



# WOMEN WITHOUT A MAN

*Widowhood in pre-17th century Spain*

# MOMENTS IN SPANISH LEGAL HISTORY

642-643 CE

Visigothic Code (AKA *Liber Iudiciorum*, *Libro de las Jueces*) spread by King Chindasuinth

654 CE

Visigothic Code expanded by King Recceswinth - transition from Roman law to Germanic law

1238 CE

*Fuero General de Navarra* (General Charter of Navarre) codified

1241 CE

*Fuero Juzgo* enacted in Castile by Ferdinand III - translation of *Liber Iudiciorum*

1261 CE

*Furs de València* (Charter of València) codified under James the Conqueror

c. 1250-1265 CE

*Siete Partidas* (Seven-Part Code) compiled under Alfonso X of Castile (?)

c. 1255

*Fuero Real* (Royal Charter) compiled under Alfonso X of Castile

# THE SIETE PARTIDAS

- established a uniform body of normative rules for the Kingdom of Castile
- may have also been intended as a uniform legal code for the whole of the Holy Roman Empire (Alfonso X pursued the Crown for some years)
- possibly also to establish Castilian Spanish as the national language



Miniatura de Las Siete Partidas (Alfonso X el Sabio)  
c. 1256-1265

# SIETE PARTIDAS - STRUCTURE

Seven sections → 182 articles → 2802 laws

1. **A** seruicio de Dios... (*In the service of God...*)
2. **La** ffe catolica... (*The Catholic faith...*)
3. **Fizo** Nuestro Sennor Dios... (*Our Lord God did...*)
4. **Onras** sennaladas... (*Special rites...*)
5. **Nascen** entre los ommes... (*Among men there arise...*)
6. **Sesudamente** dixeron... (*The ancient wise men sagely said...*)
7. **Oluidanca** et atreuimiento... (*Forgetfulness and boldness...*)

# THE FUERO REAL

- granted to all new Christian settlements in Castile
- unified royal legal practices with local and traditional customs into one overarching code

## Four Volumes:

1. religious life
2. political authority & role of nobility
3. commerce & trade
4. criminal & military procedures



Facsimile of 1543 edition of the *Fuero Real* of Alfonso X El Sabio. 1255.

# WHAT LIES AHEAD

*Convent*

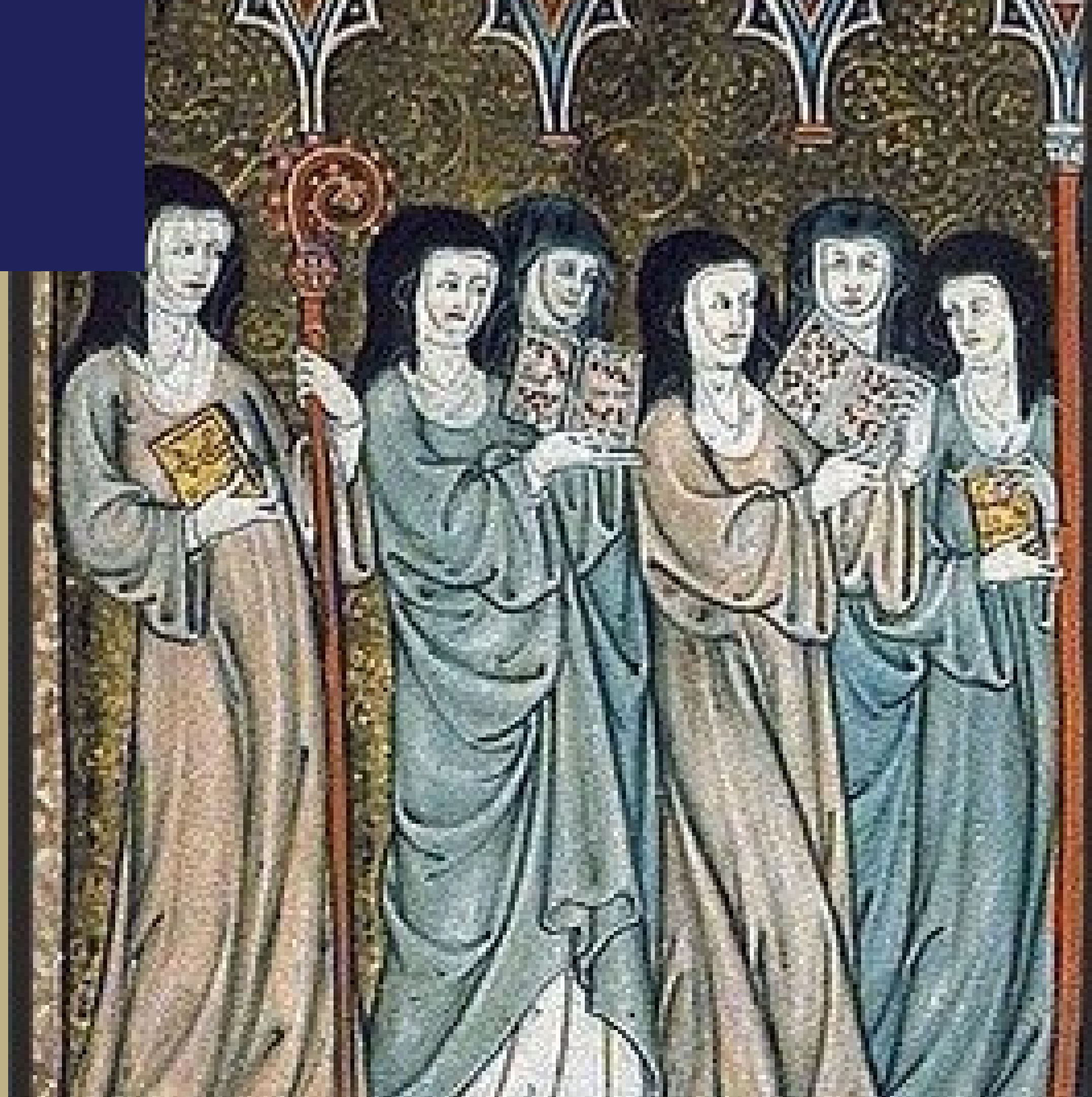
*"Keeping widowhood"*

*Remarriage*



# CONVENT LIFE

A woman who chose to enter a convent was required to write out a will bequeathing away her worldly goods before she took vows



# "KEEPING WIDOWHOOD"

A woman who neither chose to enter a convent nor to remarry was expected to "keep widowhood;" this involved a lifelong commitment to chastity





# THE ECONOMICS OF WIDOWHOOD

1. Wills
2. Jointures
3. Bequests
4. Perquisites
5. Children
6. Guardianship



# WILLS, IN GENERAL

We mandate that those who are underage, or have amnesia, or have no common sense, or those who are serfs or those judged to die for a crime they have committed, or heretics or men of religion or clerics will not make a will and if they do so the will is not valid.

*Fuero Real*

To the state, the purpose of a will was to keep lands and monies in the hands of Castilian Catholics; to that end, Muslims, Jews, heretics, and men of religion/clerics were prohibited from inheriting at all.

**Women were not prohibited from making a will or inheriting.**

## DEFINITION

A compact made by a husband and wife during their marriage to leave the survivor the right to use or benefit from the property owned by the deceased spouse; a jointure postponed the partition of the estate among family and heirs until a predetermined time

- a. *hermandad* - postponed partition until the surviving spouse's death
  - > surviving spouse was given use for life of all land and moveables - whether acquisitions or ancestral property - belonging to the deceased
  
- b. *medietas* - in case of no offspring from the marriage
  - > transferred full ownership of all moveables and real property to the surviving spouse

# BEQUESTS

The *Fuero Real* retained the Visigothic custom of a freely disposable fifth of one's property

12th c.: fifth primarily used to benefit the soul after death

- if one died intestate, one-fifth of moveable goods could be given to the parish clergy for the redemption of the soul

13th c.: bequests above the fifth allowed for acquaintances as long as any children were first provided for

Most towns in Extremadura allowed a bequest of half one's goods to one's spouse, whereas other townships allowed only a fifth

## DEFINITION

Basic necessities set aside from a couple's property to provide for a widow's minimum needs; these items were not required to be shared with any other heirs

Most towns attempted to meet the basic needs of food, shelter, clothing, and transportation as well as her own personal effects

Perquisites allowed a widow to establish herself as a single woman, or they held her over until she remarried

However, remarrying or planning to remarry before the end of the year's mandatory mourning, or taking a lover, meant that the perquisites she held must be returned to the husband's family for partition

## WHAT DID SHE GET?

- Widows almost always received the marriage bed as a symbol both of her place in the family and of her continuing commitment to chastity.
  - beds were elaborately and valuably dressed with pillows, mattresses, sheets, spreads, hangings, and feather ticks
- Most were given a mule or ass for use as transportation
- She wasn't guaranteed a house - unless she owned it herself or the couple owned more than one
- Clothing was considered conjugal property unless the woman or her family had purchased it, or the husband had made them a gift to her
- Jewels were also part of the marriage estate, unless purchased by the wife or her family or given as a gift by the husband
- She couldn't take anything that duplicated an item she owned herself (eg. if she owns a mule, she can't take another)

# EXAMPLES

## CUENCA

1. bed
2. bed dressings
3. subsistence-holding  
w/ small field
4. pair of oxen
5. vineyard

**Note: no house, no mule,  
no clothes**

## CORIA

1. bed
2. bed dressings
3. small house
4. choice of fields
5. choice of vineyards
6. milling rights
7. plough animals
8. mule or ass
9. 12 sheep
10. 1 sow
11. 1 Muslim slave (male  
or female)
12. cooking cauldron
13. all her clothing

## SALAMANCA

1. bed
2. small house
3. table & benches
4. chests
5. field & vineyard
6. oxen
7. ass
8. milling rights
9. cauldrons, spits, fire  
shovel
10. sieves, sifters & scales
11. wine barrel
12. cutlery, crocks,  
trenchers, cups,  
spoons

**Ascendant succession:** widowed mother could lay claim to the property/inheritance of any of her children who died without descendants of its own

- child must live at least 9 days after birth
- a posthumous child was entitled to paternal inheritance
  - mother received support from this until she delivered
  - if she outlived the posthumous child, she was able to claim some of its property

some moveable property was too valuable (livestock, plate, scarlet cloth) and was returned to the husband's family

**It's interesting to note that ascendant succession rules applied to a bachelor's "domeciled mistress" (*barragana*) as well as wives**



# GUARDIANSHIP

Between 1350 and 1750, more than 80% of noblemen chose their wives to be the guardians of their children

- Preservation of family, power & lineage was more important than traditional gender roles
- Expected & trained female relatives to take active part in economic & political affairs of the family
- Women of the family were considered the most competent to take care of estates and children

# GUARDIANSHIP

By law, women were generally excluded from guardianships; however:

- Women may be appointed guardians of their children or grandchildren
- A mother who wants guardianship of her children should have it “in preference to any other of their relatives, provided she is a good and prudent woman”
  - Cannot assume guardianship over a child not related this closely

# THE MULTIPLE WIFE PROBLEM

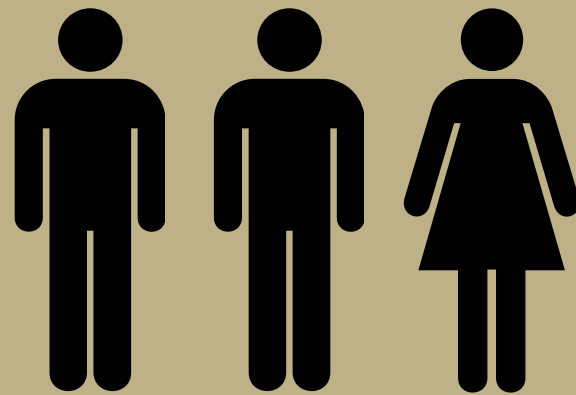
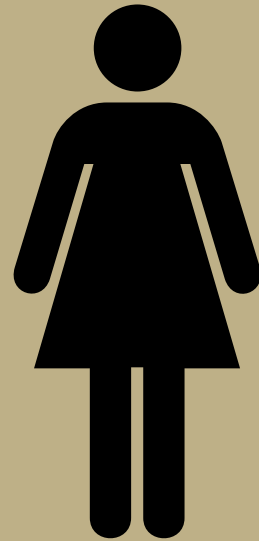
Any property that belonged to a previous wife would, upon the death of the husband, be returned to her or her children or family

The problem was conjugal property - if there was no will, the state would divide the property up by "bed" (marriages in order), and to each child by birth order (marriage order)

This meant the first wife and her children received the greatest share of the estate, while the last wife and her children received the least

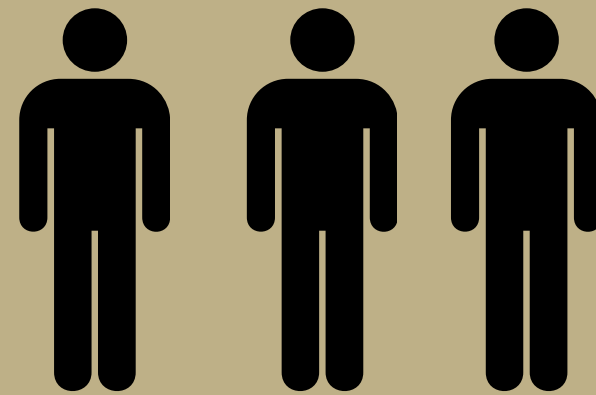
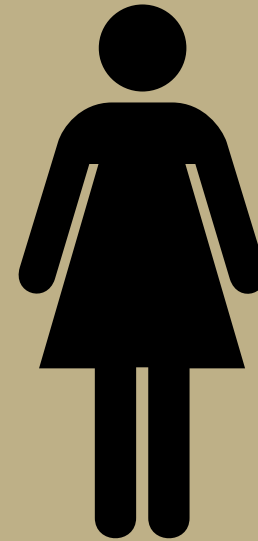
# THE MULTIPLE WIFE PROBLEM

Wife  
A



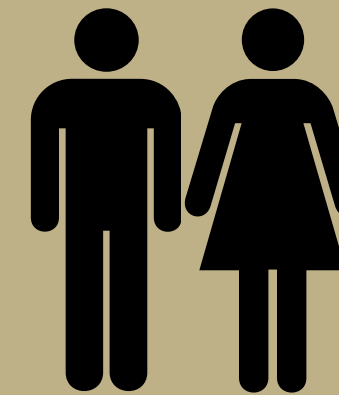
We split everything of mom's, and half of what she and dad acquired during their marriage

Wife  
B



We split half of what's left by birth order

Wife  
C



We split half of what's left by birth order

Whatever is left goes to Wife A



# REARRIAGE



# CONSENT V. CONSTRAINT

- unrestricted right to remarry
- allowed to choose her own husband (even if her parents were still alive)
- mandatory year of mourning before remarrying or planning to remarry
  - If she married too early, all claims to marital property reverted back to her husband's family for partition
  - Custody of children produced during the first marriage could also be forfeit