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From subordination to integration: Romans in Frankish law

1 Introduction

The study of *Romanness* is a test case for how an established and prestigious social identity can acquire many different shades of meaning, which, depending on the sources that we consult, may be classed alternately as civic, ethnic, legal and the like.¹ It is important to note that there is considerable variation in the usage of *Romanness* that is causing frustration among modern historians. If *Romanness* was used to make up for a bishop's humble origin in Gallic episcopal lives, it must have had a positive connotation among an educated audience in Southern Gaul.² Yet, if we take the *Lex Salica* at face value, *Romanness* presented a certain legal disadvantage for anyone living under Salic law north of the Loire.³ Apparently, confessions of *Romanness* could boost one's reputation as much as it could turn an individual into a second-class citizen. In the light of such ambiguity, any attempt to generalize early medieval concepts of *Romanness* is an arduous task. Legal sources, however, and the *leges barbarorum* in particular, may serve as an adequate point of departure because, if anything, generalization was their main purpose.

Legal historians refer to the laws of the Goths, Franks and Burgundians, as well as those of the Lombards, Anglo-Saxons and the various groups under Frankish dominion as *leges barbarorum*.⁴ The *leges* have often been treated as if they constituted a cohesive corpus of cognate texts defined by common ancestry in Germanic custom

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2 Cf. Jamie Kreiner's contribution to this volume.

3 *Pactus legis Salicae* 41: *De homicidiis ingenuorum*, ed. Eckhardt, 154–161. The geographical appraisal reckons with *Pactus legis Salicae* 47: *De filtortus*, ed. Eckhardt, 182–185, where the river *Ligere* (i.e. Loire) is given as the Southern boundary of the law code's area of application. South of the Loire Roman law would remain the prevalent legal culture throughout the Frankish period; cf. Stefan Esders' contribution to this volume.

4 The contemptuous term is not liked much by German scholars who cling to the equally misleading terms *Volks-* or *Stammesrecht*. For a well-founded critique of the terminology see Ubl 2014a, 423–425.