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**TOWARDS MODERNITY AND ABSOLUTE
POWER: INTERPRETATION OF KINGSHIP
IN *THE BOOK OF THE TWELVE WISE MEN* AND
*THE SEVEN BOOKS OF LAW***

In Castile (Spain) of the thirteenth and fourteenth centuries, one finds signs of a vigorous debate on the nature and limits of monarchical power. Attempts to re-theorize rulership at this time reveal a primitive concept of power as an absolute, which anticipated Niccolò Machiavelli's *The Prince* by two and a half centuries. The attempt to extend monarchical power was manifested in what could be seen as a concerted program of legitimizing the knowledges of the time and employing these to construct legitimizing truths within the triangle observed by Michel Foucault: truth→right→power.¹

Niccolò Machiavelli's *The Prince* has been widely recognized as marking the emergence of modern political thought.² One aspect of *The Prince* which departed from earlier political writings, such as those of St. Thomas Aquinas, was the clear employment of a concept of governance and authority which considered power as an absolute, to be fostered and used, with its furtherance as an end in itself.³ This differed from the common medieval approach which neglected the concept of power and instead viewed governance and authority as a spiritually ordained relationship between ruler and ruled.⁴ While Machia-

1. Michel Foucault, "Power/Knowledge: Two Lectures," in C. Gordon, ed., *Power/Knowledge: Selected Interviews and Other Writings, 1972-1977*, C. Gordon et al., trans. (Brighton: The Harvester Press, 1980), p. 93.

2. Robert Harriman notes that: "Machiavelli's status as the progenitor of modern political thought has long been uncontested and is reaffirmed frequently," and gives the supporting examples of Lord Acton, Max Lerner, Felix Raab, and Felix Gilbert. See Robert Harriman, "Composing Modernity in Machiavelli's Prince," *Journal of the History of Ideas*, 50, no. 1 (1989), pp. 3-29.

3. For example, central to Machiavelli's idea for achieving greatness was what he termed 'virtù' – but this did not equate with "Christian virtue." Instead it could be equated with "ability," "strength," "talent," "power," "skill" and/or "ingenuity." See Brian P. Copenhaver and Charles B. Schmitt, *A History of Western Philosophy, 3. Renaissance Philosophy* (Oxford: Oxford Univ. Press, 1992), p. 279; and Julia Conaway Bondonella and Peter Bondonella, "Introduction," in Niccolò Machiavelli, *Discourses on Livy* (Oxford: Oxford Univ. Press, 1997), p. xvi.

4. For example, St. Thomas Aquinas states, "A thing is rightly directed when it is led towards a befitting end; wrongly when it is led towards an unbefitting end. . . . If . . . a rulership aims, not at the common good of the multitude, but at the private good of the ruler, it will be an unjust and perverted rulership." See St. Thomas Aquinas, *On Kingship, to the King of Cyprus*, I. Th. Eschmann, ed., G. B. Phelan, trans. (Ontario: Pontifical Institute of

velli's work marks the point of emergence of a commonality of political thought that would come to be termed "modern," there were earlier conceptualizations of rulership that anticipated Machiavelli's *The Prince*, with a concept of power as an absolute and the show of power as crucial to governance.

According to Castilian⁵ legal discourse before the thirteenth century monarchical power was constructed according to the Visigothic model of rulership, and flowed from God through the people to the monarch. This was the theoretical reality.⁶ However, subsequent to the 711 invasion, the practice of hereditary succession had become more prevalent despite contradicting the Visigothic principle of rulership by election. Nonetheless, there was substantial cultural authority to maintain that rulership was a relationship and authority to rule came from God but was bestowed by the people on the ruler. A notable example is the historical legend of the first ruler of Castile, Fernán González, who it is said, in the *Poem of Fernán González*, was chosen by the people of the Castilian borderlands to rule, and in so doing opposed the authority of the King of León.⁷

However, the benefits of a fixed system of hereditary succession to the incumbent and his family were obvious: the control of power by an ever more restricted group was very attractive and the concept of an unchallengeable hereditary monarchy gained currency.⁸ The Castilian kings sought to make kingship a birthright carried on through the bloodline, and patent attempts to achieve a shift in the discourse and impose hereditary succession as the norm are evident in the reigns of Fernando III of Castile, and his son Alfonso X.⁹ At

Medieval Studies, 1982), p. 7. To describe the relationship between ruler and ruled, Aquinas refers to a body metaphor (*ibid.*, p. 6).

5. The other significant kingdoms in Spain, Aragón and Navarre, shared the same heritage and had specific controls and impediments against an increase in monarchical power. This did not prevent James I of Aragon from seeking to increase his power, but he was embarrassingly called to heel by the Aragonese *Cortes* in 1265. See Angus MacKay, *Spain in the Middle Ages: From Frontier to Empire, 1000-1500* (London: Macmillan Press, 1977), p. 105.

6. Note Book II, Title I, Law II of the Visigothic legal code: "The Royal Power, as well as the Entire Body of the People should be subject to the Majesty of the Law," in *The Visigothic Code, Forum Judicum*, S. P. Scott, ed. and trans. (Boston: Boston Book Co., 1910), p.12. On Visigothic government and succession, see E. A. Thompson, *The Goths in Spain* (Oxford: Clarendon Press, 1969), p. 19, pp. 204ff, and *passim*. See also S. P. Scott, "Introduction," in *The Visigothic Code, Forum Judicum*, p.xx.

7. See *Poema de Fernán González*, M. Márques Sterling, trans., in M. Márques Sterling, ed., *Fernán González, First Count of Castile, The Man and the Legend* (University, MS: Romance Monographs, 1980), p. 126.

8. Even though hereditary succession was the usual practice, in principle royal succession was the decision of the people in the form of the *cortés*. On these intricacies see Joseph O'Callaghan, *The Cortes of Castile-León. 1188-1350* (Philadelphia: Univ. of Pennsylvania Press, 1989), pp. 82-88.

9. Robert McDonald identifies the question of succession as a key theme in Alfonsine thought. See Robert A. McDonald, "Law and Politics: Alfonso's Program of Political Reform," in Robert I. Burns, ed., *The Worlds of Alfonso the Learned and James the Conqueror* (Princeton, NJ: Princeton Univ. Press, 1985), p. 151. On the attempt to change monarchical succession, see R. A. McDonald, "Alfonso the Learned and Succession, A Father's Di-

this point it becomes clear that the monarchs conceived of power as an absolute, separated from its religious context and the supposedly inviolable connection with the people governed, as something to be wielded independently. It is clear from texts from the reigns of Ferdinand III and Alfonso X that the pair sought to extend their power further.

El libro de los doce sabios o Tratado de la nobleza y lealtad [*The Book of the Twelve Wise Men, or, the Treatise on Nobility and Loyalty*] (c.1237)¹⁰ was commissioned by Fernando III¹¹ for his son Alfonso X, and is considered one of Spain's oldest examples of didactic-moral prose prepared for the instruction of a young prince or king.¹² However, although the anonymous writer of *El libro de los doce sabios* claims to be putting in writing the words of twelve legendary wise men who are answering the king's plea for knowledge and advice, there is no evidence that these men existed.¹³ In one case it is thought that the editors have consulted ancient authorities rather than contemporary Spanish ones. Instead, the text bares evidence of the aspirations of Fernando III to redefining rulership. In this text one reads that a king or ruler should be of royal blood:

«*Que el rey o regidor de reino debe ser de la sangre real.* »

*Primeramente dijeron estos sabios que fuese de la sangre real, por cuanto no sería cosa cumplidera ni razonable que el menor rigiese al mayor, ni el siervo al señor.*¹⁴

[“That the king or ruler ought to be of royal blood.”

Firstly, these wise men said that he [the ruler] should be of royal blood, for it would not be seemly or reasonable for the lowly to govern the great, nor for the servant to govern the lord.]¹⁵

lemma,” *Speculum*, 40, no. 4 (1965), pp. 647-53; G. Martin, “Alphonse X maudit son fils,” *Atalaya, Revue Française d'Études Médiévales Hispanique*, no. 5 (1994), pp. 151-79.

10. Reference is made to the online version of the following critical edition: anon., *El libro de los doce sabios o Tractado de la nobleza y lealtad*, J. K. Walsh, ed. (Madrid: Real Academia Española de la Lengua-Anejos del Boletín de la RAE, 1975), pp. 71-118. The online version is accessible at: Proyecto Filosofía en Español, Gustavo Bueno Foundation, 1996, Accessed on: May 28, 2004, accessed at: www.filosofia.org. On a recent “newly found” manuscript of this text, see G. Bueno Sánchez, “El código Oviedo del Libro de los doce sabios noticia de un «nuevo» manuscrito,” *El Basilisco*, 2, no. 14 (1993), pp. 91-96. In this article, the Walsh edition is consulted and cross-referenced with the online version of: Libro de los doce sabios, Ms. 92 (=77) de la Biblioteca Menéndez Pelayo de Santander, H. H. Gasso and L. Romero Lucas, eds., in *Memorabilia: Boletín de Literatura Sapiencial*, no. 6 (2002), online at the Parnaseo-Universitat de Valencia website. Accessed on: December 12, 2007, accessed at: parnaseo.uv.es/memorgral/Portada6.htm

11. Subsequently there was an epilogue appended dating from the beginning of the reign of Ferdinand III's son, Alfonso X.

12. Bueno Sánchez, “El código Oviedo del Libro de los doce sabios noticia de un ‘nuevo’ manuscrito.”

13. See Tomás y Joaquín Carreras Artau, *Historia de la Filosofía Española. Filosofía cristiana de los siglos XIII al XV*, tomo 1 (Madrid: AEPC, 1939).

14. *El libro de los doce sabios*.

This provision imposes a class distinction, legitimizing it in the legal discourse. The effect is to enshrine exclusivity of rule, and with this, to create a right to rule that is held by only a select few. However, the program of change was not limited to hereditary succession.

Machiavelli's sixteenth-century work anticipated the modern political paradigm and the wielding of power by comprehending that effective power equates with the ability to display power. In the thirteenth century, *El libro de los doce sabios* communicates this concept. The result was a work on rulership which foregrounds the maintenance of power as the end of rulership, and the techniques of power as the way to achieve this end. In addition to being of royal blood, a ruler had to have power, assert power and be seen to assert power:

IV. Que debe ser el rey fuerte y poderoso.

Dijeron que cumplía que fuese fuerte y poderoso y esforzado y enviso. Y razonable es que el que no ha poderío no ha lugar de cumplir justicia, ni de regir ni hacer ninguna cosa de las que a regimiento de reino pertenecen, que puesto que sea de sangre real, si poderío no ha, no podrá regir los poderosos ni los flacos tan solamente. Que el oficio la persona lo hace ser grande o menguado según la cantidad o calidad del que lo oficia, como ya hayamos visto muchos de sangre real y aún reyes y príncipes. Y porque no son poderosos, son en gran caimiento y perdimiento, y en gran pobreza, y abiltados [afrentados] y sojuzgados de otros de menos linaje que ellos.¹⁶

[IV. That the king should be strong and mighty.

They said that it was right that he be strong and mighty, and with great spirit, and that he should be feared. And it is only reasonable that he who lacks might should neither be in a place where he must dispense justice, nor rule, nor do any other of those things that are associated with ruling a kingdom, *for even though he be of royal blood, should he have no might, then he would not be able to rule over the powerful, nor even the lowly. For one's office itself is deemed to be either great or miserable, according to the qualities of the one who fills that office – as we have already seen with many of royal blood, even kings and princes.* And if they are not powerful, they are for ever in decline and impoverished, dishonoured and affronted, and subject to others of lesser birth.] (emphasis added)

15. All English translations of *El libro de los doce sabios o Tratado de la nobleza y lealtad* [The Book of the Twelve Wise Men, or, the Treatise on Nobility and Loyalty] are the author's.

16. *Ibid.*, ch. IV (emphasis added).

The emphasis on power is what is new to the definition of Spanish rulership in *El libro de los doce sabios*, and it is the ruler's display of power that is seen as the ultimate protection of a people against foreign invasion:

*. . . Y el que ha de regir reino si esfuerzo y fortaleza no hubiese, no podría venir en perfección de su regimiento ni dar fin a ningún buen hecho. Y los que con el reino tuviesen guerra, cobrarían osadía viéndolo más flaco y de poco esfuerzo y fortaleza, y muy de ligero podría el reino parecer cuando no tuviese cabecera buena. . . .*¹⁷

[. . . And he who must rule, if he not be mighty and courageous, will not be able to bring perfection to his reign, nor bring to fruition any good deed. And those at war with his kingdom would become emboldened to see him so weak and lacking in courage and strength. Indeed, the kingdom might even seem weak and even trivial when not ruled by a good leader. . . .]

In mapping the discourse of Spanish Christian rulership, *El libro de los doce sabios* departs radically from the traditional Germanic principle of elected rulership, or rulership by consent, and creates a new structure of rulership under the Spanish *Reconquista*. Now the major prerequisite for rulership becomes a ruler who is courageous and powerful and whose power is consolidated through hereditary succession. This is how the Spanish rulers begin to emulate their European counterparts in increasing their personal and constitutional powers.

One of the identified techniques of power was that the ruler should be seen to be powerful and generous. For example, according to chapter 10 of *El libro de los doce sabios*, it is appearance that matters greatly, and the king is exhorted to foster the appearance that he projects – which in fact should be of someone greatly feared by his subjects:

*. . . muy necesaria es al príncipe o rey o regidor del reino aseñorearse del pueblo, y que en sus tiempos y lugares convenientes sea tenido por señor, y conocido por los extraños que ante él vinieren en las señales de obediencia que vieran que le hacen los sus súbditos, y que sea temida su razón, y temido su nombre, y ninguno no hable de él a igualanza ni sin reverencia y humildad. . . .*¹⁸

[. . . it is very necessary to the prince, king, or ruler of the kingdom to take command of the people, and that during his reign and in his domain he be observed as lord, and that he be recognized as such by foreigners that come before him in the obedience displayed towards him by his sub-

17. *Ibid.*.

18. *Ibid.*, ch. X.

jects; and that his justice and his name be feared, and that no one speak of him as an equal, or without reverence and humility. . . .]

This rule continues by stressing that the subjects should fear the king under normal circumstances, but that they should fear him even more if they displease or vex him. In Machiavellian style, fear is thus a pure instrument of power.

When the king is exhorted to be almost universally generous (to all and sundry who serve him well), power seems to be the motivation and not altruism or moral principle:

*Largo [generoso] debe de ser el rey o príncipe o regidor de reino a los nobles e hidalgos y de buen linaje y a los otros que bien obraren y alguna hazaña y nobleza de caballería hicieren o en otras cosas bien y lealmente lo sirvieran. . . .*¹⁹

[Generous, should the king, prince or ruler of the kingdom be, to both the high and petty nobles, as well as to those of good lineage and those that do some noble, or good deed of chivalry, or who otherwise serve the king loyally. . . .]

The ruler's political motivation explains why the recommendation in rule twelve is not for general charity but instead is very precise in its naming of the types of recipients.

Within the document there are still more Machiavellian-type provisions, including: urging the king to punish wrongs viciously, so as to instil fear²⁰; the warning that it must be made clear to foreigners that the king is feared by his own subjects²¹; urging the king to foster a close comradeship with his armed forces²²; paying the armed forces well²³; and never showing fear to his subjects,²⁴ nor indecisiveness.²⁵ These and other provisions in the book are unequivocally based on a concept of the importance of the show of power, and power as a technique.

Beyond the Machiavellian-type provisions, *El libro de los doce sabios* contains provisions that are of a moral nature, showing a certain lack of unity of intention which dogs this work. However, these moral obligations are not in the form of a duty owed to the people, nor are they intended to be legally binding. Instead, the desired behaviour or restraint incumbent on the king is expressed in general moral terms: to "be kind and merciful"; to hold "respect"; and to "stifle" personal greed. The recommendations for the ruler which are

19. *Ibid.*, ch. XII.

20. *Ibid.*, ch. IX.

21. *Ibid.*, ch. X.

22. *Ibid.*, ch. XI.

23. *Ibid.*, ch. XXV.

24. *Ibid.*, ch. XLIV.

25. *Ibid.*, ch. LIV.

based on moral precepts include: that the ruler be kind and merciful to the good, the weak, the humble and the poor²⁶; to hold the greatest respect for justice²⁷; to stifle his own greed and covetousness²⁸; to give good, regular and sufficient audience to those that seek to come before him.²⁹ The last of these is the only hint of the former “close” relationship between ruler and ruled that was displayed in the *Visigothic Code*. Even in the case of these provisions, the recommendations are often accompanied by a justification in terms of the ruler’s reputation that the said behavior will foster.

El libro de los doce sabios not only bares witness to a sensibility of power as a technique, but also marks an attempt to manufacture or construct truth. It provides an alternative line of legitimizing narrative within the discourse of Spanish learning and philosophy, which affirms new concepts of rulership according to the word of the supposed wise men of the kingdom. By inventing these twelve wise men, Ferdinand III provides the possibility of extending the legitimizing narrative from the discourse of Spanish philosophy, to the discourse of Spanish history. This possibility was realized by Alfonso X who added an epilogue to the book (Chapter LXVI). In the epilogue, Alfonso X gives an account of his own calling upon the twelve wise men, adding that the men were recalled for advice at a period when he (Alfonso X) was suffering resistance from the nobility (after the death of Ferdinand III). In the epilogue the twelve wise men advise Alfonso X (although it is not clear what this advice is), praise his father, and then, upon leaving, praise Alfonso X himself. The effect of this epilogue is to situate *El libro de los doce sabios* and its legitimizing function within the discourse of Spanish history, raising its narrative to the status of historical truth. Here Alfonso X asserts the truth value of the original document.

El libro de los doce sabios was not the only text of thirteenth-century Castile to deviate from the model of rulership as a set of moral responsibilities and relationships. The legislative reforms begun by Ferdinand III and completed by his son Alfonso X also contain provisions that extend monarchical power and bear evidence of power conceptualized in absolute terms.

Ferdinand III was canonised as St. Ferdinand (posthumously in 1671), for his successful efforts in reconquering lands of the Spanish Peninsula. In this undertaking he reinstated the application of the former legal code, the *Visigothic Code*, newly titled the *Fuero Juzgo* and translated into the vernacular. This was combined with various Municipal Laws that were enacted from time to time, but the result was a patchwork of ad hoc legislation. Thus he began a process of legal revision, which would not come to a conclusion until

26. *Ibid.*, ch. XVI.

27. *Ibid.*, ch. XVIII.

28. *Ibid.*, ch. XIX.

29. *Ibid.*, ch. XX.

after his son's reign, culminating in the capacious *Las siete partidas* [*The Seven Books of Law*].³⁰

It is understood that Alfonso X was an avid scholar of political theory, in particular of Aristotle, and that he sought to redefine the monarchy in absolutist terms.³¹ The rediscovery and re-enactment of Roman Law which was taking place in thirteenth-century Europe was very attractive to rulers because it lent itself to absolutism, and provided a splendid opportunity to the Castilian king.³² That Alfonso X had a pro-absolutist agenda is supported by a provision in one of his earlier attempts at legal reform, the *Fuero Real*, which was intended as an attempt to render a uniform law.³³ It contained a statement that showed purely absolutist motives by providing that the king stands above the law (human law) because he is empowered by God and not by men.³⁴ In the Spanish context this was a complete departure from the position under the former law, the *Visigothic Code/Fuero Juzgo*, where authority came from God, via the intermediary of the people – a position maintained in the neighboring kingdoms of Aragón and Navarre.

Las siete partidas offered further possibilities to the power-hungry monarch: a chance to go beyond the *Fuero Real* and instead create an all-encompassing general legal code, or legal encyclopaedia.³⁵ The possibility of complete legal redefinition loomed as an opportunity for Alfonso X to review society's processes of control and discipline in full.

However, the king's immunity from the law, as expressed in the *Fuero Real*, was not repeated in the enacted form of *Las siete partidas*,³⁶ and in fact *Las siete partidas* were not promulgated until 1348.³⁷ Some have suggested that the *Cortes'* refusal to endorse absolutist rule was the reason behind the delayed promulgation,³⁸ whereas others have indicated opposition to the aban-

30. The edition consulted is Alfonso X, *Las Siete Partidas del Rey don Alfonso El Sabio* (Madrid: Real Academia de la Historia-Ediciones Atlas, [1807] 1972). Reference to this work will be made by the legal section reference, not the page reference.

31. R. Boase, *The Troubadour Revival, a study of social change and traditionalism in late medieval Spain* (London: Routledge and Kegan Paul, 1978), p. 55.

32. Emma Molina Martín del Campo, "El derecho castellano y la narrativa colonial," *Anuario Mexicano de Historia del Derecho*, no 10 (1998), pp. 619-20.

33. *The Royal Law* (of Castile and Extremadura). The *Fuero Real* was merely a *fuero* (law) with application in the provinces of Castile and Extremadura and was not intended for general application throughout the entire kingdom. See MacKay, *Spain in the Middle Ages: From Frontier to Empire, 1000-1500*, p. 99. See also Molina Martín del Campo, "El derecho castellano y la narrativa colonial," p. 620.

34. See Boase, *The Troubadour Revival*, p. 55 (The law referred to in the *Fuero Real* is: IV, xxv, 5).

35. Molina Martín del Campo, "El derecho castellano y la narrativa colonial," p. 620. Angus MacKay observes that it affected "every possible aspect of political and social life": MacKay, *Spain in the Middle Ages: From Frontier to Empire, 1000-1500*, p. 99.

36. Boase, *The Troubadour Revival*, p. 55.

37. Beatriz Bernal Gómez, "El derecho castellano dentro del sistema jurídico indiano" *Anuario Mexicano de Historia del Derecho*, no 10 (1998), pp. 89-105, 93-95; Boase, *The Troubadour Revival*, p. 55.

38. Molina Martín del Campo, "El derecho castellano y la narrativa colonial," p. 620

donment of existing customs in favor of Roman legal concepts as the reason.³⁹ All of this suggests that Alfonso X's desire to increase power was not without considerable opposition, and that a stalemate situation arose on the point of monarchical power that could not be resolved until after the death of the monarch.⁴⁰ Even in the extant versions of *Las siete partidas* there is a lack of consistency, given the presence of two clear and distinct groups of manuscripts of *Partida I*.⁴¹ There is no conclusive explanation for this discrepancy. It has been suggested that the first (henceforth termed "the primitive" edition) comprises a text of earlier origin, and for that reason is incomplete and unacceptable to the *Cortes*. The second and complete version⁴² conforms to the production dates of 1258-1265⁴³ and, in the reign of Charles V, becomes the standard edition (in 1555).

At times it is as if the *Partidas* were written by two distinct authors with very different focuses on the issue of rulership. *Partida II* deals entirely with emperors, kings and other lords, and clarifies temporal and spiritual jurisdictions. It tends towards a concept of an absolute ruler by emphasising power and by distinguishing a ruler from all others. In *Partida II* the emperor (or king) is the great secular ruler – the most "noble" of all men⁴⁴ – who rules over temporal matters, whereas the Pope's jurisdiction pertains to all spiritual matters, and it is only the Pope who may judge an emperor, but only on spiritual matters. Alfonso X defines the position of emperor⁴⁵ in *Partida II*, title II, laws I-IV:

*Imperio es grant dignidad, et noble et honrada sobre todas las otras que los homes pueden haber en este mundo temporalmente . . . [Del emperador:] al su mandamiento deben obedescer todos los del imperio: et él non es tenuto de obedescer á ninguno, fueras ende al papa en las cosas espirituales.*⁴⁶

39. MacKay, *Spain in the Middle Ages: From Frontier to Empire, 1000-1500*, p. 99.

40. On the process of law-making at the time, and on the role of *Cortes* in law-making, see O'Callaghan, *The Cortes of Castile-León. 1188-1350*, ch. 7.

41. J. R. Craddock, "The Legislative Works of Alfonso el Sabio," in R. I. Burns, ed., *Emperor of Culture* (Philadelphia: Univ. of Pennsylvania Press, 1990), pp. 191-92.

42. This version of the law will be signalled by the unqualified title "*Las siete partidas*," or where comparison is necessary, by the term "revised edition." Reference to the primitive edition will be explicitly indicated by the term "primitive edition."

43. The dates of compilation are open to debate, however.

44. *Las siete partidas*, *Partida II*, title I.

45. The title of emperor was one that Alfonso X coveted greatly and he sought to establish his blood connection with the former emperor. He courted the pope but was ultimately unsuccessful. Ultimately it would prove a costly ambition as it undermined his position with the nobility and his expenditure in pursuing his aim caused a devaluation of the currency and thus strong opposition from the general population. See O'Callaghan, *The Cortes of Castile-León. 1188-1350*, p. 98-101; McDonald, "Law and Politics: Alfonso's Program of Political Reform," pp. 156-58.

46. *Las siete partidas Partida II*, title I, law I.

[Empire is a great dignity, nobler and more honored than any other that Man may hold in the temporal world. With regards to the emperor: all within the empire are to obey his command: and he is bound to obey no one, but for the exception of the Pope with regard to spiritual matters.]⁴⁷

Elsewhere, there are further provisions more concerned with the power held by rulers than with their responsibilities. For example, explicit mention is made of the fact that the king stands vicariously in God's place on earth:

*Qué cosa es rey, et cómo es puesto en lugar de Dios.
Vicarios de Dios son los reyes cada uno en su regno puestos sobre las gentes para mantenerlas en justicia et en verdad quanto en lo temporal, bien asi como el emperador en su imperio.*⁴⁸

[What is the king, and how he sits in the place of God.
Kings are the Vicars of God – each one is placed above all others in his kingdom in order to maintain justice and truth with regard to the temporal, just as the case of the emperor with his Empire.]

This provision not only defines the king but also likens him to an emperor, clarifying his temporal authority.

However, *Partida II*'s definition of rulers must be read together and reconciled with *Partida I*'s treatment of legal power. Notwithstanding the above provisions and references, the position of ruler is largely described by *Partida I* as an onerous one. It is affirmed that kingship is not a right but a duty. The prologue to the laws makes this clear:

*. . . entendiendo los muy grandes lugares que tienen de Dios los reyes en el mundo, et los grandes bienes que dél resciben en muchas maneras, señaladamente en la muy grant honra que les él face queriendo que sean llamados reyes, que es el su nombre, et otrosi por la justicia que han á fazer para mantener los pueblos de que son señores, que es por la su obra: et conociendo la carga muy grande que les yace en esto si bien no lo feciesen, no tan solamente por el miedo de Dios, que es poderoso et justiciero, et á cuyo poder han de venir et de quien se non pueden por ninguna manera asconder nin escusar, que si mal fecieren, que non hayan la pena que merescen, mas aun por la vergüenza et el afruento de las gentes del mundo, que juzgan las cosas mas por voluntad que por derecho.*⁴⁹

[. . . understanding that the privileged positions that the kings of the world derive from God, and the great wealth that they receive from Him in

47. All translations of *Las siete partidas* are my own.

48. *Las Siete Partidas II*, I, V.

49. *Ibid.*, I, prólogo [p. 2].

many respects, and evident in the great honour bestowed upon them by His designating them as kings, and by His permitting that they maintain their peoples both in His name and in the name of justice: they should understand the great obligation and responsibility that rest upon them should they not do well, for not only should they fear God – for God is just and powerful, and from Him all power derives, and from His power none are exempt and none can hide if they have done wrong yet not paid their dues – but also, they should fear the shame and the affront of the peoples of the world, who, in fact, judge things more by their affections or desires than by what is just. . . .]

This prologue bears similarities to the *Visigothic Code* insofar as it maintains that the position of king is one of duty, conferred by God, in the interests of justice. The prologue explains in considerable detail that God will punish the king who does not meet his duty. There is an acute awareness in the prologue that, whilst a duty, kingship is a position endowed with great wealth and honour. However, whereas a person is privileged to hold the position of king, this is a totally different admission to that of saying that the position is one of privileges. There is an acute awareness in the prologue of the subtle balance between privilege, honour and duty in kingship. Duty comes before privilege; however, duty does not imply answerability to the people. There is a kind of answerability called for, but this is to the “peoples of the world,” which implies that a king has to be mindful of his reputation outside his kingdom. In common with *El libro de los doce sabios*’ anticipation of Machiavelli’s *The Prince*, the prologue underlines the importance of appearances in the formation of public opinion, as well as the importance of public opinion in the maintenance of rulership.

There are similarities between the Law XII of the revised edition of *Las siete partidas* and the *Visigothic Code* in the reiterated importance of the law, and the king’s function as sole law-maker. The revised edition simply states that only kings and emperors have the power to make valid laws.⁵⁰ The primitive edition does not contain this, although there is a detailed justification for why Alfonso X, specifically, along with other kings and emperors, has the right to make laws.⁵¹ The justification amounts simply to an invocation of previous authorities. However, both editions clarify the onerous law-keeping role of the monarch. The primitive edition reads:

Ley XII Cómo se deben guardar las leyes.

*El rey debe guardar las leyes como à su hondra et à su fechura, et el pueblo como à su vida et su guarda*⁵²

50. *Ibid.*, I, I, XII.

51. *Ibid.* [primitive edition], I, I, XV.

52. *Ibid.* [primitive edition]. This exact wording of the king’s obligation appears in the revised edition at: I, I, XVI.

[Law XII, How the laws are to be kept.

The king must keep the laws as if he were protecting his own honour and own creation, and keep the people as if they were both his life and his keeper.]

As in the earlier *Visigothic Code*, the king is still the fount of legislative power⁵³ and any dispute that arises by virtue of insufficient provision in the existing laws must be referred to him.⁵⁴ However, the law is intrinsically of greater authority than either the king or his people. In fact, the very first title of the *Partidas* begins with the assertion that “*A servicio de Dios et á pro comunal de todos facemos este libro . . .*” (“In the service of God and for the general well-being of all we make this book . . .”).⁵⁵ The point is made that, as the maker of laws, it is necessary that the king be the first to observe them, and that it is thanks to those laws that the kingdom and its well-being and proper functioning are maintained. Similarly, the people must observe them because such laws are made by their lord, to protect and benefit them.⁵⁶ Such provision flatly contradicts what Alfonso X had attempted to do in the *Fuero Real* – to place the king above the law, and indicates that he had no control over the final legislative version of the *Las siete partidas*.

While legislative power resides with the king, the people are by no means excluded from the process: advice must be sought by the king and the consent of *Cortes* obtained. This is explicitly stated in the first *Partida*, at I, II, 9, where laws are to be made “with the counsel of good and knowledgeable men, and with the will of the Lord and the consent of those upon whom it is imposed.”⁵⁷ Failure to appreciate this is common, even amongst many prominent scholars,⁵⁸ and demonstrates the necessity to read the various sections of the document as a totality. Additionally, the people’s role as intermediary between God and king in the bestowal of power was still evident (symbolically) in certain circumstances, such as when the *Cortes* came together, supposedly representing all sectors of the population, in the largely symbolic act of recognising a successor and pledging to serve the king. Usually a mere formality, the

53. *Ibid.*, I, I, XII.

54. *Ibid.*, I, I, XIV.

55. *Ibid.*, I, I; *Ibid.* [primitive edition], I, I.

56. *Ibid.* [primitive edition], I, I, XI (under the title ‘Como deben obedecer las leyes’ [‘How the laws ought to be obeyed’]). Instead, in the revised edition these sentiments appear along with others in: I, I, XVI.

57. O’Callaghan, *The Cortes of Castile-León. 1188-1350*, p. 114.

58. A typical example is that of Angus MacKay’s comparisons made of the legislative and legal differences between Castile and Aragón. Having overlooked this law, he goes on to make an argument that monarchical legislative power in Castile was absolute (*Spain in the Middle Ages: From Frontier to Empire, 1000-1500*, p. 100, and *passim.*; also, Angus MacKay, “A Pluralist Society: Medieval Spain,” in J.H. Elliot, ed., *The Hispanic World* (London: Thames and Hudson, 1991), p. 30. Note that apart from the contradiction of this overlooked law, MacKay’s view contains the modern prejudice that moral restraint and imposition is not valued as ‘real’ and effective. Additionally, unappreciated is that the Castilian King had to request money from the *Cortes* for various projects and allowances – this places significant power in the hands of the *Cortes*.

Cortes could still show itself to be the grantor of true royal authority: when there was no successor named, or where there was no adult successor, it was the *Cortes* who decided who would become regent.⁵⁹

Further restrictions on a ruler's power are the provisions that state how the ruler is to behave morally when fulfilling his functions. He is reminded to be humble, prudent in administering his authority, and is warned (in the prologue) that his power derives from the authority bestowed on him by God, but that it is incommensurate with God's power:

*Dios es comienzo et mediania, et fin et acabamiento de todas las cosas, et sin él cosa alguna non puede ser; ca por el su saber son fechas. Et por el su poder guardadas et por la su bondat mantenidas.*⁶⁰

[God is the beginning, the middle, and the ultimate end of all things, and without Him nothing may pass; for it is only by His knowing that things come to be; And by His power that they be protected, and by His goodness, that they be maintained.]

The ruler is further admonished to love God, justice and welfare:

*El facedor de las leyes debe amar á Dios, et temerle et tenerle ante sus ojos quando las feciere, porque sean derechas at complidas. Otrosi debe amar justicia et el pro comunal de todos, et ser entendido para saber departir el derecho de tuerto; et non debe haber vergüenza en mudar et emendar sus leyes, quando entendiere et le mostraren razon por que lo debe facer; ca grant derecho es que el que á los otros ha de endereszar et emendar quando erraren, que lo sepa facer á si mesmo.*⁶¹

[The maker of Laws must love God, and fear him and hold him foremost in his thoughts when he makes those laws, in order that they be just and perfect. Furthermore he should love justice as well as the welfare of all; as well as be skilled at knowing how to distinguish right from wrong. And he should not be ashamed to alter or amend the laws he makes, when he discovers or is shown reason for doing so; for it is only just that he who must correct and put right others when they err, should also know how to do the same with himself.]

The code states explicitly that the ruler is expected to have a high degree of moral intelligence, inspired by the fear of God, and that he should exercise reason in evaluating the correctness or applicability of the laws he makes. Unlike in the *Visigothic Code*, many of the intellectual and moral qualities required of the ruler and law-maker are made explicit in various laws of *Las siete partidas*.

59. O'Callaghan, *The Cortes of Castile-León. 1188-1350*, p. 78, pp. 112-29.

60. *Las siete partidas* I, prólogo [p. 1]. The same thing expressed in similar words is the primitive edition, I, prólogo [p. 1].

61. *Ibid.*, I, I, XI; *Ibid.* [primitive edition], I, I, VI.

These qualities include: reflection,⁶² selflessness together with lack of greed,⁶³ honesty and freedom from vice,⁶⁴ reserve and discretion,⁶⁵ being conscious and cautious of how one acts in all situations,⁶⁶ avoiding gluttony,⁶⁷ being presentable in dress and behaviour,⁶⁸ knowing how to read and being learned,⁶⁹ and endeavoring to understand the people under his reign.⁷⁰

However, these moral and intellectual gifts must be understood within the medieval Christian epistemological framework, which bases all knowledge and understanding in a religious context. For example, the second *Partida* speaks of the knowledge of God as identical with the knowledge of reason:

*. . . los emperadores, et los reyes et los otros grandes señores. . . han á mantener las tierras, et gobernar las gentes con entendimiento de razón et con derecho de justicia. Et porque estas cosas non podrien ellos haber sin Dios, conviene quel conoscan, et conosciendol que lo amen, et amandol quel teman, et quel sepan servir et loar.*⁷¹

[. . . the emperors, and kings and other great lords . . . are bound to keep the lands, and govern the people with judgment of reason and right of justice. And as these things are not possible to have without God, it is only right that they should come to know Him, and upon knowing Him, that they love Him, and upon loving Him, that they know how to serve and praise Him.]

Indicative of the interests of the *Cortes* in restraining royal excesses are provisions guarding against the abuse of power by the ruler. There are many sections on tyranny in *Las siete partidas*. The legal definition is given in *Partida* II, title I, law X:

*Tirano tanto quiere decir como señor cruel que es apoderado en algun regno ó tierra por fuerza, ó por engaño ó por traición: et estos tales son de tal natura, que despues que son bien apoderados en la tierra, aman mas de facer su pro, maguer sea á daño de la tierra.*⁷²

[By the term “tyrant” is meant a cruel master who has come to power in some or other kingdom or lands, either by force, deception or treachery: and they are of such a nature that, after having come to power, they care

62. *Ibid.*, II, III, I-II.

63. *Ibid.*, II, III, III-IV.

64. *Ibid.*, II, III, V.

65. *Ibid.*, II, IV, III-IV.

66. *Ibid.*, II, V, I-XXI.

67. *Ibid.*, II, V, II.

68. *Ibid.*, II, V, V-VI.

69. *Ibid.*, II, V, XVI.

70. *Ibid.*, II, V, XVII.

71. *Ibid.*, II, II.

72. *Ibid.*, II, I, X.

more for fulfilling their own desires and ends, however deleterious they may be to their lands.]

The *Partidas*, echoing St. Augustine's view, state that the spiritual authority is no longer sufficient to govern people in general and to prevent lapses in faith. A temporal authority is necessary to fortify the faithful and maintain the peace. However, according to the *Partidas*, the task of the temporal law is no longer simply to maintain order, peace and well-being, but it is the duty of the law-giver to enable people to recognise God.⁷³ Thus, both the law and the king have acquired a "pastoral" role of the Christian kind. This displays the incongruity that exists in the Castilian concept of rulership at this time: the modern hallmarks of power as an absolute and the show and technique of power contradict the professed pastoral aims of rulership.

Las siete partidas is a document that contains great tensions and a polyphony of voices on the subject of rulership. In some laws there is clear evidence of a residual intention to use the codification to redefine royal power, to change the nature of a ruler's authority, and to do so by removing or limiting the middle term – the people – between ruler and power. This was clearly the desire of Alfonso X and evident in the *Fuero Real*. One could postulate that the various leaders of Christian Spain would not only have been in a position to want to increase their personal power, but would have compared their power with that of their European peers and would have found their comparatively limited position of power, in absolutist terms, less satisfactory, especially in relation to their French counterparts.

On the other hand, there is also evidence of a restraining hand in the *Partidas*, clearly representing the *Cortes* and its interests, "watering down" the grandiose pronouncements (motherhood statements) on the power of emperors and kings, by dwelling in great detail on the obligations of rulers as well as the nature of their power.

The texts considered in this article indicate a quest for increased power which was possible only by contesting the pre-existing concepts of authority. In this sense, authority is shown to be extremely complicated and not constituted in a strictly "positive" way⁷⁴; that is, not exercised in a "descending" manner from ruler to ruled. Authority was evidently a cultural concept that could not simply be redefined at will by a monarch. In circumstances where the monarch did not hold absolute power or authority, an attempt to reconstitute authority was a subversive act. Hence there is the contradiction in modern terms that a positive authority figure may wish to establish a line of negative cultural authority. Instead, cultural authority had to be constructed (manufac-

73. *Ibid.*, I, I, X; *Ibid.* [primitive edition], I, I, VIII.

74. "Positive" cultural authority refers to the "official" narrative of authority which legitimizes the position and power of the ruling elite. "Negative" cultural authority is that which is a subversive response to official culture. See Marina S. Brownlee, "Introduction," in M. S. Brownlee and H. U. Gumbrecht, eds, *Cultural Authority in Golden Age Spain* (Baltimore: Johns Hopkins Univ. Press, 1995), pp. ix-xii.

tured) in cultural documents to provide a basis for increased royal authority leading to increased power. This required an appropriation of the discourses of power of the time. The resultant break created thereby in the existing narrative of authority was obfuscated by a substitution of a new narrative line that would bestow authority on a king's reach for power through a legitimizing fictitious (construed) tradition, such as was embodied by the "twelve wise men."

With *El libro de doce sabios*, Ferdinand III instructed his son in how to conceptualize rulership and kingly authority, and at the same time provided the beginnings of a legitimizing narrative, a text which would purport to offer a philosophical and cultural basis for increased monarchical power.

El libro de los doce sabios also passed on a concept of power to Alfonso X as an absolute, as a force to be manipulated, equipping him intellectually for re-theorizing the power of the king at a legal level. This would be a necessary step for an increase in authority and power. Foucault has observed that "the system of right, or the domain of law, are permanent agents of [...] relations of domination, these polymorphous techniques of subjugation."⁷⁵ But while Foucault was studying the outer limits of power relations, here we find an attempt to use law, *Las siete partidas*, for wholesale changes, enshrining forces and thoughts that would reconstitute the subject, along with that subject's submission to authority; an attempt to install a new regime, with new processes of submission and subjugation.⁷⁶ Here the ambitious monarch tries to establish the institutions that will ultimately define the manifold relations of power throughout Castilian society, and through the re-writing of philosophy, law and history attempts to disqualify accounts to the contrary. In resorting to the manipulation of these discourses – philosophy, law, and history – Ferdinand III and Alfonso X were attempting to manipulate those discourses that were legitimizing knowledges of Castile of the thirteenth century, discourses that gave authority to assertions, rendering them as truths. This not only shows a concept of power as an absolute, but also indicates an awareness of a concept akin to what Foucault has defined as the interdependent triumvirate of power, right and truth.⁷⁷ to redefine power, one must redefine one's right, and before that re-establish the truths underpinning one's claim.

The program of Ferdinand III and Alfonso X did not, however, yield a momentous and rapid turn. Why this was so is a matter of conjecture, but it stands to reason that the monarchs' execution of the program of creating new truths was fundamentally deficient in some way. One factor may have been the lack of print media to disseminate changes, so that while the monarchs were able to exercise control over what they believed were instruments of power, those instruments themselves were not sufficiently authoritative: *El libro de los doce sabios* was not published until the print era, so while it created new truths, their dissemination was extremely limited. There is also a question over Alfonso's control over the legal instruments. Clearly he did not have *carte*

75. Foucault, "Power/Knowledge: Two Lectures," p. 96.

76. On these processes of subjugation, see *Ibid.*, p. 97.

77. *Ibid.*, p. 93.

blanche and instead had to negotiate changes with the *Cortes*, impeding his ability to re-theorize kingship in such an authoritative document as *Las siete partidas*. The ambivalence of the king's position of power is also reflected in the existence of contradictions and evident polyphony in *Las siete partidas*.

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