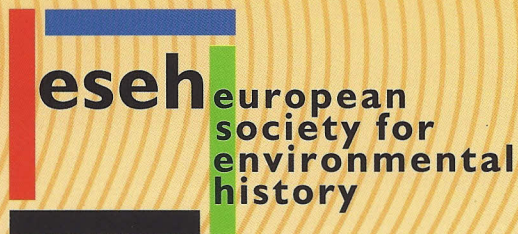


# DEALING WITH DIVERSITY

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*Editors:* Leoš Jeleček, Pavel Chromý, Helena Janů, Josef Miškovský, Lenka Uhlířová

**Charles University in Prague, Faculty of Science  
Department of Social Geography and Regional Development**

Albertov 6, 128 43 Praha 2, Czechia

Tel.: +420-221951382; Fax: +420-221951889

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# The tragedy of the extinguished commons: public forest and land property rights in the North of Portugal <sup>1</sup>

**Orlando Rodrigues**

Polytechnic Institute of Bragança, Portugal. [orlando@ipb.pt](mailto:orlando@ipb.pt)

**Abstract:** The village communities in Northern Portugal have combined a system of private property and common property regimes during a long historic period. In the early years of the XIX century the question of the commons gains notoriety. The belief that these lands are non productive lands and the attractiveness of the physiocratic ideas justify this particular attention. This paper discusses the relationship state / commons and searches some explanations for the resilience of this property regime.

**Key words:** Commons, land ownership history, Portugal.

A long process of ruralization succeeds, in the occidental world, the urban-centered organizational structure of the roman society, after the barbarian invasions. A tendency of subsistence economic organization grows as a result of the drastic decrease in commercial exchanges. One of the society territorial organization pattern that took place in the new conditions, and that was dominant in the interior north of Portugal, is designed by “village community” by Garcia de Cortázar (1985). These communities probably had a historical continuity with gentile collectivities coming from the pre-roman period, or could be a result of the roman authority collapse. Having their own social organization, these communities would be self-governed and independent from a lord.

Many evidences confirm that each family integrated in one of these communities cultivated autonomously their own land, but also had the right to the use of shrub and wood-lands, common owned, surrounding the cultivated fields. Many other forms of collective use of production means could also exist, like the grinder, the oven, the bull, or even collective forms of production. (Fabião, 1992: 355).

These communities were territorially organized in a concentric pattern: around the central nucleus of houses were distributed the cultivated lands (*ager*) and after, the shrub and wood-lands (*saltus*) (Fabião, 1992: 355). A gradient of land-use intensification and of steadiness of the land private property rights protection grows from the center to the periphery. In this model of territorial organization, the spaces behind the margin of the

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cultivated land played a central role in the agricultural systems stream of energy and materials. It was necessary to carry nutrients and energy to support the more intensive production in the central space and, simultaneously, these open spaces allowed a less-limited and more flexible source of pastures for cattle growing, hunting and recollecting activities.

The *village communities* subsisted through an organization of communitarian use of the resources. However, this organization was partially disrupted by the feudal regime imposition. The manorial surge had been destroying the ancient communitarian organizations, first in the more fertile areas, and, with more difficulties, in the remotest zones. In mid-XIII century these communities still remain vigorously in the northeast part of Portugal, resisting to the manorial impositions (Mattoso, 1993: 203). In these circumstances, the collective charters are the more common way of regulation of the land system and of feudalism territorial imposition. Therefore, in the villages of the interior north and center part of Portugal, subsisted during many centuries a land tenure regime characterized by the coexistence of both a private and a common land property regime, limited by a superior level of property rights, but, nevertheless, admitting collective producing practices and zones of common owned resources (*baldios*), which, in the XIX century, still represents an important part of the national territory (Radich, 2000).

Since the end of the XVIII century, having been dissolved the feudal regime, the commons had been considered as the only archaic form of property that remains from the ancient regime and that urges break-up. Furthermore, the commons were considered as uncultivated land, as a socially undesirable land use form. The Portuguese Royal Academy of Sciences, bearer of the physiocratic ideas in the XIX century Portuguese society, was particularly active in this argumentation, supporting the interests of a new-born agrarian bourgeoisie (Pereira, 1983: XIII).

José António de Sá, a judge in a judicial district of Trás-os-Montes during the decade of 1780, and member of the Royal Academy of Sciences, wrote in one of his memories to the Academy: “Being Trás-os-Montes so natural for all kind of productions, through which it could get rich, not only himself, but also spreading her richness by all the nation; it’s pitiful that the major part is uncultivated with commons [...]”(in Mendes, 1985: 86). In his activity as a judge, J.A.Sá engages himself in splitting-of the commons into private properties. However, he recognizes that the people “took very badly the common’s partition that was ordered”.

Despite the many political essays, during the XIX century, of common lands market integration, the commons survived until the end of the XX century’s first quarter, almost untouched in the interior north of Portugal. By this time, they have been expropriated from the rural communities and planted with forest trees, through a very violent process.

Why did the commons resist so long?

Two concepts could help us to explain the so resilient nature of the commons: one of them, which we have already introduced, is that of *village community* as a social identity. The other, is the concept of property rights cost protection, or property rights transaction cost, which is used in the economic theory of property rights.

The village communities are a locus of cooperation and regulation of the resources usage process. They include social values, symbols, rules, structures of power and decision, which become as steady as efficient in the resource use regulation.

The enforcement of property rights implies costs, which increase in the same sense as the protection degree. So, the enforcement of property rights cost must be lesser than the benefit that comes from it, otherwise the protection effort will be unrewarding. In the common property regime, although it has associated costs of protection, they are smaller than those associated with the private property, as long as the social mechanisms of regulation are effective. Thus, it could be admitted a gradient of private property rights protection, stronger in the center of a *village community*'s territory and weaker in the margin, as the land rent decreases. When the distance becomes longer, the effort of production is higher and the profit from a production process sustained in a private land owned system, facing high costs of rights enforcement, becomes less efficient than a common land owning regime. This margin could be designated as "*extensive margin*".

However, the common property regime needs a social regulation system; otherwise it falls into a free access regime. So, it could be identified a clear association between *village communities*, particular system of resources owning and usage regulation, and a specific pattern of space organization.

In this long historical process, that has been roughly exposed, the common property regime proves to be more efficient in the regulation of the resources use in some extent of the territory and for some kind of resources, than private property regime.

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