The Portuguese Concelhos and Forais. A Case in Institutional History from the eleventh to the mid thirteenth centuries

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Abstract

Since the eleventh century, the establishment of municipal institutions (Concelhos) in Portugal followed the process of creation of the country itself. Military reasons were present in this association because of the constant state of war with bordering Islam. The Concelhos helped to secure the conquests through the settlement of population. However we find this is only a partial description of the incentives that led kings, the church and the nobility to promote the Concelhos by granting them charters of municipal rights (Forais). We argue that the municipalities also helped to solve a problem of commitment to the protection of property rights before the establishment of an efficient state administration. Starting in the mid thirteenth century, the rise of a strong and unified royal administration, capable of enforcing a unified rule of law, substituted for the early need of autonomous local enforcement institutions.

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MAP 1: PORTUGAL

River Tejo - major rivers
ALENTEJO - natural regions
Lisboa - main cities

- stages of Reconquest
- area studied by Durand (1982)

Source: "Atlas Digital do Ambiente - DGA"
1. Introduction

Portugal achieved its independence from the kingdom of Léon by the treaty of Zamora of 1143, even though it had been conducing an autonomous policy since 1128 when Afonso I (the first Portuguese king), became count of Portugal. At this time the southern border of the county had not yet reached the river Tejo (Map 1). The first five Portuguese kings continued the expansion towards the south at the cost of the Moorish states (Taifas).\(^1\) Therefore, until the thirteenth century, the life of the new nation was marked by a state of constant military preparedness both to defend the newly acquired territories and to absorb new ones before the other Christian kingdoms of the Peninsula. During the eleventh century, the expanding Christian territories began recovering the structures of local government that had conceivably antedated the period of Moorish occupation.\(^2\) By granting the privileges of local self-government, the landlords and especially the kings tried to settle populations in the newly conquered areas, so as to consolidate their possessions. The needs of defense are clearly associated with the creation of the Iberian municipalities (in Portuguese Concelhos).\(^3\) The county and the kingdom of Portugal were no exception to this general movement. The earliest known charters of municipal rights (Forais) of Portuguese territories were granted by Fernando I, king of Léon and Castile between 1055 and 1065. The first Portuguese kings, together with other landlords, were also active granters of these charters. So that by the fourteenth century, practically all the territory had been organized under municipal institutions. In fact, the Peninsular Forais were usually patterned after a small number of typical charters, according to the specific needs of each case. This led to the formation of “families” of Concelhos identified by the common type of charter that was granted to them.\(^4\) However, as the military needs subsided along the Reconquest, the granting of Forais had progressively less to do with the settlement of populations and frontiers and more with the mode of exploration of the land. Another remarkable characteristic of the Forais was that they transmitted the right

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\(^1\) Cf. the annex for the chronology of the first kings. Actually, since the donation of the county of Portuscale (Portugal) to Henrique of Burgundy, the territory was only nominally dependent from the kings of Léon. King Afonso III completed the Portuguese part of the Reconquest with the occupation of western Algarve in 1249.

\(^2\) Islamic troops first disembarked in the Peninsula in 711 and the Christian Reconquest was prolonged until the fall of Granada in 1492.

\(^3\) On this point cf, in particular, the thesis of a “society organized for war” of Powers (1988).

\(^4\) In Portugal, the most important families of Concelhos received the Forais of Ávila, Salamanca (two towns in the kingdom of Léon), Coimbra or Santarém. More on this on section 5.
to explore and, in some cases, even the full property of land to the populations in exchange for the payment of a sort of joint rent for which the inhabitants of the *Concelho* were collectively responsible. The main argument of this paper is that there were specific economic incentives guiding the process of the institution of *Concelhos*. The regular land contracts were settled between two parties with considerably different power: the landlords (the king, the church and the lay nobility) and the individual tenants. In a time before the establishment of a centralized state enforcement power, the *Forais* helped to solve an obvious problem of commitment on the part of the landlords to respect their tenants’ rights. By granting a measure of autonomy and coordination to the populations living at the *Concelhos*, the landlords could more effectively commit to the property rights of their dependents. As we shall argue this was a superior institutional arrangement because it better provided the incentives for a more efficient use of the land.

A new period in municipal history in Portugal was brought about by the tendency of political centralization around the king. Despite early attempts, namely by Afonso II, the second half of the thirteenth century roughly marks the beginning of this process that was pursued at the cost of all instances of autonomous power, namely the *Concelhos*. At the end of the next century, the *Concelhos* were reduced to local divisions of the royal or seigniorial administration, and had lost the essential part of their autonomy. The 1502-1520 general reform of the *Forais*, that replaced all the existing charters with little more than codes of fiscal duties of the inhabitants, completed the transition. The rise of a strong and unified royal administration, capable of enforcing a unified corpus of royal law and, in particular, of offering better security for private property rights, dispensed with the early need of autonomous local enforcement institutions.

The rest of the text is organized into 5 five sections. Section 2 describes the main strands in the historical literature about the *Concelhos*. Section 3 establishes in more detail the two main concepts involved, the *Concelho* and the *Foral*. A simple analytical framework, using non-cooperative game theory occupies Section 4. Some of the predictions of the analysis are confronted with the evidence available in section 5 and section 6 offers some final comments.
2. The historiography of the Concelhos

The first thorough research of the origin and features of Portuguese municipalities was conducted in the mid nineteenth century by Herculano (1981). Having started his research shortly after the overthrow of absolutist Monarchy in Portugal, Herculano was particularly interested in presenting the Concelhos as “the only institution that has not been a vain game of words in what respects the assurance of liberty for the laboring classes” (1981: 366). Herculano tended to compare the fiscal and feudal burdens suffered by the peasants directly dependent from a seigniorial landlord with the areas of relative personal and economic freedom offered by the Concelhos. Politically tainted as it was, his analysis influenced the subsequent literature on the origins and meaning of the Concelhos in the Middle Ages. The second historian to follow Herculano’s strand was Barros (1945), exposing a different version of the process of establishment of the Concelhos. Herculano emphasized that autonomous self-organized communities antedated their official recognition by the landlord or the king. Barros (1945: I, 100-101 or III: 13 ff) finds that such autonomous traditions could hardly have subsisted in the context of a seigniorial society, so he tried to give an endogenous explanation for the emergence and development of the Concelhos: because peasants could always flee to municipal lands, the landlords, if they wanted to keep their estates manned, progressively came to terms with the need to improve the status of their dependants. Hence, the Concelhos would also have contributed, through this “competition among seigneurs”, to the contemporary evolution of the relations of personal dependency. The older forms of serfdom, that barred peasants from abandoning the lands they worked, were progressively replaced with more advanced contractual arrangements. In the latter, the peasant, although not entirely “free” in economic terms, could at least choose his location and hence, his landlord. This strategic reaction of the landlords to the new conditions of the

5 The precedence of the municipal institutions before their recognition is unanimously quoted by the literature (cf. Barros I: 180, Caetano 1985: 238 or Coelho 1973:165). And there are some direct evidences about it, such as the Foral of Seia (1136), where king Afonso I explicitly makes reference to the former customs that ruled the Concelho: “Concedo quod habeatis consuetudines bonas melioris quod habuitis hucusque” (P.M.H. Leges: 370).

6 The culmination of such an evolution is looked by Barros (1945) and Herculano (1981) in an “emancipation” law by which Afonso II determined that every man that was not settled in alien lands was free to choose his own lord, while fining any noble that attempted against this freedom with 500 soldos or confiscation of lands and exile in case of reiteration. Although the enforcement powers of the Crown were
market for peasant labor, namely by granting themselves municipal rights to some of their manors, was later recovered by a strand of Marxist historians, namely Coelho (1973) and Castro (1975). Interpreting the general evolution of land contracts according to the theory of class conflict, they found it natural to see the autonomous *Concelhos* as the result of the strife of the working classes that the landlords were progressively forced to accommodate. The evolution of economic forces in the low Middle Ages (the greater pacification towards the end of the *Reconquest* being accompanied by an increasing population) would have forced upon the landlords a necessary change in the contractual relations with the tenants working their lands.

More recent historical research on the subject has given somewhat different accents to the two parties in play (the communities and the landlords) and to the motivations behind their moves. Powers (1988) studied the medieval municipalities in the Iberian Peninsula and found that the permanent state of war along the frontier with Islam was the main factor that drove the creation of municipal institutions and shaped their features. However, the author recognizes that this “military thesis” is especially adapted for the central region of the Peninsula, where communities specialized in cattle rearing and regular expeditions to collect booty both from the nearby Moorish lands and from “*malus christianos*”.7 This was not the case in the regions bordering the Ocean, such as Galiza, Portugal and Catalonia that did not have such direct contact with the “frontier” and developed a more diversified economic basis.8 Finally, Mattoso (1985) downgrades the importance of local communities in the emergence of *Concelhos*, which he also does not consider as “islands of freedoms” (as Herculano would put it) among a sea of seigniorial manors, controlled by the king, the church or the nobility. Whereas all the other historians tried to see the progressive emancipation of the lower classes, Mattoso speaks of a renewed “vague of seignorialism” around the twelfth century, by which the church and the lay nobility found ways of increasing their exertions both inside their private lands

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7 Actually, the Portuguese municipalities where this scheme seems best to fit were located in the border of the Beira Interior with the neighboring Christian kingdom of Léon!
and even within the frontiers of the theoretically autonomous Concelhos. Although the evidence he presents is convincing in several aspects, we would like to stress the temporal and geographical barriers of such argumentation. In fact, the author himself acknowledges that the “vague of seignorialism” first spread to the more ancient regions of seigniorial power, i.e. to the north of the river Douro (see Map 1). Only progressively it reached the more recently conquered regions of Beira, Estremadura and Alentejo, where the municipal institutions had earlier established a stronger foothold. Moreover the Concelhos in these regions offered a prolonged resistance to the intrusion of external landlords, in some cases until the second half of the thirteenth century. Mattoso also recognizes that the increased “seignorialism” cannot be understood isolated from the contemporary changes in the structure and scope of the royal prerogatives, increasingly turned to centralization of powers, at the cost of any local autonomic institutions. Hence, we think that there is no real opposition between the two main theses exposed provided we distinguish the time periods in which they make sense. The strategic interplay between communities and landlords can perfectly be retained as an instrument of interpretation for the municipal history at least until the first half of the thirteenth century. By the end of this century, the Concelhos had lost the better part of their former autonomy, both to the intrusions of the church and lay landlords and to the movement of political centralization around the king.

3. Basic concepts: Concelho and Foral

In this section we will specify in greater profundity the components of the two main concepts of our analysis: the municipality (the Concelho) and the charter that recognized or gave it birth (the Foral). This will serve to prepare the formal analysis of the next section by showing how our simplifying assumptions are related to the complexities of the historical institutions.

The typical Concelho can be characterized by three elements: territory, population and government. The territory of the Concelho was divided into the town and the rural

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9 According to Mattoso (1985: I, 68 ff) if anything helped to improve the economic condition of the lower classes it was their ability to migrate away from the areas more under the seigniorial control, and even this only before this control also extended to other areas. The Concelhos, in his opinion, were not strong enough to face these encroachments of seigniorial authority.
surroundings (the alfoz or termo) that, depending on the size of the Concelho, could include several subordinated villages. The land was divided among the original households of the municipality, the commons usually used for cattle grazing, the lands eventually reserved by the granter of the Foral and the sesmo. The sesmo was the area of land available for distribution to new households that might come to live in the Concelho. Although the specifics depended on the family of the Foral, the municipal population gradually became more stratified, originally along the lines of military requirements and then increasingly on the basis of accumulated wealth. The inhabitants of the Concelho (the vizinhos) were usually divided between cavaleiros-vilãos and peões, literally “villager-horsemen” and “foot-soldiers”. In what follows we will abstract from this differentiation, by assuming that the Concelho is constituted by a finite number of identical households (casais), each endowed with a similar share of land in the alfoz. This simplification is somewhat convenient because allows us to avoid modeling the interaction between different power groups inside the Concelho, but it is also reasonable in the light of the period we choose to study. On the one hand, two of the main families of Forais gave the same treatment to peões and cavaleiros-vilãos, except for military obligations (more on this on section 5). On the other, the upper category of cavaleiro-vilão was freely accessible to the peões, provided they filled the prescribed requirements, namely that they could maintain a warhorse and the ancillary equipment. In later periods, the military nomenclature of the cavaleiros-vilãos was replaced with the moneyed class of homens-bons (good men), increasingly detached from the poorest part of the population and, in the cities, already aspiring to nobility. But, as we mentioned, up to the twelfth century, these tendencies were not yet present for the majority of the Concelhos.

Finally, the adopted government formulas varied widely with the period of constitution, family of the Foral, and importance of the Concelhos. Nevertheless, we can describe a sort of minimum common denominator amidst this diversity. The oldest and

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10 These requirements evolved along the time and the reduction in the intensity of military operations in the second half of the thirteenth century. Older charters such as Leiria (1142) and Sintra (1154) only mentioned the horse, whereas others added some signs of funded wealth. For instance, in the Foral of Évora (1166), the title of cavaleiro-vilão was reserved to those that had a horse, a casal, a yoke of oxen, forty sheep, a donkey and two beds (P.M.H. Leges: 392). The tendency to replace the military with wealth requirements eventually prevailed, such that the wealthier landowners monopolized the access to the cavalaria-vilã.
highest body of government was the *concilium*, an assembly of *vizinhos* that originally had a full range of competences: military, legislative, administrative, control and, sometimes, judiciary. In larger and more complex *Concelhos* this assembly lost the greater part of its attributions to specialized officials, although retaining the function of highest instance of power and serving as electoral college for the choice of the *Concelho*'s officials. The permanent officials typically had judicial (*alvazis*, *alcaldes* or *juizes*) and economic competences: the *sesmeiros*, responsible for the distribution of the remaining lots of the *sesmo* to newcomers and the *almotacés*, charged with the regulation of local markets and price controls. Superimposed on the municipal government, the landlord that chartered the *Concelho* was represented by his private officials (*mordomos* and *saíões*) responsible for the collection of the taxes stated in the *Foral* and the overseeing of the lands that might have been reserved for the landlord inside the *alfoz*.11

As in the case of the social hierarchy, we will also abstract from the intricacies of the municipal administration to concentrate on the municipal institutions as organizations coordinating the reactions of the population of a *Concelho*.12

The *Foral* was the charter that established the terms of relations between the landlord and the *vizinhos*. As already mentioned, the *Forais* were also far from uniformity. Soares (1981: 651) starts by distinguishing between “rural” and “urban” *Concelhos*. The “rural” *Concelhos* were instituted with a very rudimentary charter that almost exclusively dealt with the fiscal obligations of the inhabitants to the granter and, sometimes, mentioned one or two officials to supervise the judicial and fiscal matters. Furthermore, they were granted to small rural communities, with only a semi-autonomous regime of land property.13 The label “urban” refers not necessarily to municipalities headed by a city, but to *Concelhos* whose charters included all the three types of topics of a *Foral*: the privileges and guarantees of the *vizinhos*, the judicial procedures, and the obligations with respect to the granter. The latter comprised the military duties of the population, both

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11 In *Concelhos* with a castle there was still an *alcaide* or *pretor*, a noblemen that commanded the garrison and also usually presided to the *concilium*.
12 Again, the main reason has to do with the simplicity of the model. Otherwise we would have to take explicit account of such subjects as the political economy of the election and functioning of the municipal offices, without much gain to the central point we are trying to make.
13 I.e., the landlord frequently retained the right of option over any land transactions within the *alfoz*, or at least taxed them. Because of the incipient character of these charters, the literature usually refers to them as *cartas de povoamento* (charters of settlement), reserving the term *Foral* to the “urban” *Concelhos*. 
defensive (*apelido*) and offensive (*hoste or fossado*), the direct and indirect taxes falling on the local production and trade (*foro*) and the part of the income of the municipal courts shared with the granter (*peita*).\(^{14}\) We will once more skip the vastly complex fiscal system of the age and summarize all tax levies by a proportional rate \(\tau \in (0,1)\) falling on the gross total production of the *Concelho*.

**4. The model**

In this section we will present two ways of formalizing our historical situation. The models are admittedly very simple, but they incorporate the main theoretical insights and generate testable predictions that, up to a certain point can be compared with the available evidence.

**4.1 Common Assumptions**

The following assumptions, together with those already mentioned in section 3 are used throughout the analysis:

1. **Technology**: we will abstract from local craftsmanship and trade and concentrate on agriculture as the main economic activity for the majority of the *Concelhos*.\(^{15}\) We will assume that the production function for farming “output” (Y) used three inputs: land (A), labor (L) and capital (K). Each identical household receives a similar share of the *alfoz* and of the exploitation rights of the commons. With a local economy largely self-sufficient for the majority of goods, it seems reasonable to assume that the working effort of each household was entirely devoted to the cultivation of its *casal*. This allows us to avoid dealing with the labor market or the fixing of wages.\(^{16}\) In a similar manner, we will also consider that the capital goods employed by each *casal* had no explicit remuneration.

\(^{14}\) It should be remembered that the practice of justice was considered as an ordinary source of revenue, what explains the care the granter usually had with the establishment of legal procedures and fines.

\(^{15}\) Naturally, this is less appropriate for some “urban” *Concelhos* where the economic significance of trade was more felt. The principal cities as Coimbra, Porto and Lisboa qualify in this group. However, the Portuguese “cities” of the time were both very small and dependent on the agricultural activity on their surroundings. Actually, cultivated lands were common even inside the city walls.

\(^{16}\) Actually even the shadow price of labor, understood as the remuneration that could be obtained in the best alternative does not seem relevant in this context. Under the older forms of personal dependency this question simply did not place itself because the dependents were not free to change their labor situation. Under the more advanced alternatives, where the peasant retained the freedom to choose his location, if he settled in a *Concelho* he would be entering into a long-term (usually lifetime) attachment to the land that was distributed to his household.
By capital goods, we understand the simple instruments of cultivation, the share of the crop left as seed (in the case of cereals) and the fixed equipments of transformation, such as mills, ovens and presses. Actually, the inhabitants had to pay to use the latter equipments, but, as the granter of the foral usually kept the monopoly of such installations, we can consider that this fraction of cost comes included in $\tau$. Given all this, the net “surplus” of the Concelho after each crop is simply $Y(1-\tau) = F(L, A, K)(1-\tau)$, where $F$ is the aggregate production function for the “farming output”. We will assume, for simplicity, that $F$ is globally concave in the three inputs. This implies there is an optimum level of production $Y^* = F(L^*, A^*, K^*)$ that gives a surplus of $Y^*(1-\tau)$. We will often refer to $Y^*$ as the “efficient” level of production, in the sense that it was the best that could be obtained given the resources and technology constraints.

2. **Taxation**: for simplicity, we assume that the granter can only choose between two levels of taxation: the level settled in the foral ($\tau_0$) and a level arbitrarily high ($\tau_a$).

3. **Unit of analysis**: the basic unit of production was the household that was inclusively confounded in the documentation with the area of land that it cultivated (the casal). As referred previously, we will consider the Concelho as a collection of identical casais only connected by the joint exploitation of the commons and the use of the fixed means of transformation.

4. **Time period**: we will assimilate each stage of the game to a full sowing-harvest cycle.

4.2 Dynamic game with complete and perfect information

We shall first derive an intermediate result concerning the relative efficiency of the Concelhos versus the usual contractual relation between the landlord and the peasant or

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Supplementary notes:

17 Notice that $K$ includes a part of the previous period’s crop kept as seed, so that a more accurate description of the surplus would be: $Y_t(1-\tau_t) = (1-\tau_t)F(L_t, A_t, K_t, S_t)$, $S_t = Y_{t-1}(1-\tau_{t-1}) - C_{t-1}$, in which $K$ stands for the fixed equipments, $S_t$ for seed and $C_t$ for total consumption. Marques (1978: 48) quotes evidence that even as late as the end of the fourteenth century the average productivity per seed averaged 5 in the most fertile lands. This would give a lower bound of 20% of the crop of cereals for $S_t$. We will return to these dynamic effects shortly.

18 A further implicit simplifying assumption is to consider $F$ as deterministic, when we should also include a stochastic factor to account for the influence of variable climate on the crop. However, as we want to focus our analysis in the relevance of the contractual arrangements for economic incentives we will keep this simpler formulation.
tenant, in the absence of an external contract enforcement power. Put simply, the latter type of contracts is not efficient because the landlord cannot commit credibly to the rules of the contract given that he has the power to abuse his rights after the crop has been made. The only conceivable limit he would eventually face was the amount of the crop indispensable to the subsistence of the tenant’s household, if he wanted his lands to remain manned in future periods. We are not saying that this would be an accurate description of the relations between landlords and tenants, but the fact that any tenant had to consider the probability of having to suffer an adverse change in his obligations to the landlord would clearly affect his incentives to production. Now, the simple granting of a charter to create or to recognize the local organization of some population into a Concelho was not in itself enough to solve this commitment problem. To see this, we will follow a similar model to that developed by Greif, Milgrom & Weingast (1994) to study the emergence of the Merchant Guilds in the northern European trade.

Suppose the landlord has to decide the fraction $\varepsilon \in (0,1)$ of households to whom we will charge $\tau_a$. To turn the case against us assume that the landlord will not be able to charge any taxes after the first period to the fraction of abused households, either because these could effectively stand to the landlord’s officials or because they moved out of the Concelho in search of a better environment. The present value (over an infinite time-period) of the payoff of the granter would then be:

$$P = \tau_a \varepsilon Y + (1 - \varepsilon)\tau_0 Y + \frac{\delta}{1 - \delta} \tau_0 F[(1 - \varepsilon)L, (1 - \varepsilon)K, (1 - \varepsilon)A] + \frac{\delta}{1 - \delta} 0$$

where $\delta$ is the time discount rate.

To prove our point we have to show that there is no Nash equilibrium where the optimal level of production $Y^*$ can be sustained with $\varepsilon = 0$. In fact,

$$\frac{\partial P}{\partial \varepsilon} \bigg|_{\varepsilon = 0, \tau = 1} = (\tau_a - \tau_0)Y^* + \frac{\delta}{1 - \delta} \left[ -L^*F_{Y^*} - K^*F_{Y^*} - A^*F_{Y^*} \right] = (\tau_a - \tau_0)Y^* > 0 ,$$
because $F_{Y^*} = F_{Y^*} = F_{Y^*} = 0$, by definition of $Y^*$ and $\tau_a > \tau_0$. This means that at $\epsilon = 0$ and $Y = Y^*$ the granter has always interest to abuse of some fraction $\epsilon$ of the vizinhos so that no efficient equilibrium is sustainable with a mechanism of bilateral sanctions.\(^{19}\)

Therefore, something more than the mere creation of municipalities is needed to overcome this problem. According to Herculano:

\begin{quote}
It is necessary that a complex of circumstances or at least some circumstances give the Concelho an individuality that separates it from other persons or moral bodies and that, at the same time, give it cohesion in its interior...Where this circumstance was not present, the Concelho will not exist: the charter of settlement where provisions of this nature are completely absent will not create a community; it will be instead a bilateral or unilateral contract, a concession or a collective extortion, anything but a foral (1980: 90).
\end{quote}

In section 5 we will present evidence that municipal communities indeed acted in a coordinated and cohesive fashion and they did so because of the features of their institutions. For this reason, we can imagine a different game were the Concelho itself appears as a player represented by municipal institutions that are strong enough to coordinate the actions of the vizinhos and to enforce their decisions. For this game there is a sub-game perfect Nash equilibrium with trigger strategies that supports the efficient level of production $Y^*$. The equilibrium strategies are:

- the granter respects the Foral ($\tau = \tau_0$) if the Concelho also paid the established taxes in the previous period and abuses otherwise;
- the Concelho respects the Foral if the granter did the same in the previous period and retaliates otherwise.

During “cooperation periods” the payoffs are $(1-\tau_0)Y^*$ for the Concelho and $\tau_0Y^*$ for the granter. It is only natural to expect that if the Concelho retaliated against abuses of the granter it would have to sustain some cost. We measure this cost in terms of forgone production by assuming that, during retaliation, the Concelho can only get $Y' < Y^*$, while the granter gets $\tau_aY^*$ in the first period and nothing thereafter, as in the previous game.\(^{20}\)

We make two natural assumptions on $Y'$. First, $Y' > Y(1-\tau_a)$, otherwise it would never pay to fight the abuses and the landlord would rationally charge $\tau_a$ in every period. Second,

\(^{19}\) Note that at the optimum level of production $Y^*$ the granter has nothing to lose from abusing the marginal household.

\(^{20}\) Because the granter expects a coordinated response by the Concelho he optimally chooses $\epsilon = 1$, otherwise he would be losing present gains with the same future punishment.
$Y' < Y^*(1-\tau_0)$, otherwise the Concelho itself would have no interest in respecting the terms of Foral, and then it would not try to defend its application. These two conditions can be given a different interpretation. As mentioned before, a substantial share of the crop had to be put away to insure next year’s production. If we assume that the inhabitants did not leave their consumption levels fall, the loss of seed should approach $(\tau_a-\tau_0) Y'$. If we take as 5 the average productivity per seed this loss of seed decreased next period’s production by $5(\tau_a-\tau_0) Y'$. Finally let $\beta Y'$ be the fraction of costs from fighting the landlord’s intrusions. In this case $Y'$ cannot be higher than $Y' - 5(\tau_a-\tau_0) Y' - \beta Y'$. This value of $Y'$ verifies the two conditions above for an “intermediate” level of $\beta$.

The game so far described is a typical prisoner dilemma where the only Nash equilibrium is the worst alternative available, in which the granter abuses and the Concelho boycotts the granter’s taxes, with payoffs 0 and $Y'$ respectively.

If we add a condition to ensure the participation of the granter, we can reach the “efficient” sub-game perfect equilibrium mentioned above. The condition is:

$$\frac{\tau_a Y^*}{1-\delta} \geq \tau_a Y^* + \frac{\delta}{1-\delta} 0 \iff \frac{\delta}{1-\delta} \geq \frac{\tau_a - \tau_0}{\tau_a}$$

In words, the granter should be patient enough so that the current benefits from violating the Foral would be smaller, given the reaction of the Concelho, to the present discounted value of the stream of “normal” taxes. Again, it seems natural to expect this from granters that were prepared to cede *sine die* a considerable portion of their jurisdiction to the population of the Concelhos. It is easy to check that with this set of assumptions the trigger strategies described above constitute a perfect equilibrium.

However, this perfect equilibrium is not renegotiation-proof because it assumes that there could be no renegotiation between the landlord and isolated households of the Concelho, when there would be an obvious mutual advantage for doing so, because the granter got some taxes even during the retaliatory phase and the households were spared the costs of retaliation. If such bilateral agreements were allowed to happen, no threat of retaliation by the municipal authorities could be credible. This underscores the importance of the municipal institutions and, especially, of their power to enforce

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21 I.e. not too high to dissuade any retaliation nor too low to make cooperation more profitable: $6\tau_0 - 5\tau_a < \beta < 5\tau_0 - 4\tau_a$. 

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conformity of all vizinhos to their decisions. And the most significant is that, as we shall see in section 5, the landlord himself often used the charters, whereby he granted the municipal rights, to endow the municipal institutions with the power to coordinate and enforce the Concelho’s strategies.

We now turn to two final technical questions about the robustness of the equilibrium strategies. The folk theorem shows that any feasible rational outcome can be sustained as a Nash equilibrium of an infinitely repeated perfect information game, provided that the players are sufficiently “patient”. However, the assumption of an infinite horizon seems reasonable because the charters were explicitly granted without any specific time limit. In the game we implicitly assumed that the Concelho and the granter had the same discount factor $\delta$, when it seems reasonable to expect a higher rate of time discount (a smaller $\delta$) for the Concelho. A way to take heed of the limited capacity of most municipalities to sustain a retaliation for too long is to change the setting of the dynamic game using a modified version of the “regime switching” models of Porter (1983b) and Green & Porter (1984). Given the assumptions already made and a stronger version of the participation condition of the granter, it can be shown that the following strategies also form a perfect equilibrium:

- both players start the game in a “cooperative phase”, with payoffs $(1-\tau)Y^*$ for the Concelho and $\tau Y^*$ for the granter;
- if one of the players violates the agreement the game switches to a “punishment” phase with payoffs $Y'$ and 0 that lasts for $T$ periods;
- after the $T$ periods elapsed the players return to a cooperative phase.

The new participation condition assumes that the present gain of infringing upon the terms of the Foral is smaller than the accumulated loss during the “retaliation” phase:

$$\left(\tau_a - \tau_0\right)Y^* < \frac{\delta - \delta^{T+1}}{1 - \delta} (\tau_0 - 0) \iff \frac{\delta - \delta^{T+1}}{1 - \delta} > \frac{\tau_a - \tau_0}{\tau_0}$$

22 For instance the Foral of Moreira read: ‘I King Afonso with my son Sancho and with all my sons, to you people of Moreira that currently live there by my command and of my sons, and also to those that may come to settle there, we grant you a charter...’ (P.M.H. Leges: 436-37).
The advantage of this formulation is that it establishes the optimal duration of punishment $T$.\textsuperscript{23} Let $V^+_c$ ($V^-_c$) be the present value of the Concelho’s surpluses starting from a phase of “cooperation” (“punishment”). The expressions are:

\[
V^+_c = (1 - \tau_0)Y^* + \delta V^+_c
\]
\[
V^-_c = (1 - \tau_a)Y^* + \frac{\delta - \delta^{T+1}}{1 - \delta}Y^* + \delta^{T+1}V^+_c
\]

We can now solve the problem to minimize the cost of retaliation subject to the participation condition of the granter. Because $V^-_c < V^+_c$ this is equivalent to solve:

\[
\text{Max}_T \quad V^-_c
\]
\[
\text{s.t.} \quad \frac{\delta - \delta^{T+1}}{1 - \delta} \geq \frac{\tau_a - \tau_0}{\tau_0}
\]

Taking the constraint as binding and replacing it, we get that $\partial V^-_c / \partial T < 0$, i.e., the problem is solved for the smallest value of $T$ consistent with the constraint. To have an intuition of this result, we can try to “calibrate” the parameters using the available information. In the region studied by Durand (1982: 403), the median rent charged on cereals’ crops around the middle of the thirteenth century was 20%. The same author estimates the minimum household consumption as little less then 40% of the crop (Durand 1983: 520). Finally, if we add the estimate of 20% of the crop for seed (already mentioned), we arrive at a 20% net surplus that could be allocated to increase the scale of production, the household consumption per capita or the size of the household. Assuming that the landlord did not raise his $\tau$ beyond what was needed for minimum consumption and seed, the maximum $\tau_a = .4$ and so the constraint is binding at $(\delta - \delta^{T+1})/(1 - \delta) = 1$.

For reasonable values of the rate of time discount ($\rho$), the minima $T$ that satisfy this constraint are represented in Figure 1.

\textsuperscript{23} Contrary to the original version of Green & Porter (1984) and Porter (1983b) we keep assuming perfect information because the Concelho would know without ambiguity whether its rights had been disrespected by the granter or not.
As can been seen, until very high levels of $\rho$, the optimal number of retaliation periods could be remarkably small. Naturally, this result was derived under optimal conditions so that it can at best be taken as a benchmark for more complex strategical environments. In particular, if the players had imperfect information they might be led to a “war of attrition” type of game with higher equilibrium values of $T$. Notwithstanding, it seems reasonable to argue that with a “sufficiently patient” landlord, the Conceiço would not need to sustain the costs of retaliation over an inordinate period of time.

5. Evidence

The gathering of corroborative evidence to our analysis is particularly difficult both because of the style of the analysis and because of the remote period investigated. It is difficult to test institutional analysis with the standard statistical methods of inference and hypothesis testing. The availability of quantitative data is usually very limited in historical research. Furthermore, even when that kind of information is available, what can be tested are hardly the equilibrium strategies but some other observable consequences of that path-of-play.\(^\text{24}\)

\(^{24}\) In his classical study of the “Joint executive committee” railway cartel, Porter stated that he could not test econometrically whether firms actually employed price wars during unexpected demand slumps as a means to sustain co-operation, “Instead, the econometric model is designed to test whether significant switches in supplier behavior occurred, and to identify the periods in which they took place” (1983a: 302). In other words, what is tested is what the firms did and when (the predicted path-of-play) and not why they did it (the overall strategic choices made by the players).
Hence, if the theoretical analysis is to have an empirical counterpart some other standard of conformity must be employed. Both Green (1993) and Greif (1996, 1997) deem that something more than a mere conformity with historical evidence is needed. According to them, a theory should only be accepted as explanation for a historical situation if:

1° the strategies of play are confirmed by documentary evidence on the real or intended action of the historical players (what Greif 1997 calls “direct evidence”) and

2° the predictions that the model (under the assumption that the game is played according to the equilibrium strategies) might produce are confirmed by empirical data (“indirect evidence”).

The bulk of the information we could gather falls under what Greif (1997) named “indirect evidence”, i.e., it regards the confirmation of the predictions of the equilibrium path-of-play. Unfortunately, the deliberations of the players are almost impossible to reconstruct from the available documentary evidence, namely because of a problem of selection bias. Almost all the written records from the period were either kept by the church or by the crown administration, so that we can only access one side of the story. Particularly useful sources of this kind are the chronicles kept by some major monasteries and cathedrals and the Inquirições of 1220 and 1258.\(^{25}\) And even these records are for the most part silent (or then clearly partial) when describing, for instance, the conflicts between landlords and vizinhos. The only written documents of the Concelhos are the few local customs that survived in written form.\(^{26}\) In the customs of Alfaiates, it was stated that

*The good men and the Concelho of Alfaiates have come to an agreement that we shall all be as one, so that we unanimously defend the rights of Alfaiates and that we shall all be friends in good faith and without any deceit.* (P.M.H. Leges: 828).

\(^{25}\) The Inquirições (Inquiries) were ordained by the king to investigate and check the reputed abuses of the privileged classes and also of the Concelhos with respect to royal property. Afonso II was the first to send his inquiridores throughout the country but his death in 1211 stopped the process, because his successor, Sancho II, never attained a similar preponderance over the nobility and the church. Only with Afonso III were the Inquirições completed and confirmed the extent of the abuses.

\(^{26}\) They are the posturas of Coimbra (1145), and the foros of Castelo-Bom, Alfaiates, Castelo Rodrigo, Castelo Melhor, Guarda, Santarém, Oriola, Alvito, Beja, Alcâcer, Évora and Torres Novas (P.M.H. Leges: 743 ff & vol II).
This excerpt is the most explicit reference to the players’ intentions that we could find in the sources so far.27

As for “indirect evidence”, we can muster three categories of information, related to the conflicts between landlords and Concelhos, to the bonds of communitarian solidarity within the Concelho, and also some “quantitative” data that can be interpreted in relation with to the predictions of the model.

An indirect way of testing the descriptive power of the model is to look for the occurrence of conflict periods where the Concelhos retaliated against the abuses of the landlord. The chronicles and the royal documents sometimes allow us to gauge the degree of resistance that the inhabitants of a Concelho were prepared to offer in the face of a disrespecting landlord or to the encroachments of seigniorial power. The best-documented cases are the three main cities of the realm: Coimbra, Porto and Lisboa. Coimbra, in 1111, expelled the representatives of count Henrique who only managed to re-enter the city after granting a Foral that extended the privileges of the inhabitants.28

The city of Lisboa, the fastest growing urban center (raised to official capital of the realm in the first half of the fourteenth century), was also usually capable of defending its interests even in the face of the king. The constant conflicts of the municipal authorities with the royal officials (the mordomos and the alcaide) gave rise to sufficient protests that Sancho I extended the Foral of 1179 by allowing the concilium to elect annually two alvazis, officials with the monopoly to settle judicial disputes in the municipal court. Letter patents of 1204, 1210 and 1227 successively confirmed these privileges.29

The case of Porto is also an example of the prolonged resistance of the municipalities against violations of their charters and customs. This time, the protracted conflict (lasting from 1200 to the end of the fourteenth century) set the Concelho in opposition to the bishops of the city that tried to replace the 1123 Foral with the direct vassalage to them. During the long fight, the Concelho won partial victories whenever the kings (that also were engaged

27 We are convinced that further investigation of other medieval sources, beyond the compilations used in this study, may produce more evidence of this type.
29 In this last one the king acknowledged that ‘Your vizinhos told me that because of the magnates of the city your alvazis have not the strength to do justice and amend the offences done to the poor: I firmly command that neither the alcaldes nor other major officials stop them from doing justice and that those who stop them should be considered my enemies and you can throw them out of town and confiscate them all they have by my order’. (cit. in Caetano 1951: 131).
in a long contest of temporal preeminence against the church) found it useful to support it, and lost them again when the king needed to settle his disputes with the church.\(^\text{30}\)

Even outside the major cities, we can find some indirect evidence of the strength of the municipal institutions. The *Inquirições* of 1258 registered a long roll of complaints of the populations against the powerful, but also some instances of effective resistance. For instance, the king’s officials enrolled a testimony according to which, when the bishop of Viseu tried to levy corvées over the inhabitants of Vila Chã de Sá, they resisted such that “*he could not lead them to it*” (*P.M.H. Inquisitiones*: 854). Occasionally, the municipal populations found themselves strong enough not only to resist abuses of their privileges but also to take profit of the ineffective control of royal property and revenue.\(^\text{31}\)

A different sort of evidence refers to the solidarity that bound the inhabitants of the *Concelhos* together and thereby helped to make credible the common responses against the disrespect of the terms of the *Foral*. The main sources of this evidence are the clauses of the *Forais*, although the *Inquirições* can again be used to check the effective respect of those dispositions. Three main forms of solidarity nets are evident in the written records: economic, judicial and fiscal.

We can find in the documents at least three types of economic bonds between the *vizinhos*. In the first place, some *Forais* prescribed the sharing of the services of capital goods.\(^\text{32}\) Second, some other charters determined that all land should be transacted among *vizinhos*, as a means of avoiding members of the church or the nobility to penetrate in the municipal *alfoz*.\(^\text{33}\) Third, there was the aforementioned joint exploitation of the *commons* (sometimes used to graze a municipal herd or flock) and of the undistributed *sesmo*.\(^\text{34}\)

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\(^{30}\) The problem was that the bishops could invoke the help of the Pope that invariably supported their claims and actively fought the increase in royal power at the cost of the church. At the end the city won the strife when the bishops lost their rights over the *Concelho* to the king. For a good summary of the process cf. Soares (1935).

\(^{31}\) The *inquisidores* of Óvoa complained about the malice of the respondents that would not declare how much they used to owe the king: “*interrogatus quantum jugadam det quodlibet casale, dixit quod nescit. Et alii similiter. Tamen intelligimus quod agunt maliciose*” (*P.M.H. Inquisitiones*: 817). In Almargem, on the other hand, the *inquisidores* concluded that the inhabitants had been cultivating some royal pastures (*P.M.H. Inquisitiones*: 1036).

\(^{32}\) Namely working beasts, as in the charter of Ourém (1180): “*_Qui vero boves non habuerit et senaram fecerit cum bobus amicis vel vicini sui...*_” (*P.M.H. Leges*: 421).

\(^{33}\) We have the example of the *Forais* of Covas (1162): “*si quis hereditatem suam vendere voluerit vendat suo vicino*” (*P.M.H. Leges*: 388).

\(^{34}\) For instance, in the *Foral* of Guarda (1199), the king explicitly mentioned that he conceded to the *concilium* the management of all commons without any interference (*P.M.H. Leges*: 510). In the same
The charters are also profuse in dispositions that strengthened the solidarity among *vizinhos* through the judiciary. One of the most coveted privileges of the *Concelhos* was the right to elect their own judicial officials, what protected them against the landlord’s monopoly of justice. More importantly, this privilege also allowed a practice of justice that not only protected persons and property, but also ensured the internal cohesion of the municipal community.\textsuperscript{35} For instance, whereas the personal crimes and against property inside the *Concelho* were punished with barbaric extremes, any *vizinho* that testified in favor of a foreigner against another *vizinho* was subject to heavy fines.\textsuperscript{36} A complimentary disposition was the prohibition to pursue a foreign criminal that sought asylum in the *Concelho*, no matter how serious the crimes committed outside.\textsuperscript{37} Not only criminals were freed, but also the fugitive serfs and even in some cases the Moorish slaves that had been baptized.\textsuperscript{38} This kind of disposition could function as a powerful attraction to increase the municipal population. When inside the territory of the *Concelho*, the inhabitants were forced to accept the municipal customs and charter and to partake, not only on the privileges, but also on the duties of the *vizinhos*. As established in the *Foral* of Moimenta (1124): “If there is a *vizinho* that in his relations with other *vizinhos* does not want to accept the *Foral*, nor accepts their rulings or those of the landlord, expel him from the town” (P.M.H. *Leges*: 473).\textsuperscript{39} It is significant that the same disposition was reiterated for the privileged classes, whose members were ordinarily excluded from the *Concelho* except in the unlikely case where they declined their privileged status in favor

\textsuperscript{35} On the liberty to elect the judges cf., among many, the *Forais* of Cernancelhe (P.M.H. *Leges*: 362) or Sintra (D.M.P. I: 246).

\textsuperscript{36} A common formula to many *Forais* of the Entre-Douro-e-Minho and Beira Interior, like Freixo-de-espada-a-cinta (1152), Penamacor (1209) and Santa Cruz (1225) was to fine any such testimony with ten *soldos* (P.M.H. *Leges*: 379, 540 and 602).

\textsuperscript{37} For instance, the *Foral* of Guarda (1199) freed the hunted homicides and violators! (P.M.H. *Leges*: 508). Similar treatment was given in the *Forais* of Sintra (1154), Mós (1162) and Bragança (1187).

\textsuperscript{38} Some of the *Forais* required that the fugitives lived for some time in the *Concelho* before giving them citizenship, e.g. in Covilhã: ‘*concedimus ut omnes christianus quamuis sit seruus ex quo in Coueliana habitauerit per unum annum sit liber et ingennum*’ (P.M.H. *Leges*: 459).

\textsuperscript{39} A variant was present in the charter of Castelo Bom (1188-1230) that fined anyone who was not inscribed in the roll of *vizinhos* with a *morabitino* per week, while denying him any rights (P.M.H. *Leges*: 776).
of the municipal rights. Another of the common privileges granted by the landlords was
the protection against the arbitrariness of their own agents. The last vehicle to joint
interests through the judiciary was the usual sharing of the income from the courts
between the plaintiffs, the landlord and the concilium.

The fiscal solidarity of the Concelhos was a direct consequence of the granting of the
Foral, which usually only determined the foro due by the Concelho and not by each of its
present or future inhabitants. This feature was still reinforced in the Forais granted during
the reigns of Sancho II and Afonso III wherein the taxes fixed in goods were replaced by
a fixed monetary rent.

By “quantitative” evidence we mean two groups of data, the one having to do with the
distribution of the Forais and the other with the market for land.

Starting with the former, Soares (1981) has a simple characterization of the five main
“families” of “urban” Forais according to two simple criteria: the “democracy” of the
municipal institutions (in terms of the relevance of the concilium and of relative status of
peões and cavaleiros-vilãos) and the dominant character of the dispositions. The
“families” of Boroughs and Santarém reflect a major concern with the stimulus of
economic activities and the organization of trade, contrary to the predominance of
military law in the charters of the Coimbra, Ávila and Salamanca “families”. The same
“families” also had the more “democratic” dispositions, namely by giving the same social
and fiscal status to peões and cavaleiros-vilãos.

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40 The examples are again numerous. Cf. for all the Foral of Tomar (1162): “Infançom et aliques homo non
habeat in Thomar domum nequem hereditatem nisi qui volent habitare ubiscum et servire sicut uos.”
(P.M.H. Leges: 389).
41 The protection against the exactions of the mordomos was standard, e.g. in the 1205 Foral of Vila Nova:
“If the mordomo goes there to take something that belongs to you, spoil him as if he was any other
individual” (D.M.P. II: 159). Some other Concelhos had even the privilege of choosing their own
mordomos.
42 In the Forais of the Beira Interior, the usual partition of the value of the fines was in nine parts: four for
the plaintiff, one to the judge and two each to the landlord and the concilium.
43 Soares (1981) adds a fifth “family” to the four previously mentioned: the Forais granted to Burgos
(Boroughs), i.e. towns within a castle and mainly populated with soldiers, officials and merchants
connected to the fortress.
44 Naturally, the two criteria are connected because the greater needs of defense justified the incentives
given to the maintenance of cavalry corps, which at the time had a greater military efficiency than infantry.
Still, the differentiation between the two classes of vizinhos should not be overstated during the period we
are dealing with and especially in those Concelhos along the border, specialized in military incursions for
spoils. As Powers (1988: 172) notes, the military law did not make distinctions between classes of
combatants, except to reward the cavaleiros for the higher costs of maintaining their status.
Table 1 summarizes the distribution of the five “families” of Forais granted up to Sancho II. Two main patterns are evident. The first is the lower penetration of the municipal rights in the older parts of the country, north of the river Douro, as emphasized by Mattoso (1985), a sign of the greater strength of the seigniorial power in that region. And the contrary is true for the central region (the Beiras) and also for the south, where the geographical traits helped to strengthen the municipal institutions.\textsuperscript{45} The other pattern is the progressive replacement of the warlike and “un-democratic” charters by the Santarém “family” as the Reconquest established strong footholds further south. This can be interpreted as evidence of the growing importance of specifically economic reasons for the constitution of Concelhos in place of the coordinated purposes of settlement and military defense envisaged with the older charters.

<table>
<thead>
<tr>
<th>Region</th>
<th>Boroughs</th>
<th>Coimbra</th>
<th>Santarém</th>
<th>Salamanca</th>
<th>Ávila</th>
<th>N.A.</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>EDM</td>
<td>5</td>
<td>1</td>
<td>2</td>
<td>6</td>
<td>0</td>
<td>8</td>
<td>22</td>
</tr>
<tr>
<td>BL&amp;E</td>
<td>0</td>
<td>13</td>
<td>4</td>
<td>0</td>
<td>6</td>
<td>7</td>
<td>30</td>
</tr>
<tr>
<td>BI</td>
<td>0</td>
<td>12</td>
<td>16</td>
<td>19</td>
<td>0</td>
<td>4</td>
<td>51</td>
</tr>
<tr>
<td>AL</td>
<td>0</td>
<td>0</td>
<td>13</td>
<td>0</td>
<td>3</td>
<td>1</td>
<td>17</td>
</tr>
<tr>
<td>Total</td>
<td>5</td>
<td>26</td>
<td>35</td>
<td>25</td>
<td>9</td>
<td>20</td>
<td>120</td>
</tr>
</tbody>
</table>

Key: EDM (Entre-Douro-e-Minho); BL&E (Beira Litoral and Estremadura); BI (Beira Interior); AL (Alentejo).


\textbf{Table 1: Geographical distribution of the families of “urban” Forais (1055-1248)}

Another way of looking to the Forais is from the viewpoint of their granters. Table 2 reports this information for the total number of charters, i.e. “urban” and “rural” Forais and also the cartas de povoamento.

Excluding the charters for which we could not identify the granter, the kings and counts of Portugal and the kings of Léon granted something like 65% of all charters until the mid thirteenth century. However, this percentage varies across regions, falling to slightly more than 56% in the two Beiras and in Estremadura and rising to almost 82% above the Douro.

\textsuperscript{45} Mattoso (1985) specifically mentions the dispersed settlement and plain relief above the Douro against the rough relief of the Beira Interior and the concentrated settlement typical of the regions south of the Douro. The penetration of the Concelhos south of the river Tejo is not very evident in this Table because the Reconquest in that region was only completed under Afonso III. Actually just during his reign 24 “urban” charters were granted to towns in Alentejo and Algarve, against only 15 to all other regions.
Hence, the thesis of Mattoso (1985) is again confirmed to the north of the Douro, because the king conducted the essential part of the process of creation of Concelhos there. We also get the interesting result that in the areas of higher municipal density, ecclesiastic and lay landlords revealed a higher interest in the granting of municipal rights to their lands. For this type of landlords the military or settlement reasons for the granting of Forais should weigh much less than the exploitation of their lands. The regional disproportion in the type of granters therefore seems to be in accord with the strategy we assumed played by the granters of the charters.46

The final, and more interesting, numerical set of evidence regards the evolution of the market for land in the region of the Beira Litoral and Estremadura, during the twelfth and thirteenth centuries, that was studied by Durand (1982).47 Basically, the author did a thorough survey of the contracts of transaction of rural property, registered in the cartularies of the monasteries and cathedrals of the region.48 As these contracts started being settled in monetary terms since the twelfth century he got a panel of 1931 comparable observations, arranged by sub-regions and periods as summarized in Table 3 (see Map 1 for the localization). In the Table we can read the evolution of the average price of rural property sold in the three regions.49, 50 Beyond the global positive trend in prices, the most striking evidence

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46 Note that this disproportion still holds if we attribute all the Forais with unidentified granter to the king.
47 The area of this study is identified in Map 1.
48 The cartularies recorded not only the acquisitions made by the ecclesiastic institutions but also the contracts between laymen regarding property that would later be acquired by donation or bought from those laymen. This gives only a partial view of the lay market for land, although according to Durand (1982), the higher liquidity of the church made her probably the most important buyer of lands in the region.
49 Actually, there are two problems with the data. First the contracts often did not specify the type of use of the property sold, so that the rise in the prices could be the associated with a different pattern of
for our purposes is the positive correlation between the rise in the regional prices of land and the density of the municipal organization.  

<table>
<thead>
<tr>
<th>Regions</th>
<th>Periods</th>
<th>Forais</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>1101-1150</td>
<td>1150-1200</td>
</tr>
<tr>
<td>North of Vouga</td>
<td>22.2</td>
<td>31.5</td>
</tr>
<tr>
<td>Region of Coimbra</td>
<td>19.1</td>
<td>19.0</td>
</tr>
<tr>
<td>Estremadura</td>
<td>16.7</td>
<td>44.7</td>
</tr>
<tr>
<td>Total</td>
<td>19.1</td>
<td>19.0</td>
</tr>
</tbody>
</table>

Table 3: Average land prices in Beira Litoral and Estremadura, 1101-1300

The prices of land sold between the rivers Douro and Vouga, the region less penetrated by the Concelhos, grew more slowly that in the other regions in the first half of the thirteenth century, and then declined in real terms until the end of the century. In contrast, the average prices quoted in the region of Coimbra and especially in Estremadura more than double in the same time period. Furthermore, these regional differences can hardly be attributed to other underlying differences, such as climate, quality of soil or density of population because, if anything, some of the most fertile and irrigated lands of the region lay precisely north of the valley of the Vouga. We would then like to interpret these figures as consistent with our main hypothesis. If the prices of land follow the expected productivity of its future exploitation, the higher growth in the regions more influenced by the municipal institutions shows that there were specifically acquisitions throughout the period. Nonetheless, Durand (1982) tries to address this problem by checking the evolution of the price of a standard type of property, namely vineyards, for which he finds an analogous rising trend. The second problem is that the records also usually did not specify the areas sold, only referring to generic denominations as casal or hereditas. For that reason Durand (1982) opted for calculating unweighted averages of the prices of all transactions for each period and region, probably as a device to smooth the impact of the differences in size. Still, there does not seem to be any cogent evidence about a systematic deviation of the areas transacted in the different regions and periods.

50 The average nominal prices were “deflated” by a rough index of the gold price of the morabitino with a value of 100 for 1150, 105 for 1200, 150 for 1250 and 200 for 1300.

51 The correlation would still be stronger if we only considered the “urban” Concelhos in the region. According to Soares (1981) no Concelho of such type was formed between the Vouga and the Douro against seven in the region of Coimbra and 20 in the Estremadura.

52 The evidence on population density, although tentative, also seems to work on our favor. Marques (1965) used the number of notaries (Tabeliães) in each town, counted in the late thirteenth century, to infer about the density of population. The author concluded that the Beira Litoral, especially around Coimbra and the Estremadura (with the exception of Lisboa and suburbs) should be among the less populated regions of the realm.
economic incentives to adopt more advanced contract arrangements for the exploitation of the land resources.

6. The end of an era. Final comments

As mentioned in the Introduction, after the first attempts of Afonso II, the movement towards a decisive centralization of power in the monarch accelerated in the second half of the thirteenth century against all competing powers. One victim of this process was the municipal autonomy. On the one hand, the Forais granted by Afonso III and successors progressively approached a pure code of fiscal obligations of the populations, without the component of local privileges and exemptions of the more ancient charters. On the other hand, as regarded the already constituted municipalities, the monarchs devised several expedients to encroach upon their formal privileges. Afonso III created the Meirinhos-Mores a class of royal officials with broad attributions in the surveillance of the local application of justice and workings of the administration, even in the manorial lands of church and nobility. The next king, Dinis followed the example and introduced the Juízes-de-fora (literally “outside judges”) and the Corregedores. The first were royal magistrates specifically nominated to replace the municipal courts whenever these failed to provide an adequate rule of law, while the Corregedores had even wider powers than the Meirinhos. Well intentioned as these innovations might have been towards the rationalization and greater efficiency of public administration and the uniformity of law, they also directly attacked the power of the Concelhos to enforce an internal solidarity and to coordinate the reactions against outer threats. The last step was given by the diffusion among the Concelhos of a new class of municipal officials, the Vereadores, first introduced in Lisboa by Afonso IV sometime after 1340. Although elected by the Concelho, the kings reserved the right to approve the chosen candidates and furthermore required that only the higher class of the “good” or “rich men” could be elected. This later condition particularly attempted against the inner solidarity of the

53 The second volume of Mattoso (1986) is probably the best summary available on the royal centralization in the late Middle Ages.
54 For instance, the power to settle any law suit, the vigilance of the local and royal officials, the inspection of castles and royal properties and even the settling of population and the provision of food For the full extension of competences cf. the 1332 and 1340 “instructions to the Corregedores” published in Caetano (1951).
Concelho by aggravating the social stratification among the vizinhos. With the passing of time the Vereadores ended up concentrating all the jurisdictional and administrative power inside the municipalities while the traditional assemblies where first emptied of powers and then disappeared altogether.

Not surprisingly, from the second half of the thirteenth century the Concelhos repeatedly complained against the royal disrespect of their prerogatives but with considerable less success than in previous times. Even the principal municipality of the country, Lisboa had to accept in 1298 the restriction of the municipal assembly to the ”good men” and, as mentioned, was the first to receive Vereadores. The privileged classes also took advantage of the interregnum between the loss of autonomy of the Concelhos and the complete set up of the new crown administration, to make demands to the municipalities and to acquire (sometimes by force) lands inside the alfoz, notwithstanding the prohibition of the Forais.\(^55\) Although some kings, as Dinis, actively sought to curtail these abuses, in practice the former municipal autonomy was either replaced by the dependence from local magnates or from the new crown bureaucracy. Finally the kings themselves started to consider their Concelhos as a part of their personal domain as any other royal lands and to give them in donation to whomever they pleased.\(^56\)

This institutional development can perhaps be taken as an example of what Greif (1997) mentions as “institutional path-dependence”, i.e., the institutional framework evolves endogenously with the coordination problems it serves to solve and with the means available to that aim. The “collective lease” of municipal lands was a superior institutional solution to the bilateral contracting only before the crown gathered the means to enforce a unified corpus of law that more effectively protected private property rights and the fulfillment of contracts than the decentralized and autonomous local enforcement institutions.

\(^{55}\) In alternative, the neighboring landlords also started to force the election of their straw men to the municipal offices.

\(^{56}\) King Dinis gave the example in 1297 when he donated the Concelhos of Évora, Vila Viçosa, Vila Real, Gaia and Vila Nova as dowry for one of his daughter’s wedding.
Annex

Chronology of kings and counts of Portugal, 1096-1357
1096-1112  Henrique of Burgundy
1112-1128  Teresa (widow of Henrique, regent)
1128-1185  Afonso Henriques (king since 1143)
1185-1211  Sancho I
1211-1223  Afonso II
1223-1248  Sancho II
1248-1279  Afonso III
1279-1325  Dinis
1325-1357  Afonso IV.

Portuguese monetary system

Until the beginning of the eleventh century the monetary system in the northwestern region of the Iberian Peninsula was theoretically silver-based although the majority of transactions recorded were settled in specie. With the introduction of North African gold acquired from the southern Moorish states by trade and pillage, the Moorish dinar also started circulating in the Christian northern kingdoms. In Portugal the dinar was called morabitino and the Portuguese kings simply copied the Muslim species although progressively reducing the pure gold content from the original 4 grams. Still, according to Durand (1982: 253) the morabitino had an inconveniently high value (equivalent to the price of a cow or four sheep) to be of use in regular circulation. In the beginning of the thirteenth century the French silver system of livre = 20 sous = 240 deniers (in Portuguese libra-soldo-dinheiro) was also adopted. Theoretically, the morabitino was equivalent to the libra of 20 soldos. The actual relation between the silver and gold systems is hard to determine because of lack of information but should have oscillated between 1:7 and 1:8.
**Primary sources and abbreviations**

There are two main compilations of Portuguese medieval documents.

The *Portugaliæ Monumenta Historica*, published between 1856 and 1936 by the *Academia das Ciências de Lisboa*. We used two collections of documents: the *Forais* published in the two volumes of the *Leges et consuetudines* part (P.M.H. *Leges*) and the reports of *Inquirições* organized in the *Inquisitiones* part (P.M.H. *Inquisitiones*).

The *Documentos Medievais Portugueses* (D. M. P.), organized by Rui de Azevedo and published between 1940 and 1961 by the *Academia Portuguesa da História*. The first two volumes collect documents from the royal chancellery, namely some undiscovered *Forais* at the time of the publication of the P.M.H.

**References**


