scattered empire produced considerable fiscal tension. The strain became unbearable and the king was ultimately unable to satisfy his creditors in Barcelona. This triggered the first serious banking crisis (1300).⁴⁷

This same alliance between the king and the patricians of Barcelona also accounts for the upheaval and the serious social conflicts, including outbreaks of violence, which occurred in the second half of the 13th century and the way these conflicts were solved. However the unrest owed more to rivalry between patrician families, who competed to exploit the new resources and gain access to the king, than to popular resentment over the lofty position occupied by the rulers.

Thus the struggle for the control of trade and rents between patricians in the district of La Ribera was probably the main reason for the murder of the rogue landlord Bernat Marquet⁴⁸ and the burning of his houses and property.

When James I set up the new *universitat de la Ribera* in 1258, granted it jurisdiction over taxation, defence and urban development, and subsequently approved regulations governing commercial and maritime affairs, he was not legitimizing the secession of the merchant class, as maintained by Batlle⁴⁹ and Font,⁵⁰ but trying to stabilize an explosive social situation and to control the district. The violent incidents that took place in 1271 were also due to problems of kinship, neighbourhood and patronage, and not to ideological conflicts or economic interests.

The municipal reforms introduced in Barcelona in the period from 1249 to 1274 aimed at achieving stability among opposing factions of patricians and were not the outcome, according to Bensch — who does not share Font's point of view in this respect⁵¹ — of the natural, peaceable evolution of a privileged class of citizens.

In 1285, however, Berenguer Oller staged a major revolt⁵² by stirring up the lower orders against the city's rulers. The king showed his firm support for the patricians by crushing the rising and having Berenguer and his closest followers summarily executed. At the same time the rioting shed light on the control exercised by certain patrician factions over grain imports and the abusive practices of major landlords. Both these factors won support for the revolt from many different quarters.

In the mid-13th century the patricians of Barcelona sought to perpetuate family identities and estates and to consolidate their influence by encouraging matrimonial

unions between their respective houses. Thus by the end of the century all Barcelona's main patrician families were linked by an intricate web of kinship and consanguinity; all their members were related, in one way or another.

Each patrician family, moreover, was attached to its physical place of residence, or *domus*, which bestowed a common identity on all those who lived there.

Cohabitation forged economic and emotional ties with the house and the moral duty to strive to preserve its unity.

In the 12th century this duty was shared by all male kin, who cooperated to promote the family's well-being, preserve its good name, and reconcile its overall interests with the private interests of each family member.

In the 13th century patrician families were restructured in such a way that the father's authority was increased and handed down exclusively to a single heir. To this end they enlisted lawyers and notaries (the theoreticians and/or practitioners of the new European *ius commune*)⁵³ to provide technical advice over testaments, donations and marriage contracts. This effect of this was to stabilize their patrimony, but at the cost of reducing and limiting their former cooperation.

The concentration of power in the family lineage was also reinforced by burying later generations alongside their ancestors in the family tomb in the parish cemetery or the church of some convent or monastery endowed by the family. Family identity was further consolidated by the religious cult of the ancestors (masses, votive lights, chapels, religious foundations, and so on).

NOTES AND REFERENCES

- [1] This study was conducted in the framework of two research projects entitled respectively: 'Els drets històrics i l'autogovern dels pobles d'Espanya' (funded by SGR, AGAUR, Generalitat de Catalunya Ref. 2005SGR00117) and 'El derecho histórico en los pueblos de España: ámbitos público y privado (s.XII-XXI)' (funded by the Ministerio de Educación y Cultura, Ref. SEJ2006-15051-C03-01). I wish to thank Professor Jaume Ribalta who read the draft and made critical observations which helped me to improve the contents.
- [2] Francesco CALASSO. "Medio Evo del Diritto", *Le Fonti*, I, Milan 1954, pp. 26-27.
- [3] Tomàs de MONTAGUT ESTRAGUÉS. "Els orígens de la institució municipal barcelonina. Segles XI-XIII" (v.1000-1276), *Història de l'Ajuntament de Barcelona*, Ajuntament de Barcelona, Barcelona 2007.
- [4] José María FONT RIUS. *Cartas de Población y Franquicia de Cataluña*, I, 1-2, "Textos. Introducción. Diplomatario. Presentación monográfico-local e índices", Madrid-Barcelona 1969; II, "Estudio. Apéndice al vol. I". Madrid-Barcelona 1983. Tomàs de MONTAGUT ESTRAGUÉS. *Estudi jurídic del «Llibre*

Verd de Barcelona», facsimile edition, Editorial Base/Ajuntament de Barcelona, Barcelona 2004, pp. 59-98.

- [5] Stephen P. BENSCH. *Barcelona and its rulers, 1096-1291*, Cambridge, Cambridge University Press (Cambridge Studies in Medieval Life and Thought, 26, 1995. Catalan translation: Stephen P. BENSCH. *Barcelona i els seus dirigents 1096-1291*. Barcelona 2000.)
- [6] The definitions and English equivalents of many terms specific to medieval Barcelona used in this article have been adapted from the original book by Stephen P. BENSCH referenced in the preceding note. However, the page numbers quoted by the author of the article refer to the Catalan translation.
- [7] *Ibidem*, p. 3.
- [8] On this period see: [Several authors] *Catalunya a l'època carolíngia. (Marc Històric. Territori)*, Barcelona 1999, pp. 19-119.
- [9] Pierre BONNASSIÉ. *La Catalogne du milieu du Xe à la fin du XIè siècle: croissance et mutations d'une société*. Toulouse 1975-76, 2 vols. Translated into Catalan as *Catalunya mil anys enrere. Creixement econòmic i adveniment del feudalisme a Catalunya de mitjan segle X al final del segle XI*. Barcelona 1979.
- [10] On the political concept of the Crown of Aragon, which was to be part of the Hispanic monarchy for almost five centuries, see Jesús LALINDE ABADÍA. *Depuración histórica del concepto de Corona de Aragón*, in *La Corona de Aragón y el Mediterráneo. Siglos XV-XVI*, Coordinators E. SARASA and E. SERRANO, Saragossa 1997, pp. 433-460.
- [11] Ramon D'ABADAL I DE VINYALS. *Catalunya carolíngia*, Barcelona, 1926-1950, Vol. II, first part, pp. III-XX.
- [12] This often consists in Visigothic law (*propria lex*) embodied in customs.
- [13] On feudalism in Catalonia, the phenomenon correlative to this crisis which affected the count's authority, see Note 9 above.
- [14] On the construction of the fiscal system in Catalonia, see Manuel SÁNCHEZ MARTÍNEZ. *El naixement de la fiscalitat d'Estat a Catalunya (segles XII-XIV)*, Capellades (Barcelona) 1995. With regard specifically to Barcelona Pere ORTÍ. *Renda i fiscalitat en una ciutat medieval: Barcelona, segles XII-XIV*. Barcelona 2000. Also well worth consulting is the collection of studies on the genesis of the fiscal autonomy of the municipality published in *Barcelona. Quaderns d'Història*, 2/3, 1996. Barcelona 1997, notably those by Pere ORTÍ. *La construcció del sistema fiscal municipal a Barcelona, segles XIII-XIV*, pp. 17-34, and Manuel ROVIRA; Sebastià RIERA. *Les ajudes concedides per la ciutat de Barcelona a Jaume II, 1314-1326*, pp. 35-52.
- [15] On this point see Thomas N. BISSON, *Fiscal ac-*

- counts of Catalonia under the early count-kings (1151-1213)*, London 1984.
- [16] Cf. Notes 3 and 5 above: 'L'ordenament jurídic especial de Barcelona I: el dret (costums, privilegis i ordinacions'.
- [17] Joan BASTARDAS. "Dos judicis antics (s. IX i XI). La pràctica judicial en el període de la formació nacional de Catalunya", *Documents jurídics de la història de Catalunya*, Barcelona (1992), pp. 23 -30.
- [18] Jesús LALINDE ABADÍA. *La jurisdicción real inferior en Cataluña*, Barcelona 1966, pp. 55-56. Flocel SABATÉ. *El Veguer a Catalunya: anàlisi del funcionament de la jurisdicció reial al segle XIV*. Universitat Autònoma de Barcelona, Barcelona 1994. Flocel SABATÉ. *El territori de la Catalunya medieval: percepció de l'espai i divisió territorial al llarg de l'edat mitjana*, Rafael Dalman, Barcelona 1997.
- [19] See Stephen P. BENSCH. *Barcelona i els seus dirigents 1096-1291*, Barcelona 2000.
- [20] *Ibidem*. In this regard it should be recalled that the Usage of Barcelona entitled 'Alium namque' already referred to the custom under which the count shared out *pàries* among the magnates of his curia, provided we accept the critical reading made in the 16th century by the humanist jurist Antoni Olibà, who considered that 'pallias' should be read as 'parias'. The text of the usage can be found in: *Usatges de Barcelona*, Ed. Ramon d'ABADAL i VINYALS-Ferran VALLS TABERNER, Barcelona 1913, Usatge No. 114. The text used by Olibà is in: Antonii Olibani civis honorati Barcinonae in albo conscripti et regii senatoris ac fisci patroni *Commentarius, ad usat[icum] Alium namq[ue] de Iure Fisci, lib.10, Constit[utionis] Cathalonae*, Barcelona 1600, p. 21:
 Latina impressio Antiqua
 Alium namque supradicti Principes nobilem et honestum et utilem miserunt usaticum, quem illi tenuerunt, et successoribus suis tenere in perpetuum mandaverunt, scilicet ut tenerent curiam et magnam familiam, et fecissent conductum, et darent soldatas, et facerent emendas, et tenerent iustitiam, et iudicarent per directum, et manutenerent oppressum, et occurrerent oppresso, et quando vellent edere, facerent cornare, ut nobiles et ignobiles venirent prandere, et ibi distribuerent pallias, quas haberent in magnatibus et in eorum familia, et ibi mandarent hostes, cum quibus irent ad destruendam Hispaniam et facerent novellos milites.'
- [21] On the introduction of *ius commune* in Catalonia see: José María FONT RIUS. "La recepción del derecho romano en la península ibérica durante la edad media", *Recueil de mémoires et travaux publiés par la société d'histoire du droit et des institutions des anciens pays de droit écrit*, fascicule VI, Montpellier (1967), pp. 85-104, and Tomàs de MONTAGUT ESTRAGUÉS. "La recepció del dret tributari comú a la Corona d'Aragó", in [Several Authors]. *El territori i les seves institucions històriques. Actes*. Ascó, 28, 29 i 30 de novembre de 1997, Fundació Noguera, Lleida (Spain) 1999, pp. 361-383.
- [22] *Llibre Verd de Montserrat*, facsimile edition, Apographa Historica Cathalonia. Sèrie Històrica VIII, Barcelona 2004, f. 206: "Sit omnibus manifestum quod ego Petrus Dei gratia rex Aragonum et comes Barchinone bona fide convenio et dono in perpetuum vobis omnibus probis hominibus et habitantes Barchinonae..."
- [23] Stephen P. BENSCH. *Barcelona i els seus dirigents 1096-1291*, Barcelona 2000.
- [24] On this topic see: Antoni RIERA. "La aparición de las corporaciones de oficio en Cataluña (1200-1350)" in *Cofradías, gremios, solidaridades en la Europa Medieval, XIX Semana de estudios medievales, Estella 1992*, Pamplona 1993, pp. 285-318.
- [25] The term New Catalonia refers to the territories reconquered between the 9th and 12th centuries which lie south and west of a line extending from Barcelona along the Llobregat and Cardener rivers as far as the Montsec massif, north of Lleida.
- [26] On the construction of public authority in Europe and the new legal formulae this entailed, see: Pietro COSTA. *Iurisdictio. Semántica del potere politico nella pubblicistica medievale (1100-1433)*. Giuffrè, Milan 1969 (re-published, Milan 2002).
- [27] A contributing factor in this recovery was the introduction of a new coin, the *doblenç*, by James I in 1222. This generated large profits for the Crown's finances, which at that time were managed by the Templars. Cfr. Jaume RIBALTA HARO. *Ordinacions d'en Sanctacília. Servituds, relacions de veïnatge i límits al dret de propietat en el dret (històric) català*, doctoral thesis, Universitat de Lleida 2001.
- [28] This is the conclusion reached by Stephen P. BENSCH. *Barcelona i els seus dirigents 1096-1291*, Barcelona 2000.
- [29] This development undoubtedly raised various problems on account of the proximity of the new buildings to existing properties. The practical criteria used to solve these problems ultimately became customs. These and other customs were written down and compiled in the form of chapters which eventually gave rise to the compilation known officially as *Consuetuds de la ciutat de Barcelona sobre les servituds de las casas e honors*. On this point see: Jaume RIBALTA I HARO. *Ordinacions d'en Sanctacília. Servituds, relacions de veïnatge i límits al dret de propietat en el dret (històric) català*, forthcoming; and *Dret urbanístic medieval de la Mediterrània*, Barcelona, Col·lecció d'estudis d'història del dret, 1. Barcelona 2005, pp. 33-38.
- [30] Arcadi GARCÍA I SANZ, Maria Teresa FERRER I MALLOL. *Assegurances i canvis marítims medievals*, Barcelona, 2 vols. Barcelona 1983, I, pp. 65-100.

- [31] Josep Maria MADURELL I MARIMON, Arcadi GARCIA I SANZ. *Comandas comerciales barcelonesas de la Baja Edad Media*. Barcelona 1973.
- [32] Arcadi GARCIA I SANZ, Josep Maria MADURELL I MARIMON. *Societats mercantils medievals a Barcelona*. Barcelona 1986, I, pp. 373-422.
- [33] Germà COLÓN, Arcadi GARCIA. *Llibre del Consolat de Mar*, Vols. I-IV. Fundació Vives i Casajuana. Barcelona 1981-1987.
- [34] Stephen P. BENSCH. *Barcelona i els seus dirigents 1096-1291*. Barcelona 2000, pp. 213-253.
- [35] Stephen P. BENSCH. *Barcelona i els seus dirigents 1096-1291*. Barcelona 2000, pp. 221-236.
- [36] On this text and its meaning, see: Josep M. FONT. *Estudi Introductori* in 'Constitucions de Catalunya (1495): incunabulum, 1495, Barcelona. 1988, pp. CV-CIX. The Catalan version can be found in: *Recognoverunt Proceres, Versión medieval catalana del privilegio así llamado*, Barcelona, 1927.
- [37] Stephen P. BENSCH. *Barcelona i els seus dirigents 1096-1291*. Barcelona 2000, pp. 237-249.
- [38] On all these formulas in the history of Catalan law, see Guillermo M. DE BROCA. *Historia del derecho de Catalunya especialmente del civil y exposición de las instituciones del derecho civil del mismo territorio en relación con el código civil de España y la jurisprudencia*. Barcelona 1918, 1985, pp. 231-252 and 682-874.
- [39] See Carme BATLLE I GALLART. *Estudi Històric. El « Llibre del Consell »: font de coneixement del Municipi i de la societat de Barcelona del segle XIV*, in BATLLE, FERRER, MAÑE, MUTGÉ, RIERA and ROVIRA, *El 'Llibre del Consell' de la Ciutat de Barcelona. Segle XIV: les eleccions municipals*. Barcelona 2007, pp. 11-47.
- [40] Stephen P. BENSCH. *Barcelona i els seus dirigents 1096-1291*. Barcelona 2000, pp. 253-258.
- [41] *Ibidem*, pp. 277-287.
- [42] Tomàs de MONTAGUT ESTRAGUÉS. "La recepció del pret tributari comú a la Corona d'Aragó". *El territori i les seves institucions històriques*, Vol. I, Barcelona 1999, pp. 361-383.
- [43] Stephen P. BENSCH. *Barcelona i els seus dirigents 1096-1291*. Barcelona 2000, pp. 287-298.
- [44] On the concept of the *comú* see Tomàs de MONTAGUT ESTRAGUÉS. "La Doctrina medieval sobre el Munus y los Comuns de Tortosa", *Homenaje al profesor Carlos Díaz Rementería*, Huelva 1998.
- [45] See Notes 3 and 14 above.
- [46] Tomàs de MONTAGUT ESTRAGUÉS. *El Mestre Racional a la Corona d'Aragó (1283-1419)*, 2 vols. Virgili i Pagès, Lleida 1987, I, pp. 157-172.
- [47] Stephen P. BENSCH. "La primera crisis bancaria de Barcelona". *Anuario de Estudios Medievales*, 19, (1989), pp. 311-328.
- [48] On Bernat Marquet and his family see: Maria Teresa FERRER. "Una família de navegants: els Marquet." in BATLLE, FERRER, MAÑE, MUTGÉ, RIERA, ROVIRA. *El «Llibre del Consell» de la Ciutat de Barcelona. Segle XIV: les eleccions municipals*. Barcelona 2007, pp. 135-267.
- [49] Carmen BATLLE GALLART. *La crisis social y económica de Barcelona a mediados del siglo XV*, I. Universitat de Barcelona, Barcelona 1973, pp. 71-72: "the aforementioned bid for independence by the merchants, artisans and sailors of La Ribera was by no means to the liking of the honorable citizens, who immediately opposed it." Professor Batlle goes on to say, however, that "This antagonism is merely a hypothesis".
- [50] On this point see the benchmark study on the topic: José María FONT RIUS. "La Universidad de prohombres de la Ribera de Barcelona y sus ordenanzas marítimas (1258)", *Estudios de Derecho mercantil en homenaje al profesor Antonio Polo*, Edesa, Madrid (1981), p. 209.
- [51] However Font clearly bears in mind that "Such was the fundamental structure of the Barcelona municipality, which was the fruit, as we have just seen, of much thought and experimentation during the period from 1249 to 1274" (José María FONT I RIUS. "Orígenes del régimen municipal en Cataluña", *Estudis sobre els drets i institucions locals en la Catalunya medieval*. Barcelona 1985, p. 495.) On this point see also Carmen BATLLE GALLART. *La crisis social y económica de Barcelona a mediados del siglo XV*, I. Barcelona 1973, pp. 65-75
- [52] On this popular revolt see Carmen BATLLE GALLART. *La crisis social y económica de Barcelona a mediados del siglo XV*, I. Barcelona 1973, pp. 36-44.
- [53] See Note 21 above.

ABOUT THE AUTHOR

Tomàs de Montagut obtained a bachelor's degree in law in 1975 and a second bachelor's degree in philosophy and letters (section of medieval history) in 1977 from the University of Barcelona. In 1982 he obtained his Ph.D. in law from the same university. He began his teaching career at the department of history of law headed by Dr Josep M. Font i Rius, first as assistant professor (1976), then as associate professor (1982) and finally as titular professor. He won the chair of history of law at the University of Santiago de Compostela by competitive examination (1991) and was later awarded the chair at the Universitat Pompeu Fabra in Barcelona by means of a merit-based contest (1993). He is currently professor of the history of law and institutions at the Universitat Pompeu Fabra. Most of his publications and his activities related to research and thesis supervision fall within the following fields: history of the political and financial institutions of Catalonia and

the Crown of Aragon, history of the introduction of *ius commune* in Catalonia, and history of Catalan jurists and their doctrines. He is a full member of the Institut d'Estudis Catalans in charge of the field of history of law within the Section of History and Archeology (2001). He is also a corresponding member of the la Real Academia de Córdoba de Ciencias, Bellas Letras y Nobles Artes (2007).