
Preventing Household Failure: Figures of Authority in Familial Corporate Bodies (The Portuguese *Morgadio* System from the Fourteenth to the Seventeenth Century)

Conjurer l'échec des Maisons : les figures de l'autorité au sein des corporations familiales du Portugal (le système du morgadio, XIV^e-XVII^e siècles)

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The Morgadio System: an Anthropological History Perspective

- ¹ The *morgado* (in Portuguese, corresponding to the Spanish *mayorazgo*¹ and the English entail), was a form to frame institutionally the organisation of the corporate family. It was a legal institute akin to the *fideicommissi*, with a stronger stress on primogeniture and masculinity as succession rules, whose juridical framework was gradually defined over the fourteenth and the fifteenth centuries, between practice, royal legislative actions, and jurisprudence.
- ² The first *morgados* appeared in Portugal at the end of the thirteenth century, and expanded with remarkable speed and intensity throughout the next century, during which the consolidation of their juridical and institutional contours also took place. It was widespread in the Portuguese and Castilian territories by the middle of the sixteenth century, and continued to grow well until the mid-eighteenth century.²

- 3 Despite the importance of this subject being generally acknowledged, there is still no accurate data on the number of entails and chapels that were founded in Portuguese territories in the pre-modern centuries. Since no formal mechanism for mandatory registration existed, it is very difficult to come at any figures for before the mid-eighteenth century. Although data collected from late registration records needs to be interpreted with caution, it is nevertheless possible to reach a first quantitative impression of the number of foundations and their longevity.³ As an example, José Damião Rodrigues, using these and related sources, estimates a total of around 1,240 foundations created between the mid-fifteenth century and their extinction in the nineteenth century, on the island of São Miguel in the Azores alone.⁴ We know that the laws enacted by the Marquis of Pombal in 1769-70 led to the abolition of around 14,500 small entails between 1771 and 1777.⁵ Finally, the archival fonds of the “Registo vincular” (the entail registration following a law of 9 July 1860, kept in Torre do Tombo, the national archive of Portugal) lists a total of 675 entails that their owners were intending to maintain intact, despite the legal opening of abolition becoming possible.⁶ Among these were some of the oldest and largest entails of Ancien Régime Portugal, in some cases going back around 400 years.⁷ Truth is, between the end of the fifteenth century and the mid-eighteenth century in many aspects Portuguese society was strongly conditioned by this form of property. This was the case throughout its core territory as well as in the empire, since *morgadios* spread to the island of Cape Verde and especially to Brazil as soon as the local colonization became consolidated.⁸
- 4 Explanations to this process have been several. In recent decades they have expanded the approaches of traditional Law History, which before the 1970s stood almost alone in dealing with this subject. In addition to deepening the juridical aspect, research has stressed especially the relevance of the evolution of kinship structures (the triumph of agnatic and patrilineal family structuring), the impact of the socio-economic conditions of the late medieval crisis (the protection given by the *morgadio* to indebted properties, the special conditions in which it allowed emphyteusis, the tendency to reserve this practice to noble families) and, finally, cultural/mental transformations (the strengthening of the lineage identity, in particular in its various forms of symbolic expression).⁹ However, as an historical phenomenon, the *morgadio* is much more than the consecration of the agnatic and patrilineal family structure and cannot be seen only from the angle of the evolution of kinship systems, as it is too often the practice of historians of medieval nobility. Even from their point of view, it would be necessary to explain, in the Portuguese case at least, the sociology of the fourteenth-century founders (among whom several bishops stand out and members of the middle and lower nobility abound) and the reason why the main noble families (as well as many other) did not necessarily found *morgados* or instituted them only later.¹⁰ In addition, considering the *morgadio* itself as a rigid form of consecration of the agnatic and patrilineal succession is inaccurate even to explain the real existence of strong social constraints within the institution. In effect, an extended array of relatives were considered in succession, a variety of succession formulas was envisioned (even if almost always male primogeniture came first), and then there was the reality of many successions falling on secondary heirs. Lineage structuring could not dispense with second, female, and lateral kinship; it organized them, it could not do without them.¹¹ In a sense, it was the plasticity of the institution itself that compelled stricter leadership. To sum up, the implementation of the *morgadios* and the subsequent

process of their normalization was remarkably rapid and diverse, and still requires further study.

- 5 Without disparaging other avenues to approaching the institution, this article puts forward a specific understanding of entails and chantries. One that specifically focuses on the figure of authority supporting them, and the figure that came to be supported by them in turn: the founder.¹² The idea and the act of founding, the figure of the founder, the founder's authority and credited capacity to rule the future, in premodern European culture, will be at the core of my questioning of the entail system logic. The perspective will be one of anthropological history, seeking to describe and understand the set of background conditions and elements of various nature which at a certain point combined to allow an important change in social behavior towards heritage and family organization.¹³ In fact, the entail system can be explained by a set of objective reasons, but if the larger mental and cultural context that made it exist fails to be characterized in full –as rooted in deep and complex ways of considering life and death– and in its alterity, historical explanations will always be incomplete.¹⁴ There has been, for centuries, an “entailment mentality” in Iberian societies, widespread and deep, shaping them even after the extinction of entails in the late nineteenth century.¹⁵ The founder and his double, the heir, with their mixture of authority, redistributive power, moral/religious responsibilities and social representation, were at the center of his *ethos*.
- 6 This choice of perspective is first of all explained by the theme of the seminar –on one hand, above all the *morgados* were supposed to function “when the household failed”; on the other, the institution of *hereditas iacens* is generally accepted as part of the concept of “foundation”, created by canonists for the juridical normalization of the “*piae causae*”¹⁶ within a process of spiritualization of the property of the dead or undefended heirs, that was strange to Roman law.¹⁷ Directly tied to the problem of “household failure”, the figure of the founder-heir was premeditated to prevent all voids regarding the future heir –lack of male heir, lack of female heir, sickness, ill behavior, inconvenient marriage, treason to the king, apostasy, and so on– by providing a (virtually endless) set of alternatives. In some ways, there was fear of discontinuity, loss, change, which always came connected to dishonor and the disappearance of the family enshrined by the founder.¹⁸ Through this figure, the *morgadio* was intended “not to fail”, or at least to prevent as many “failures” as possible –although, it will be shown, the central issue was rather the survival of the institution– the corporate body –more than the people concerned.
- 7 A second reason for choosing this focus lies on the relevance that the creation of a figure of authority had on the rapid development of the Iberian entail system in the first centuries of its existence. The founder as an authority figure was indispensable to the effectiveness of the entail. As such, the founder needs to be taken into account even when focusing on kinship structures and strategies, or on sociological issues such as social reproduction and social mobility, which are at the core of the conceptualization proposed by historian Nuno Monteiro for the “*modelo reproductivo vincular*”.¹⁹ Kinship strategies and social effects, of course, were also intermingled with reference elements –the plea of my research being that factors must be approached from a global perspective. Paying attention to the figure of the founder does not mean, of course, to consider that this figure was unchallengeable, one that was overwhelmingly and universally respected. On one hand, the portrait presented here is a global one, what

might be called a type, resting on various institution documents and uniting the information which they provide. On the other hand, the question of negotiation of the founder's figure shall also be addressed, as every study on entails refers to the many ways in which the institution document was disrespected or, at least, interpreted, as well as the role of the king in allowing exceptions. Nevertheless, the founder and his last determinations stood as a figure of reverence, an internal law; and the first-born heirs, that were supposed to be his doubles throughout the centuries, were educated in this ethos, one which had deep roots in multiple cultural and social fields of meaning. Michael Hicks is strong about the divide that "being an heir" created among late medieval English nobility, in what concerned reality as well as its perception.²⁰

- 8 It should be stressed that this entail system's parameter remains especially strange to minds fashioned by the principles of the late eighteenth and the nineteenth centuries. Throughout the discussions on abolishing entails, which lasted in Portugal for almost a century, the founder of the *morgado* was depicted by liberals as a monster, a paragon of civilizational backwardness, an autocrat towards his fellow men and a superstitious concerning the salvation of his soul.²¹ This and all other nineteenth-century social constructions regarding the entailment system –namely, the centrality of *morgadio* in historical novels– have contributed to create a veil concerning the widespread social acceptance and the deep social utility of the figure of the founder, from the fourteenth to the seventeenth century at least. Here, the comparison with other figures of family and authority across cultures seems to be a very significant path to reconsider the entail's founder figure in premodern Europe, giving him back his functionalities and historical depth, besides providing comparative information on many other aspects of the institution's meaning. The Korean "ritual heir" or the "zuchan" form of owning property, as presented in the November 2017 session of the seminar "Global Inheritances", published in this volume, are particularly interesting to explore in future research. On one side, the central figure of authority in both systems seems to resemble structurally the premodern European figure of the entail founder; on the other side, placement beyond the Western culture helps the historian to better acknowledge the attributed social meanings of his own culture, thus constructing a better research object.
- 9 In the following pages, I will begin by characterizing the figure of the founder in its main aspects. Afterwards I will briefly discuss the ways through which the model was transmitted and incorporated by the agents involved, but also its limits. In the second part of this article, I shall offer a preliminary approach to the origins and the functions of these reference elements, their contextual usage by engaged agents in late medieval Portugal, and the social-cultural responses thus constructed.

The Founder – the Morgadio's Figure of Authority

- 10 Research into the profile of *morgado* founder can be done by analyzing the three main "loci" of the foundation charters: the alignment that the founder makes of his ancestors in relation to himself; the prerogatives that he claims as founder; the way he "constructs" the heir. This last operation, which is the most detailed, is also the most important, since the heir is not an independent figure from the foundation that is being made. Our empirical material comes from foundation charts of *morgados* and family chapels in late medieval Portugal.²² Dwelling mostly on Crown and Church archival

fonds (chancery registers, books of chapels, registers of different legal inspections from both spheres of power), and to a lesser extent from family archives, 145 foundations can be established for the period comprising the early fourteenth century and the first quarter of the sixteenth century. Despite the coverage of the main archival fonds available, this number cannot be considered representative of the real number of foundations;²³ moreover, about two thirds of the documents concern the city of Lisbon (and its surroundings),²⁴ where the founders were more often connected to the Court, royal administration, and major ecclesiastical institutions, more than other parts of the realm –thus forming a sociological group more prone than others to found elaborate entails and family chapels. In spite of such limitations, the sample still proves large and diverse enough for a preliminary portrayal of the figure of the founder. It will now be examined for answers to the questions at hand. It is necessary beforehand to draw attention to the nature of the documents under analysis. From my viewpoint, foundation documents were much more than the substantiation of legal proof. The complex reasons for their production should not be disregarded, nor should their extraordinary force and triggering of future action. Indeed, these documents should somewhat be equated to foundational accounts, widely known for their relevance within medieval culture –narrative documents describing the foundation of political units, religious institutions, dynasties or lineages.²⁵ Foundation charters preserved these narratives' symbolic and emotional value, all the while deepening their effective value as proper legal documents. The institution of each *morgado* functioned, furthermore, as future law to be applied to a given group of assets and people. The “will of the founder “was in effect the “*morgadio* law”, and this could be extremely broad. As Bartolomé Clavero “has put it, as far as the entail is concerned, every rule conceded to the founder’s wishes (“en los mayorazgos, todas las reglas ceden a la voluntad del fundador”). Combinations could be endless, since each founder established a perpetual order of succession and inheritance.²⁶ Thus, both in their legitimation discourses and on the strength –also based on those discourses–which they acquired, the foundation documents were especially powerful. As documents, they were meant to rule forever. In a way, they were the “constitution” of the structure being created, representing but the final segment of a well-thought, meticulously fashioned process.²⁷

- 11 The stages of this process are sometimes clear from the documents, but this became rarer as *morgados* became widespread, introducing the possibility of rupture and usually attempting to compensate for inconvenient consequences. Essentially, they were produced with the goal of planning for an unending future and anticipating every possible obstacle. This would explain why the most elaborate foundation documents present these stages in an almost narrative style, allowing for emotional passages and even long excursions on domestic economy and family harmony. Their writing process was clearly far beyond the simple, mechanical filling in of pre-existing forms.²⁸
- 12 These complex documents reveal two distinct, crucial moments in the foundation procedure –the organizing of the memories of one’s ancestors and the confirmation of the author’s role as founder. The following sections will outline the main features of each moment.

Organizing the Past

- 13 The relationship with the ancestral past was one of the main concerns of the *morgado*'s founder. It might actually be seen as essential to the founding act. The basic feature of this relationship with one's ancestors lay in the belief that the current family members needed to prove worthy of their legacy, either symbolic (honor and reputation) or material. However, unlike the transmission of assets to the founder, the instant when he identified himself as such involved the need to adopt a specific form of succession. Though generating rupture, the institution a *morgado* was performed with the goal of ensuring continuity. One of the first institutions, established by Bishop João Afonso de Brito for his servant (? –“criado”, probably his illegitimate son) in 1336 clearly justified the institution act with the confirmation of a robust family pivot, richer than all others –a solution for the material difficulties plaguing Portugal's nobility, which prevented them from living in conditions that matched their ancestors':

Seeing and considering how the houses and farms of most noblemen of Portugal are scarce and diminished due to the partition of goods and inheritances, which are divided by many heirs, causing them to have fallen, and to fall, into poverty, and lose the status and the honor in which they were put by those from whom they descend [...]; and considering that when there is a man who is capable of maintaining honorable wealth, with whom the rest of the lineage can be accommodated [...]²⁹

- 14 A few years later, in 1357, powerful layman and landowner Fernão Gonçalves Cogominho instituted a *morgado* in which a connection was highlighted between the existence of lineages of “defenders”, which was made possible by the concentration of property on the eldest child, and the providing of services to the king and the kingdom:

Considering that the division of inheritances among the heirs, it is a reason why the children cannot maintain the honor of their fathers and grandparents; and that the lineages were in great poverty and descended from the status and honors that formerly had; and seeing that *morgados* in Portugal were much needed for the service of God and kings, and for the good and defense of the kingdom, and that through them the lineages were kept in the states and honors of their predecessors; and namely that noblemen, who are called defenders of the kingdom, are the main responsables, among those who live in the kingdom, to do much for the common good and for the defense of the land, and to maintain the honor of their lineages and to add in all that they can, in a right way and always doing good deeds [...]³⁰

- 15 However in general glorifying service to the monarch, founders insisted more on the benefits of respecting one's ancestors, which might indeed be shown through a panoply of manifestations imbued with social worthiness. These included: establishing residence in the ancestral home (Martim Esteves, 1346);³¹ praying for the ancestors' souls and educating children with the institutor's book left in legacy, so that they might study Law in either Portugal or Castile (Estêvão Gomes, 1346);³² bearing the heraldic arms of one's ancestors (Teresa Eanes da Fonseca, 1427);³³ essentially, keeping the household's honor and reputation (“honra e a memória da Casa”, Beatriz de Sousa, 1484),³⁴ the reputation (“boa memória”) of the great and noble men (“grandes e nobre homens”, Diogo Lopes Pacheco, 1397):

[...] because among all things that are good and honorable to great and noble men, and profitable to their souls and bodies, stands out to leave good memory after their death; and this is done for the perpetuation of their wealth in their children and grandchildren and in the lineage that descends from them.³⁵

Immortalizing the Founding Moment and Constructing the Heir's Image

- 16 Extolling the past and defining it as both reference and cause did not meant, however, detract from the foundation moment itself, at least for most founders. The assertion of oneself as founder was thus the second component of the foundational process. In several *morgados*, the foundation was introduced as a solution for typically violent conflicts. Vasco Peres Farinha, a famous Prior of the Order of Malta, lord of Góis (a village in central Portugal) and one of the earliest founders, did not hesitate to institute a *morgado* for his eldest son, in 1290, after decades of conflict with the neighboring family. The *morgado* was a solution to ensure the converging of assets.³⁶ Accordingly, several documents insisted on both the act's practicality and the founder's righteousness, the more clearly as less certain the founder was of how the privilege bestowed upon one of his children might be observed. The description of conflicts in these documents legitimated the founder's standing. The foundation established in 1470 by Fernão Gonçalves de Baião provides a clear example of this common practice. In the document, he reminisced about a recent past marred by quarrelling, in contrast with his own pacifying efforts. The homestead (a *quinta*) encompassed by his *morgado* had already caused his relatives several misfortunes, at least as far back as three generations and two family groups, the members of which he listed. The death of a holder was a catalyst for conflict, in sharp contrast with the bequeathing of assets in *morgadio* form, and adopting a succession regulation. The institution of the *morgado* is therefore understood as a founding instance for peace within the family:

[...] there have been many quarrels, fights, discussions, hatreds and ill-wills, what would not happen if the said estate was not divided, and was always owned by a single person, as in a *morgado*. Wishing them to avoid these things, and feeling it as God's service, he and his wife together ordered and decided to do, as they in fact did, a *morgado*.³⁷

- 17 Hence, foundation letters introduced an element of rupture with chronological time. In a way, they suspended it. On one hand, the time of the family extended to the end of the world ("até ao fim do mundo"), as mentioned, for instance, in the foundations by the squire Fernão da Fonseca (1453)³⁸ and by Constança de Vasconcelos, a rich noble lady from Funchal (1499).³⁹ This horizon of perpetuity was an essential feature of *morgados* and similar institutions, as Maura Piccialuti has perfectly synthesized for the Roman *fideicomissi* and primogenitures in the seventeenth and eighteenth centuries: they focused on the *immortality of assets*, which were substantiated and given legal personhood in the figure of the founder.⁴⁰ On the other hand, several documents highlighted the need for the entail's succession to follow the method consigned by the first founder. This principle appears to have been formulated with the specific goal of precluding any doubts arising from incompatibility with future custom or law.⁴¹ Additionally, none of the successive administrators would be allowed to change it, except for incrementing the assets bestowed.⁴² This starting point also provided the grounds for specific conditions imposed upon heirs and for the shunning of family lines deemed unwelcome or inconvenient. Some documents went as far as to feature actual curses.⁴³ Indeed, the ultimate and perhaps most powerful expression of the founder's power resided in the construction of the heir's image. The following segment will focus on this topic.⁴⁴

- 18 The heir to Portuguese *morgados* from the fourteenth and fifteenth centuries had two essential traits, clearly portrayed in the foundational documents: he was a male and the firstborn of a given generation. The supremacy of age also applied to the lines descending from a single founder –that is, for succession purposes, in almost every situation the firstborn’s lines surpassed those of the second born.⁴⁵ As to women successors, in most cases they were allowed only as temporary substitutes but seldom excluded. Out of a sample of thirty six documents detailing the descending lines, females were excluded only in three cases.⁴⁶ As with primogeniture and being male, there was broad consensus as to the superiority of legitimate birth –and, consequently, of legitimate marriage of the heir who wished to bequeath the *morgado* to his son. Out of twenty-six specific references to illegitimacy being acceptable, the five which did allow also saw legitimation as necessary. In the remaining cases preference was given to the second born line, which surpassed the firstborn illegitimate child’s succession.⁴⁷ Therefore, the main framework for entail succession was already perfectly established by the first half of the fourteenth century. Later developments focused on adjustments of a social nature. It is however important to stress, as António Manuel Hespanha notes, that the succession order in *morgados* echoed the institutor’s original stipulations. Succession followed private law, to the detriment of inheritance law, and this gave the institutor the ability to shape the actual order of succession. If a model came to be imposed since the early times, which would later be deemed canonical, until the Marquis of Pombal’s legislation in the eighteenth century it went through variations according to the institutor’s will.⁴⁸
- 19 Upon the general conditions relating to kinship and succession, foundation documents quickly imposed a wide range of clauses with the aim of ensuring family continuity and asset preservation, while also establishing an ideal model of what might be called the family’s “public” representation.⁴⁹ The heir’s physical and mental condition, an advantageous marriage, loyalty to the king, observance of the Catholic faith, righteous personal conduct, bearing certain surnames and coats of arms –all these were imposed in the institution documents through clauses in varying numbers, thus setting limits on the acts of those intending to become heirs to the *morgado*.⁵⁰
- 20 One of the clauses most frequently applied demanded the bearing of arms and/or the family surname.⁵¹ In some cases, the crucial importance of these elements for the possession of the entail was explicitly mentioned, such as in the 1422 foundation by the royal treasurer Nuno Vasques de Castelo-Branco:
- [...] all shall be called Castelo Branco, and never refer themselves to another land or lineage; and bring their proper coat of arms, without any other mixture or difference; and not bringing them thus, bringing them in another way or mixture, and using another surname and lineage, they shall have not, and will not be able to have, the said *morgado*.⁵²
- 21 The document insists on the purity of arms, as well as to the arms’ connection to the *solar*, the family home, itself adorned with a stone featuring the same heraldry. Not much later, another founding document, for the king’s privy secretary (*escrivão da puridade*) Nuno Martins da Silveira (1431), alluded to a stone decorated with the family arms, placed by the entrance of the chapel housing the family tombs; he stresses that *morgadio*’s administrator was expected to bear that particular version of the arms.⁵³ In 1514, Isabel de Melo, a member of an aristocratic family partially involved with the Crown’s administration, introduced a more complex universe when founding a chapel-*morgado* in Lisbon. The surname imposition was phrased as “[the heir] shall be named

as of the House of Mello” (“se chamará da casa dos Mellos”), while the arms placed on her grave were described as “my own arms, that is, of Sam Payo and of Mello” (“as minhas próprias armas, a saber, as de Sam Payo e as de Mello”).⁵⁴

- 22 A set of clauses were used to model what can be called the “good heir”. Physical and mental health were relevant, and the future heir was expected to possess the ability to manage assets (the prodigal, unfit and imbecile –“pródigos”, “incapazes”, “mentecaptos”– were systematically rejected) and beget children.⁵⁵ These two parameters reveal which basic needs were at stake. The heirs were expected to preserve family assets (both material and symbolic) and follow along the framework that both sustained the assets themselves and relied on them. Several physical defects were reasons for rejection, including blindness, deafness,⁵⁶ dumbness, leprosy and “monstrous birth” (a serious, disfiguring incapability). In some cases, it is clear that incapacity originate from issues of self-representation: the heir should not limp, the heir should be able to ride a horse.⁵⁷ In almost every case, the impediment was stronger when birth impairments were concerned. Usually in such cases, relatives were assigned as curators, their maintenance coming from the entail’s assets. Mental and physical injuries sustained during adulthood were deemed less severe, although there were exceptions: Álvaro da Costa da Silva, nicknamed “O Queimado” (The Burned Man), was an example of a particularly tragic situation.⁵⁸ He was born in 1527 from a wealthy family. His grandfather –from whom he had symbolically inherited his first name– was an influential courtier and King Manuel I’s favorite. During childhood, an accident left him with deep scars across the face and upper limbs. He was, therefore, removed from the primogeniture and forced into ecclesiastic life. His father’s entail was then reassigned to the brother next in line. Álvaro bore a grudge for all his life, cutting off all contact with his family. His *morgado*, instituted upon his deathbed, explicitly stated that rejection for physical or mental handicaps could happen only if such were present at birth. The physical and mental abilities required to become heir, which Álvaro had always claimed to possess, were evidenced in his brilliant career as a scholar, the assets he amassed and the numerous children he fathered, in spite of his ecclesiastic occupation.
- 23 The demand for an advantageous marital arrangement was also quite common. The criteria itself might rely on the father’s approval –as stated by Lopo Lourenço, for instance, a canon law student and official of the Crown (Lisbon, 1477)⁵⁹– or on the family’s social status and honorable condition – as demanded by Henrique Leme of his heiress, his sister Ana, in unwavering terms. He stated:
- And for that marriage, I will have it done on her and mine relatives’ counsel, preferably those closest to us. She shall wed a decent man, this I insist upon. Should she have married previously, lacking her relatives’ will and counsel, or have spoiled her person (God forbid it), as women sometimes do, and bring dishonor on her relatives, I will have her inherit nothing from my estate, if I can rightfully demand it, and so my conscience appease.⁶⁰
- 24 From the end of the fifteenth century onwards, in tandem with a toughening in the relationship between religious creeds, some institutions forbade marriage with Jews (vg the institution of Dr. João do Rego and his wife Catarina Mendes Lobo, in 1504)⁶¹ or stressed the importance of a catholic marriage.⁶² Rejection for “heresy” in general also featured in some institutions.⁶³ Although rarely, the requirement of not ever having been condemned by the Inquisition is also found.⁶⁴

25 Loyalty to the king and the kingdom was another quality essential to the entail heir. In 1446, Leonor de Meneses indicates how the heir should behave regarding this matter. Implicitly refusing that the major reason for that can be external to the family, she highlights the regard held for the honor of one's ancestors: "to the memory of my Father's dignified service to these kingdoms, which brought great honor upon him".⁶⁵ In a relatively early institution, dating from 1422, squire Fernão Lopes Lobo, from Évora, called for a mass to commemorate victory at the Battle of Aljubarrota, which he had fought as a youth. In the institution, almost forty years later, he preserved this memory forever as well as the meaning it contained for him:

For on that day King John of Portugal defeated and disbanded the king of Castile, in the field of the battle that was fought in Aljubarrota, where I was, at the age of seventeen or eighteen, when God and the Blessed Saint Mary delivered us from the power and subjection to the Castilians.⁶⁶

26 With possibly a more "civic" approach – though still focusing on the institutor rather than service to the monarch –both João da Fonseca and Vasco Eanes Corte-Real linked possession of their chapel-*morgados* to the lineage's jurisdictional asset (respectively the lordship of Flores Island and the captaincy of the Terceira and São Jorge islands). Corte-Real was very keen to highlight loyalty to the king.⁶⁷

27 Aside from extolling loyalty to the king, documents also covered the need to prevent any breaches of such loyalty, since this was a crime with severe consequences to the estate. One of the first references to this topic appears in *Dom Pedro de Meneses's institution (1431)*:

Whoever does such a thing against his Lord –what God does not allow!–, for which he must lose the morgado, or incur in such a case that he cannot hold it, may it then go to the next in age.⁶⁸

28 This clause would later undergo significant developments, so as to reinforce the protection mechanisms of the entailed family.⁶⁹ The king's laws, compiled in the *Ordenações Afonsinas*, provided exceptions to this rule for entails bestowed by the Crown or managed by the Church. In all other situations, that is, entails instituted by private individuals, the Crown might only confiscate assets if the criminal escaped without punishment, and only during his lifetime. Upon his death, the *morgado* would pass on to his heir, even in cases when the criminal had suffered a death sentence. Privately instituted *morgados* were thus set apart from other types of property, liable to be confiscated from the criminal's descendants. Years later, institution documents began to provide for the "civic" death of the criminal, which protected his heirs:

If he who has this morgado and in a rightfully way should own it, does something for which he and his descendants have to lose the estates or part of them, according to the law and custom of the Kingdom and of the land, or otherwise, in this case I want and I order that the said *morgado* passes to the person who legitimately and by right would receive it if the said person had died.⁷⁰

29 Decades later, in legal treatises on entailment, it was introduced an ingenious solution to this issue, grounded on a legal fiction: the creation of the "null degree". According to this, the criminal would be expunged from the lineage. For succession purposes, he ceased to exist. At some point before the crime's perpetration (the exact period varied among institutions), the *morgado* was automatically transmitted to the innocent successor, and kept safe from the Crown's fiscality.⁷¹

30 Aside from these, which were common and broad in nature, institutions included other impositions. Although less frequent and at times apparently arbitrary, they should not

be regarded as oddities. They were all accepted and, in case of breach –a most likely scenario– they might well result in the asset being lost. The main element here at stake was the institutor’s omnipotence, his power to impose conditions on the administrators, on behalf of the authority figure being created. In 1431, Nuno Martins da Silveira assigned the bishop of the diocese where the chapel-*morgado* was located with the task of assessing the management abilities of an eventual disastrous heir, described as “contemptible person, of such trickery and foul habits that no sensible mind would make him bear such task”.⁷² Out of self-pride, other institutors strived to perpetuate scholarly training, family epithets and nicknames, and even given names. Álvaro Fernandes, doctor of law by the University of Pavia, demanded that the heirs of his chapel-*morgado* obtain a doctorate degree (“ser doutor”) and bear the “de Pavia” nickname (1494).⁷³ In 1491, Fernão Martins “Evangelho”, a merchant from Lisbon, dictated the obligation of bearing his family epithet, which echoed the invocation of the Four Evangelists in the merchant’s last will. The Evangelists were also represented visually in the antependia he donated to the chapel, as well as in the family crest.⁷⁴ Henrique Leme (1521) imposed the usage of both his name and surname (“que se chame Henrique Leme”) (“he shall be named Henrique Leme”).⁷⁵ During the seventeenth century, the Countess of Castelo Melhor, whose name was Guiomar Maria de Távora Sousa Faro e Veiga, had no choice but to add another name –“Joana Caminha”– to her own, as she inherited an entail including that condition.⁷⁶ In 1525, Lisbon aristocrat Francisco de Matos imposed that both his surname and that of his deceased wife should be borne, amidst frequent references to their noble ancestors. Accordingly, he took steps to exclude practitioners of mechanical labour, seen as “of a nature too heinous for this *morgadio*” (“muito odiosas a este *morgadio*”), whilst insisting on the importance of high social status.⁷⁷ Though rare, there were instances of homosexuality being mentioned as another reason to exclude potential heirs.⁷⁸

- 31 To finish the portrayal on the founder’s authority figure, two sets of clauses from institution documents should be analyzed. Aside from construing that figure, these clauses sit at the very heart of the entail system: they deal with the relationship with property and almsgiving for the honor of ancestors and future relatives.
- 32 As previously stated, the *morgadio* implied the belief in a particular –almost organic, one might say– connection between the lineage and its main material asset. Every institution document demanded the preservation of the entail’s assets, and some actually required their improvement or the amassing of further wealth.⁷⁹ Ever since the early stages of entail development, it was frequently mandatory for each administrator to attach his share of the inheritance (the “terça”) to the foundation he had been granted.⁸⁰ In 1408, João Vaz de Almada’s last will acknowledged the attachment of his share to his father’s *morgado*, since the latter had demanded it. The document required an identical procedure from the following successor, on pain of his assets being confiscated.⁸¹ In the *morgado* institution document of the noblewoman Joana da Silva, dated 1517, the attachment of the available quota contributed to the preservation of the entail, irrevocably connecting the fortune of each heir to the institution inherited.⁸² It was sometimes possible to sell some of the *morgado*’s assets, albeit with considerable provisions. Institutor Estêvão Rodrigues allowed it in 1356, on the condition that the procedure would benefit the foundation. However, he excluded the main core of the estate, the “quintaa dos Vasconcellos” (the Vasconcelos homestead),⁸³ from that possibility. In 1430, Gil Lourenço de Miranda allowed for tenancies lasting three generations, yet the administrator was burdened with considerable provisions

regarding the assets. He was to perform a full inventory upon the succession and attach every asset he inherited.⁸⁴ The obligation to reside in the entail's "sede" (seat, main house) or, in a less demanding way, to establish some sort of connection to it, catered for yet another relationship between the assets and the administrator. In several different *morgados*, these noble houses, known as "paços", were well preserved and bore the family arms.⁸⁵ The estate's registers ("tombo") ordered by the king, by the end of the fifteenth century, would always start with the manor or homestead, which was described in great detail. It always corresponded to the richest property, and some of those documents, the manor was referred to it as the head of the entail ("cabeça do morgado")⁸⁶ or its bedrock ("assentamento"). A clear example can be gleaned from the description of the manor in *Dona Leonor de Meneses' morgado*:

[...] A large house with its land, all together in the city of Lisbon, in the parish of Santa Justa, where the administrators of the said chapels live, because these houses are the head of the morgado.⁸⁷

- 33 Some institutors set out charitable obligations for the administrators to perform precisely in the main manor. Squire Martim Garcia de Oliveira, for instance, demanded in his 1460 institution that a bed be ready at all times for any beggar who might need it.⁸⁸ Another entail, from 1346, required that heirs reside in the *morgado's* household, which had been bequeathed upon the institutor by his parents and grandparents. Should this requirement prove impossible to meet, the heirs would at least have to live on the same street. This demand was justified minutely, connecting the ancestors' memory to the places where they had always lived in honor:

And I order this so that these houses, which were my father's and my mother's and my grandparents', who have made them, never became abandoned, because until now they have always been inhabited and maintained, with men and women who fear God and who avoid mischievous deeds. And because no one of my lineage ever received shame or dishonor, and we received [instead] much honor, from the good fame they had, I believe it would be a great loss and shame for me and for them [the heirs] to go away from their grandparents' place, forsaking it and going to live somewhere else, among strangers, where they would never remember my soul or those to whom these estates belonged [...]⁸⁹

- 34 One last example clearly reflects the affinity between the institutor, future administrators, the surname –a symbol of public acknowledgment– and the bound estate. Luís de Atouguia, a landowner who had served as treasurer for the Duque of Beja, *Dom Manuel*, demanded in his 1493 institution that the property that supported the lineage and the chapel bore his surname, which the successors were also required to use ("morgadio da Atouguia" – morgadio of Atouguia).⁹⁰
- 35 Charitable and pious duties were one of the strongest elements in the cohesion of the entail system. The vast majority of institutions carried such obligations. This also applied to most chapel institutions, which were associated to a *morgado* succession, or at least adapted to the latter model, when no other approach was explicitly mentioned.⁹¹ As stated previously, the distinction between the two types of entailment was blurred, which gave rise to legal issues even at the time. The Crown attempted to establish criteria for such distinction, and the regulation was included in the *Ordenações Manuelinas*.⁹² Most importantly, such criteria did not stem from the existence nor the absence of pious expenses, rather from the magnitude of those expenses as a fraction of the available income. For practical purposes, these expenses were considered applicable to every *morgado*, which in effect only acknowledged the situation as it happened.⁹³

36 The chapel-*morgados* provide clear examples of the spiritual ramifications surrounding the connection between the founder and the designated descendants. There were several founders who dictated that administrators who failed to have masses celebrated in the chapel would be dismissed;⁹⁴ that the souls of the departed with connections to the *morgado* were worthy of special suffrages;⁹⁵ that administrators were entitled to burial in the chapel;⁹⁶ that assets should not be dispersed, to both sustain prayers for the founders' souls and provide for a decent life for the descendants, including adequate service to the King and the land ("ao rei e à terra"). João do Rego's wording, transcribed below, is a clear example of the complex interplay of different elements at the root of these institutions:

We order this foundation] so that the estates cannot be divided, alienated or sold, but always remain intact and united, with all wealth that can be added later, in order to fulfill our will, and to be in service and praise of God, and salvation and good of their souls; and so that with these undivided estates it becomes possible to maintain properly our son and his successors, so that they can fulfill our wills, in the service of God and the king and kingdom.⁹⁷

37 Aside from the clauses found in documents, known especially to the family in charge of the administration, the chapel-*morgado* as an institution was reinforced through noticeable means, namely the physical features of chapels as architectural spaces. These features spanned everything from location and arrangement to the sacred objects preserved inside, including the burial monuments and signs. In late medieval Lisbon, these features were clearly directed towards demarcating and differentiating sites. Clergy-administered chapels and non-clerical chapels freely administered by the successors were also distinguished via such elements. Still, they were especially noticeable in chapel-entails. These elements included specific vestments, for instance. Detailed instructions for the organization of the chapel's inner space, the donation of furniture and retables, as well as burial monuments, were twice as frequent in those institutions than in simple chapels. Heraldic arms were set up only in chapel-*morgados*, while signs bearing the institutor's name were six times more frequent there than in other chapels.⁹⁸ The most significant differences lay on the type of elements that better defined the lineage, namely the setting of arms and the placement of signs narrating the founder's origins (indeed, in Álvaro Vaz's case –the only "non-entail chapel" featuring a sign– he required textual brevity and a description of the assets and suffrages, with no mention whatsoever to himself or his lineage).⁹⁹ The main concerns of chapel-*morgado* founders regarding what we might call decorative elements – architectonic space, retables, tombs more or less lavish– were an attempt to organize a dignified physical space for the act of praying for the "own souls" –as were called the ancestors' and relatives' souls– which might at the same time express the lineage's cohesion through the artistic treatment of the funerary space. Several authors have approached this issue: sculptures and paintings evoking the founders and their lineage, ecclesiastical vestments and altar clothes featuring the lineage's symbols, not only contributed to assimilate liturgy, they served to recollect the power and grandeur of the chapel's owners. All these dimensions were particularly relevant for chapels associated to lineages, in other locations as well as in late medieval Lisbon.¹⁰⁰

Modes of Transmission and the Assimilation of Models

- 38 Compliance with regulations and an awareness of the consequences of transgression were part of the *morgadio*'s culture, and potential heirs were made aware of their role. Some documents provide insights on how these elements helped the founder promote the lineage's identification and cohesion. The case of Henrique Leme is an example. In 1521, Leme founded a chapel to be administered by his sister under a strict succession regime, featuring several clauses (surname, arms, behavior). He was in India at the time, preparing for an imminent, possibly lethal battle. After reminiscing on his departure from Portugal as a poor and young person, and on the fortune he had made waging war and seafaring (“[...] com o auto de guerra, e Armadas, E aventurar minha pessoa”),¹⁰¹ he gave instructions for a chapel properly maintained, into which the remains of his parents ought to be transferred, choosing “the best possible location in the aforementioned monastery, with ornaments aplenty and a altarpiece” (“no melhor lugar que se puder haver no dito Mosteiro com seus ornamentos em abastança para ella com hum Retaballo [...]”).¹⁰² The lettering sign to be attached inside the chapel was to identify him as the patron who had it built and who had provided his parents with a new grave.¹⁰³ This highlighted the “refounding” by the son, someone who had prospered in life through his own effort and now restored the lineage's dignity (albeit poor, as he himself noted, judging from the relatives mentioned in his last will, Henrique Leme clearly came from the mid-upper aristocracy).¹⁰⁴ In examples where the founder socially outranked his predecessors, identification was reinforced by placing an emphasis on his own qualities and personal success. This was a noticeable trend among founders whose success had emerged due to education and an administrative career. Accordingly, Lopo Lourenço, who founded a chapel-*morgado* in 1477, at the church of S. Martinho in Sintra, had a reference to his career included in his epitaph, as a canon law student and attorney of the king in Sintra (“escollar em direito canonico e procurador dos feitos del rei neste almoxarifado de Sintra”), who would lie therein together with his honorable wife, Leonor Álvares (“honrada ssua molher lianor aluarez”).¹⁰⁵ Bachelor Álvaro Fernandes' approach was even more accurate: his epitaph ought to correctly state the latest academic degree attained at the time of death.¹⁰⁶
- 39 The connection between the entail's assets, the administrator and the suffragated souls met with deeper manifestations still. The administrator's physical presence was mandatory in several liturgical ceremonies and charitable occasions, often concurrently. In the chapel founded by Nuno Martins da Silveira at the S. Domingos de Évora convent, in 1431, the heir ought to attend the weekly mass. If he were still a baby, a nurse should carry him.¹⁰⁷ More realistically, Dona Maria de Vilhena's 1483 institution established that the masses for the founder's soul could be said wherever the heir was.¹⁰⁸ In any case, the souls of the founders bequeathing the assets which supported the suffrages should always be mentioned.¹⁰⁹ It was a common demand for the heir to give alms during mass;¹¹⁰ he might also be required to perform Christian ceremonies such as Maundy on Holy Thursday. Such was the case with Diogo Delgado's 1518 institution, which specified that future administrators ought to perform such ritual on the poorest persons they could find. The act should be conducted in public, by the hands of the heir himself. This foundation also required the presence of two among the “closest relatives” for a specific type of mass. The demands culminated with a curse on those who failed to comply, and would lose their right to the *morgado*.¹¹¹ Church visitation records reveal the importance attributed to having a close relationship with the chapel

owner. During the Santiago de Óbidos visitations, priests were expected to warn local members of the lineage whenever the anniversary was to be held, so they might join the ceremony if they wished.¹¹² These ceremonies might indeed follow an almost specific liturgy, since institutors would choose their patron saints, the combination of which would ensure an emotional and secure placement within the liturgical calendar and their church's celebration schedule.¹¹³ The foundation document was ever-present, as a guidebook which in some situations required public referencing. The aforementioned Francisco de Matos, in his 1525 institution which provided for masses in two different locations –his own parish church and the main homestead in the entail's– ordered that during the season of those masses (“a estaçam das ditas missas”) the priors read out loud in full the commitment he was writing, so as to reach everyone's ears.¹¹⁴ Other parameters habitually associated with the foundations were included: the reaffirming of how important it was that the poor individuals supported by the assets (and who in turn suffragated the souls) be either family members or belong to the family's clientele;¹¹⁵ the preference for chaplains within the family;¹¹⁶ and the assignment of the ownership and management of the liturgical vestments and chapel space to lay administrators.¹¹⁷

- 40 While still fulfilling their role as fundamental regulations, institution documents might also include practices with the goal of differentiating the eldest in the family, so as to solidify the established succession model. First of all, they provided for ceremonies such as that required in the last will of Lopo Rodrigues Patalim, of Évora in 1319: that the heir swore to uphold the stipulations on his ancestor's passing.¹¹⁸ Another example is provided by *Dom Pedro de Meneses'* highly detailed instruction, in his *morgado's* institution:

And whomever these goods inherits, he shall give to the person which afterwards shall inherit them, rightfully, in each year, by Christmas day, a hundred *dobras cruzadas*, in gold or silver, and twenty new golden *marcos de bastiães*, placed in thirteen cups. And this shall be done in recognition that the inheritance belongs to that person, and cannot be denied thereafter.¹¹⁹

- 41 Some institutions include the notion to be transmitted to the successors on family occasions, on an everyday basis and bringing up children –the idea that primogeniture established a special bond between parents and children. Thus, Joana da Silva, in her 1519 institution, explained that she had founded an entail with her share (“terça”) of the inheritance –to which her husband agreed to add his own– on her son Cristóvão Corte-Real, since he was her firstborn, the “most important of all my children, though they are all my children and I love them dearly, yet this one in particular”.¹²⁰ As firstborn, he would inherit the captaincy of the Terceira and S. Jorge Islands. Therefore, his parents included in their shares a house in Lisbon, by the river, for it was –as explained in the document– a privileged location for trading with those islands.¹²¹ Similarly, the last will of *Dom Luís da Silveira*, count of Sortelha, produced in 1529, was truly a treaty on the sort of relationship established by the *morgado* within the family groups it organized. For its eloquence and exemplarity it merits a more detailed analysis.¹²² The document becomes a privileged means for transmitting values, to which death adds solemnity. The eldest son was assigned several duties: to pray for his father's soul and pay his debts (resorting to the inherited share and, should it prove insufficient, his own income); to consult his great-grandfather's last wills and the commitments in the several *morgados*, upholding their demands and restoring the chapels; to continue his father's improvement works in the family home; to write off

the payment of his sisters' dowries, when they marry; to handle his brothers' marriages, consulting certain relatives, if necessary; to care for his fathers' servants and, together with his siblings, to provide special care for one of his aunts. Apart from these specific duties, the document conveys a vast set of conduct guidelines, both personal and directed at the lineage as a whole. The eldest son was given instructions regarding his own marriage: he should marry a wise, reputable and well-bred woman ("syzuda e de booa fama e filha de booa Mãy") rather than someone baseborn ("villaa nem de maa linhagem"), however rich. He was also to protect his relatives and servants, while maintaining close attachments to his fathers' friends. Finally, he was addressed together with his younger siblings. *Dom Luís'* words provide a perfect description of the family as a body, a set of elements arranged around a nucleus, interconnected through fraternal love and friendship:

I command my youngest sons, under penalty of my blessing, that when I die, they reunite around their elder brother who inherits my house, and make him Family Head, for he is such of his lineage, and God wanted him to be the oldest among all, to which more honor and respect are due. I command [my youngest sons] to have much obedience to him; and to him, I order to treat his brothers with much love and honor, and to help them, and always cherish them, helping them in their needs, as very friendly brothers, giving them from his own wealth, because he shall not have other such good friends.¹²³

- 42 Interspersed with the final morsels of advice, namely to fear God above everything else, *Dom Luís* recommended that quarrels within the family, prompted by inheritance shares or other matters, should be handled within the circle, with the counsel of three or four relatives and friends, thus avoiding outside interference.¹²⁴

Negotiating the Roles of Founder and Heir. Extension and Limits

- 43 This section would be incomplete without mentioning the void that, despite all precautions, existed between the idealized figures of the founder/heirs and their counterparts in real life. An idyllic portrait of family relations is best avoided, as is an idealized description of the heir's figure, as provided by the founder. The punishment of those who failed to comply, such as curses or the suppression of paternal blessings, have already been mentioned.¹²⁵ Some institutors established clear processes for heirs to monitor each other's behavior: an example can be found in Fernão Pires and Constança Vicente's two *morgados*, founded for two heirs in 1335.¹²⁶ Legal treatises argued for the possibility of defrauded parents to move legal complaints against the administrator, whenever asset waste or unfulfilled duties were at stake. The administrator was deemed responsible for the assets under his custody.¹²⁷ In his 1319 institution, the previously mentioned Lopo Rodrigues Patalim entrusted the bishop of Évora and "two others of his lineage" with the task of monitoring the *morgado's* administrator.¹²⁸ Examples are very many and have been studied extensively; litigation was inherent to the very existence of entails, and no small part was tied to the conditions established by the founder.¹²⁹ During the many centuries of the entail system, the founder's figure was permanently interpreted and negotiated. From the litigation moved by the *morgado*, at Court or in informal instances, it is certain that the figure of the founder was considered in an active and creative way.¹³⁰ It is true that if the force of the "*morgadio* law", defined as "the will of the one who founded", was immense, both the plasticity that it introduced, the dynamics of the interested parties, and the plurality of the legal system, allowed for a significant margin of interpretation.

However, from the research conducted so far, I have found that some elements were particularly strong. Despite all attempts, these key elements were almost never overlooked in a definitive way: permanence within the parental group defined by the institution, even in cases of very serious crime against public power; prayer for the souls of the ancestors, even when material means were not enough.¹³¹ In the remaining aspects, the right to become heir was negotiated –for sure within the framework set out in the foundation, but taking into account other parameters.¹³² The fragility of these was all the greater the more one departed from the “founder’s words”; but the institution never had the inflexibility attributed to it by the eighteenth- and nineteenth-century critics. Not because of any innate goodness, but because it would not have subsisted for centuries otherwise. In this sense, even negotiation and dispute served the purpose of immutability and perpetuity that had given birth to the institution, five hundred years before. These purposes often sacrificed the human element. But in fact this element was not the true “matter” to be defended, but rather a supra-individual notion, an organization designed to maintain and reproduce the power of the group that created it.

Functions and Origins of the Morgadio’s Figure of Authority

- 44 Aiming now at a global interpretation of the panorama described, it is fundamental to state that in the vast majority of entails the figure of the founder was in fact composed of two central reference elements: the founder himself and the “heiress soul”. When together, these complex and multimodal figures were a powerful form of protection of the family as a corporate body, reducing the possibilities of interference by civil powers; and, in what regards ecclesiastical authorities, allowing the laity to claim back a certain control over marriage alliances and, up to a point, to “care for their own dead”. In having a fundamental legal nature –that needs to be understood historically regarding law in premodern Europe–, they were also strongly grounded on specific cultural perceptions of the world and were used by the agents in different forms. In fact, in a social order where the figure of the founder had not enjoyed vast authority, and souls could not have been constituted as heirs, *morgados* and chapels could never have existed.
- 45 The founder was empowered to reorganize the past, to create the present and to condition the future. In a certain way, the founder and the administrators were to become not a person, but the embodiment of the entailed estate itself –the current form of referring to entails’ administrators in premodern Portugal was the “*morgado* of [name of the main property]”. The estate, the “*vínculo*” (literally, “bond”) would become the embodiment of goods and persons –living and dead– taken together as an entity. We could here easily use Thomas Kuehn characterization of the relationship between the Orsini family and their fideicommissum: “In an important sense the *fideicommissum* was the Orsini di Bracciano.”¹³³
- 46 Coupled with the *morgado*, the funerary chapel organized prayers for the souls of the ancestors in specific ways (generally, following the patrilineal branch); also regulating the relation between this corporate body and external ecclesiastical authorities.¹³⁴ For centuries, the *morgado*-chapel pair functioned as a very powerful form of conditioning and protecting the family, bringing together the living and the dead. Funerary family

chapels consecrated a specific part of the founder, inseparable from the rest, with characteristics of its own: his soul. This, the true configuration of humanity, was fully assumed after physical death, and not affected by it. To the soul of the founder, to the ones he decided to include in the foundation, and to the ones that were added to it in succession, rights were conferred similar to those of a living person, namely ownership of material property. It was to this paradox (a paradox only in a different legal system) that the Enlightenment legislators referred, declaring that the “souls of the Other World” were the “owners” of an immense part of the landed estates in the kingdom of Portugal. However, such a thought brought forward a criticism formulated outside the belief system. Until then, criticism was about excess rather than principle.

- 47 A set of questions can and should be raised against this backdrop: on one hand, concerning the entail globally –where did the parameters for construing the founder’s figure originate from?; why did they start being used when they did?; how were different origins reconciled? Regarding the pious charges and the chantry itself more specifically –how was the commemoration of the “family’s deceased” incorporated in the legal institution of *morgadio*? Was control over the intercession for the souls of the ancestors also a claim from lay founders to the Church? How did this reinforce and/or weaken the commemoration of the “family’s deceased”? How did the very material forms of framing the soul’s heirship, practiced by the founders and administrators (places, signs, protagonism in funeral ceremonies, selection of the deceased prayed for, specific and specialized liturgical prescriptions, imposition of norms and conditions on clerics) coexist with Church doctrine and discipline or with the idea of the deceased faithful community being universal?
- 48 Answering all these questions is impossible in a single paper, not even in single-handed research. In what follows, I shall list some of the referentials where components of the founder’s figure may have come from, as well as some historical contexts that seem to have been influential on their *mise-en-oeuvre* in this precise historical period and particular place.
- 49 The requirements of proper conduct, appearance, etc., imposed upon the heir were clearly grounded on a particular cultural model, since the heir’s adequate physical outlook, or his habits, were more than just directly influent material elements. These demands were indeed based on conceptions associated to the nobility. The belief in the adequacy, to an aristocratic stratum, of the succession mode in use became widespread very early on.¹³⁵ Dr. João do Rego’s *morgado* institution for himself and his wife, Catarina Mendes Lobo (1504), featured the “purest” theoretical wording of this principle. The document formally included an extract of a familiar text, known, among others, by the title mentioned by the institutor: “Epístola de S. Bernardo que escreueo a Raymundo”. As Bartolomé Clavero has gathered from other sources –legal treatises on primogeniture– this short text provided a crucial contribution for the dissemination of the entail mentality. It is also a pristine example of how religious principles informed the construction of law, effectively contributing to a change in the then applicable rules.¹³⁶
- 50 The transcription in João do Rego’s document is very poor. Its author was clearly unfamiliar with the Latin language. Anyhow, both the institutor’s identification of the text and the fragments available make it recognizable as the “dictum beati” of sixteenth-century Castilian jurists. It is most commonly known in the following version:

De filiis audi. Mortuo patre filii querunt divisione. Si nobiles sunt, melior est sepe eorum per mundum dispersio quam haereditatis divisio. Si laboratores sunt, faciunt quod volunt. Si mercatores sunt, tutior est eorum divisio quam communitio, ne unius infortunium aliis imutetur.¹³⁷

- 51 Bartolomé Clavero explained how the text was gradually assimilated into the writings of jurists who defended *morgadio*, as opposed to the pre-existing, more equalitarian approaches to inheritance partitioning. He also pointed out that wider social and legal contexts were responsible for the shift from the “favor jurídico” (legal favor) – habitually granted during the sixteenth century– to the *morgadio*.¹³⁸ The role of this saying was actually indirect in nature, but important nonetheless: it secured a certain form of hereditary succession from a religious standing point, associating it to the most prestigious social group –the nobility. Ironically, the *morgadio*’s worth as a clear sign of nobility rendered it one of the most sought-after prospects for social ascension. Every social group and individual that wished to belong to the most prestigious social group took on the purpose of founding entails. Small-scale *morgados* and chapel-*morgados* were particularly effective for this purpose. They contributed to the propagation of behavior models and identity signs –mostly reserved to the blood and warrior nobility in the central Middle Ages.¹³⁹
- 52 The argument raised by jurists around the “dictum beati” brings up yet another essential issue for the topic under analysis: the role of law professionals in the co-creation of the founder figure and the heir model. They were indeed relevant, either for a more abstract reflection (on the model’s origins, legitimacy, extension, and so on) or for the resolution of the countless conflicts originating in the entail institution and reaching tribunals.¹⁴⁰ Casuistic treatises and juridical writing on *morgadio* were prolific, due to the institution’s novelty and lack of unanimity, as well as its tremendous propensity for generating litigation. A considerable share of the issues related to the interpretation of the founder and of what he had consigned in the institution.¹⁴¹ His power’s scope, versatility and arbitrary nature occasioned court decisions on an almost “case-by-case” basis, later structured into guidelines for wider applicability. Legal literature amplified and attempted to provide cohesion to the *morgadio* institution, a very difficult task considering its freedom of configuration.
- 53 Aside from acknowledging this process and duly recognizing its importance, further research is needed on the wider grounds for the legal decisions, namely regarding their cultural origins. Acceptance of the *morgadio*, the contribution to the stabilization of its legal features and the management of the conflicts it raised happened resorting to elements from the contemporary legal framework and its own way to serve a particular social arrangement, which in turn was grounded on status inequality. Such elements included the social utility, privilege and exception afforded to certain categories of people – based on their excellent birth or the services they rendered to society – and the importance of fulfilling duties on behalf of the deceased. It brought an element of justice to an institution perceived by many as unjust, and even susceptible of moral damage. Jurist Palacios Rubios (1450-1524), one of the first experts on entail law, defended that for the *morgadio* to be founded *salva conscientia* (without compromising one’s conscience), it had to rely on the “just cause” of upholding the memory and prestige of the original lineage.¹⁴²
- 54 As António Manuel Hespanha has recalled, it is also imperative to consider the way jurists perceived the world and the specific features of the Ancien Régime societies in Europe. Discussion about the acceptability of *morgados*/ *mayorazgos*, revolving around

the opposite poles of political utility vs social (familial) injustice, and the nature of the institution's legal grounding (wether of human or divine origin) was of course conducted by jurists, of whom the most dedicated were Domingo de Soto and Luis de Molina.¹⁴³ Legal background, however, is important in a more fundamental level. It must not be forgotten that institutions such as entails existed in Western Europe before the Liberal revolutions, in a society of a specific type, essentially corporate in the field of representation and the exercise of power and law; a society which is best understood when considered a species of the much larger genre, in time and space, that can be called "pre-industrial" societies.¹⁴⁴ In this kind of social organization, "The family constituted a society organized by nature, and this regime was therefore imposed on the law of the kingdoms."¹⁴⁵ This society had slowly built up an "[specific] imaginary of family feelings" –a true socially internalized and valued anthropology– centered on a family love emanating from the paternal figure. At the same time, it had assumed central functions, either in the "moral economy of the family of the Ancien Régime" or in "its institutional status",¹⁴⁶ an aspect rarely valued by historians, and which is of particular interest to our analysis. This background brought new approaches to legal concepts from other legal frameworks, such as the *patria potestas*,¹⁴⁷ foundation and founder, the legal personhood of the souls or even of the "hereditas iacens", *troncalidade* or *laudatio parentum*, feudal law and several legal codes already applicable in the Iberian Peninsula. If we don't esteem useful listing these influences in a generic way, much less replicating the legal historiography on the *morgadio's* "racial origins", it is sure that any renewed research on the Iberian entail phenomenon must consider and explain the insertion of the *morgadio* in a particular legal context. By establishing the late medieval context of change in rents and feudal land privileges as the catalyst for mustering the legal elements already present, Bartolomé Clavero's thesis posed an enormous challenge for a traditional legal history committed to a deeply ideological quest for origins. The historiography of the decades following Clavero's groundbreaking book has provided in-depth contextual studies, with greater focus on the legal issues.¹⁴⁸ In my opinion, construction of the founder figure may prove a focal point for a renewal of the topic, which appears essential for understanding the *morgadio* phenomenon, especially since the foundational figure gave force to the entail, which became the real social agent, rather than the men it aggregated. The most important ideas include "*patria potestas*" –to understand its conceptual widening, in the legal frameworks of the Late Antiquity and the Middle Ages, requires transitioning from traditional legal history to legal anthropology, with contributions from the history of mentalities and representation, as well as gender history. Studies on the father's figure in the timespan analyzed, extended until the mid-Ancien Régime, provide evidence of the influence of Christian divine paternity concepts, as well as the important of the idea of "*pietas*". They also point to the existence of a paternalistic and affective model of political organization, featuring a greater assimilation of sociological elements such as the importance of women and affective relationships.¹⁴⁹

55 A contribution to this discussion can be found in the research done in recent years on the role of the "head of lineage". In historiographical terms, this research has been constructed from revisiting the late medieval context in the *longue durée*, and paying importance to the lineage as a social body. It should also be noted that the evolution of kinship structures, namely of lineage imposition over the horizontal family, seems to have taken place much later in Portugal (and the Iberian Peninsula in general, despite differences among kingdoms), especially when compared to France.¹⁵⁰ Although the

question remains mostly unstudied given the scarcity of comprehensive studies on the sociology of Portuguese fifteenth-century elites, scholars of the nobility of the thirteenth and fourteenth centuries have argued in recent years that the lineage structure was fluid until that time.¹⁵¹ The most common inheritance system was the division of family property between all sons and daughters; the “head of lineage” was not a fixed social role, but one which depended on the individual’s own capacities. Amongst the reasons for this, monarchical centralisation, during the Iberian Christian conquest, has been identified as a leading factor. The oldest families in the kingdom continued to live in their traditional headquarters in the North and were alienated from the process. The battle against the Muslims was therefore supported by the military orders and the non-noble cavalry. Naturally these were the same groups who benefited the most from that warfare process, in the long run. At the same time, the relative fluidity of nobiliarchic structures allowed the group to adapt to consecutive crises and made some renewal possible with the introduction of external elements and/or the ascent of less important lineages and of secondary branches. Perhaps for these reasons, a more rigid system of concentration of inheritances could only be adopted through a formal mechanism, the *morgadio* as an institution.¹⁵² The *morgadio* allowed precisely for the consecration of a figure of authority, the founder, which seems to have failed in previous lineage arrangements.

- 56 The important role of canon law needs to be taken into account as well. As it is known, funerary chapels were a specific form of “*piae causae*”, born of the wish to match prayer for the souls with charitable deeds.¹⁵³ This model was progressive but decisive, and at some stage, funerary intercession became one of the main “*piae causae*”, endowed with greater “favor” and protection: not even the pope could suppress the rights of souls. He could only change them, or mitigate them, but always by means of an extensive operation of assessment and compensation. The canon law of the twelfth century was the great creator of this legal figure, which consisted of attributing effective legal life to a property without a living owner, provided it was dedicated to certain purposes, spiritual in nature. It welcomed elements from Justinian Law, organized and extended them, departing from two themes: the inviolability of the will and the sacral and benevolent nature of the Church’s property. In the late Middle Ages, canonists completed this theoretical building, using another four elements: the equation between “*piae causae*” and “legacies in favor of the soul”; the juridical personification of the chapels; compulsive respect for the “will of the dead”; and the validity of canonical norms on “*piae causae*” in civil ordinances. Finally, chapels would acquire another life from the moment they were appropriated by the laity. Given the legal nature of chapels and/or the existence of the soul as a legal person, chapels can be considered to be a “house (of souls)” within the “House (of the family)”. It was the institution where the souls of the dead relatives lived and were looked after, protecting the living in turn. The materiality of this “house of souls” is a fundamental historical reality, a key to understanding the system and the society that permitted it. On one hand it was juridical; on the other, it was physical; finally it was symbolic and ceremonial. The chapels, especially those that had more elaborate and rich celebratory and charitable forms, were true mechanisms of operation –by the laity and to its own benefit– of the supernatural transformation which had hitherto been the prerogative of ecclesiastics: matter in spirit, and spirit in matter.¹⁵⁴ One very important path that remains open is the extent to which the early foundation of chapels and entails by ecclesiastics for family members (that is, not only chapels strictly under ecclesiastical

administration) influenced the surge of entail foundations, in Portugal at least. In fact, the oldest existing foundations were due to bishops;¹⁵⁵ but the question requires much deeper research, since only a few foundations are known so far for those decades and the next few.¹⁵⁶

- 57 Strongly connected with this field of meaning is another line worth exploring, the role of what could be called cultural “Christian elements” in the formation of the founders’ figure. The groundbreaking research of Bartolomé Clavero on the importance of the nature of the divine family has shown how the Christian model of divine Father-Son coincide with a single descendant model.¹⁵⁷ Even more, among the Spanish “tratadistas” entails came to be considered an institution that received God’s approval;¹⁵⁸ the moral problem of the unfairness of privileging one son over the others came to be surpassed by the obligation of redistributing wealth and by the restriction of entails to nobility, thus serving public good.¹⁵⁹ In matter of fact, it is possible that the profile of the good Catholic layman –as it came to be configured in the transition from the fourteenth to the sixteenth century, between the growing demands of laity for religious autonomy and Church reformation, and the outcome of the Protestant/Catholic divide– also had an influence over the process of constructing the founder’s figure.¹⁶⁰ From the moral point of view, the founder was to zeal for the subsistence of poorer relatives, to perform funeral and charitable obligations, to comply with honoring the consigned prayers for the deceased; from the perspective of confessional fidelity, something which came to be more and more important, he should reject tolerance towards the “traditional enemies” of the Christian religion. As to the profile of the good heir, entail institution documents from the sixteenth century onwards give increasing importance to religious fidelity and to the Catholic “cleansing” of Jewish, Moorish, pagan, or heretic blood.¹⁶¹ The religious framing of entail foundation grew exponentially in the 16th and 17th centuries, when it became a central sign of nobility. This is, however, another research path yet to be fully thrived.¹⁶²
- 58 The constant fabrication of mythical founders in medieval culture, which also happened during the following centuries, is equally worth mentioning. Lineage founders provide the most obvious example, the means for which relied on several media prominent during the period: family narratives, chronicles, genealogies and lineage books, heraldry as both an inclusive and exclusive space (crest halls, heraldry books, the placement of crests in places imbued with symbolism and self-identification for the entailed family, in particular the manor and tombs/chapels), miscellaneous iconography, most noticeably retables with the suffrage benefactors/founders or signs with references to the foundations.¹⁶³ Research on the lineage’s identity signs is therefore a particularly fertile field, both in terms of providing an overview and because of its intrinsic dynamics: surnames, arms, buildings, charitable and suffrage institutions, all of which frequently at work in the same physical space, the main estate of the *morgado*. These elements worked as a whole to provide visibility to the power and the perennial nature of the entailed.¹⁶⁴ The aforementioned last will of *Dom Luís da Silveira* provides an excellent example: the text is but one in a wide array of actions suffusing *Góis* – the village that housed the oldest and most prestigious *morgado* in the lineage – with the signs of its lords, constantly updated and aiming towards perpetuity.¹⁶⁵
- 59 Finally, interesting conclusions will surely come out from verifying the hypothetical relationship between lay founders and equally prestigious groups also able to act as

founders. Their memories were forever preserved from their actions, which even became recorded in the liturgical calendar, however informally. The group included *ecclesiastical founders*, namely those who were part of religious orders. Their endorsing of edifying models –which might earn them sainthood, thus ensuring their memory and the protective abilities of their “descendants” would reach all Christendom– was bolstered by powerful, specialized structures and, in essence, institutional reasoning. *Benefactors* and *patrons* need also be mentioned –their role in the far-reaching movement for the creation and preservation of convents, fraternities, and philanthropic institutions in Ancient Régime Iberian societies should not be underestimated, and neither should the outcomes in terms of social and cultural growth;¹⁶⁶ the English historiography on late medieval chantries has also stressed the high social appreciation of chapels’ founders, namely because of their role in the “increase of divine service”.¹⁶⁷ The social importance of being a (dead) benefactor of the *Misericórdia* (confraternities of Mercy) was widespread across the Portuguese empire, as Isabel dos Guimarães Sá has recently shown.¹⁶⁸ An accomplished final example is the fact that a particular “sanctity” came to be attributed to these persons. Jorge Cardoso’s *Agiolégio Lusitano* (published 1652), an extremely comprehensive inventory of saintly figures (of varying degrees, with considerable space allotted to informal figures in nature) in the “Kingdom of Portugal”, including every territory and spanning a vast time period, was exhaustive and attentive regarding founders, highlighting every pious layperson who had sponsored a religious institution. Some of the latter were actually funerary chapels, which became worthy of mention in face of their relevance as monuments or because the liturgical and/or philanthropic services provided to the community.¹⁶⁹

NOTES

1. *Morgadio* is the word used for the institution as a genre, while *morgado* designates both the owner of the entail and the institution itself.
2. For a general overview of entails in late medieval Portugal: Maria de Lurdes ROSA, *O morgadio em Portugal, séculos XIV-XV, Modelos e formas de comportamento linhagístico*, Lisbon, Estampa, 1996; for the entails in Portuguese overseas territories, João Luís CALDEIRA, *O morgadio e a expansão no Brasil*, Lisbon, Tribuna da História, 2007; João Luís CALDEIRA, *O morgadio e a expansão nas ilhas atlânticas (Açores, Madeira e Cabo Verde)*, 2 volumes, unpublished Ph.D. thesis, Lisbon, Universidade Lusíada, 2011. Though not focused exclusively on the morgadio, the studies of José Damião Rodrigues are very important for the impact on the pre-modern Azorean society (see for example José Damião RODRIGUES, “Valorização e exploração do património vinculado em São Miguel (séculos XVII-XVIII)”, in José Vicente Serrão *et al.* (eds), *Property Rights, Land and Territory in the European Overseas Empires*, Lisbon, Centro de Estudos de História Contemporânea-Instituto Universitário de Lisboa (CEHC-IUL), 2014; Nuno G. MONTEIRO, “Trajectórias sociais e formas familiares: o modelo de sucessão vincular”, in Francisco Chácon Jiménez, Juan Hernandez Franco (eds.), *Familias, poderosos y oligarquías*, Murcia, Universidad de Murcia, 2001, p. 17-37; on the extinction of the morgadio, Judite Maria Nunes ESTEVES, *Do Morgadio à Divisão Iguatária dos Bens:*

extinção do morgadio e estratégias de perpetuação familiar (entre o fim do século XIX e o século XX), unpublished Ph.D. thesis, Lisbon, Universidade Nova de Lisboa, 2009. On chantries, Maria de Lurdes ROSA, *As almas herdeiras. Fundação de capelas fúnebres e afirmação da alma como sujeito de direito (Portugal, 1400-1521)*, Lisbon, IN-CM, 2012. Portuguese entails shared many characteristics with those of other Iberian kingdoms, the historical process of settlement being quite similar. For Spain the main study is Bartolomé CLAVERO, *Mayorazgo. Propriedade feudal en Castilla, 1389-1836*, Madrid, Siglo XXI de España, 1974; interest in Iberian entails has grown recently, both in legal history (see for instance, Manuel Ángel BERMEJO CASTRILLO, *Entre ordenamientos y códigos. Legislación y doctrina sobre familia a partir de las leyes de Toro*, Madrid, Dykinson, 2009; Pascual MARZAL RODRÍGUEZ, “Una visión jurídica de los mayorazgos valencianos entre la época foral y la nueva planta”, *Anuario de historia del derecho español*, n° 66, 1996, p. 229-364 and in social history (see fundamentally the synthesis by Enrique SORIA MESA, *La nobleza en la España moderna: cambio y continuidad*, Madrid, Marcial Pons Historia, 2007, p. 224 ff.; and his state-of-the-art review on Spanish nobility, pointing precisely to the need of a thorough study of the Iberian entail in Enrique SORIA MESA, “La nobleza en la España moderna. Presente y futuro de la investigación”, in María José Casaus Ballester (coord.), *El Condado de Aranda y la nobleza española en el Antiguo Régimen*, Zaragoza, Institucion “Fernando el Catolico”, 2009, p. 213-241; recently also Juan CARTAYA BAÑOS, *Mayorazgos. Riqueza, nobleza y posteridad en la Sevilla del siglo XVI*, Seville, Editorial Universidad de Sevilla, 2018. In June 2019 the project *VINCULUM: Entailing Perpetuity: Family, Power, Identity. The Social Agency of a Corporate Body (Southern Europe, 14th-17th Centuries)*, (ERC CoG 819734, 2019-2024; Project holder – Maria de Lurdes Rosa) had its formal beginning at NOVA FCSH (History Department of NOVA School of Social Sciences and Humanities, Lisbon). The projects aims at providing a global picture of entailment in the time frame and geographical areas specified, taking as its central case study the Portuguese kingdom’s Continental and Atlantic territories.

3. For a start, registration was not universal. It was meant only for owners willing to maintain the entails. As for archival problems, processes have been gathered in the National Archives from the civil governments of Bragança, Castelo Branco, Coimbra, Funchal, Horta, Lisbon, Ponta Delgada, Portalegre, Porto and Santarém. Judging from the inventories available for the archives remaining in the custody of civil governments, these are incomplete and moreover they represent only part of these archives. On the fonds see Judite Maria ESTEVES, *Do morgadio à divisão igualitária dos bens: extinção do morgadio e estratégias de perpetuação do poder familiar (entre o fim do século XIX e o século XX)*, FCSH: DA – Teses de Doutoramento, 2008, p. 124 ff.

4. José Damião RODRIGUES, “Vínculos, cultura genealógica e identidade entre as elites micaelenses em finais do Antigo Regime”, in João Paulo Costa, Avelino de Freitas de Meneses (eds.), *As ilhas e o mar oceano. Estudos em homenagem a Artur Teodoro de Matos*, Lisbon, CHAM, 2007, p. 477-493, p. 485.

5. The effects of Pombal’s laws, which seem to have been very important, are scarcely studied. The figures come from one of few studies on the subject: José Vicente SERRÃO, *O Pombalismo e agricultura*, Lisbon, ISCTE, 1987, p. 111.

6. Judite Maria ESTEVES, *Do morgadio à divisão igualitária dos bens: extinção do morgadio e estratégias de perpetuação do poder familiar (entre o fim do século XIX e o século XX)*, FCSH: DA – Teses de Doutoramento, 2008, p. 53.

7. The entails studied in my sample, come from this fonds (hereafter referred to as “Registo Vincular”) and were founded during the fourteenth and the fifteenth centuries.

8. João Luís CALDEIRA, *O morgadio e a Expansão no Brasil*, Lisbon, Tribuna da História, 2007; also, *O morgadio e a Expansão nas ilhas atlânticas (Açores, Madeira e Cabo Verde)*, 2 volumes, unpublished Ph.D. thesis, Lisbon, Universidade Lusíada, 2011.

9. The main lines of interpretation the bibliography cited in note 3 are expressed here.

10. Maria de Lurdes ROSA, *O morgadio em Portugal, séculos XIV-XV, Modelos e formas de comportamento linhagístico*, Lisbon, Estampa, 1996, p. 272-276.

11. A case-study of a similar system used by the late medieval/ early modern nobility in Auvergne (France) by Anne Valerie SOLIGNAT, characterizes very clearly the indispensable relationship between the inclusion of a large set of relatives as potential heirs and the prescription “normal” succession via the mandatory primogenitural male line: “Hériter et succéder. Le rôle des femmes nobles dans la transmission du patrimoine lignager au XVI^e siècle en Auvergne”, *Arts, civilisation et histoire de l'Europe*, n° 8-9, p. 19. “Ces substitutions fidéicommissaires perpétuelles concernaient l'ensemble de la parenté, agnatique et cognatique, née ou à naître de la maison. Élisant comme grevé du fidéicommissaire chacun des fils aînés successifs de la branche aînée de la maison, ces coutumes successorales renforçaient en apparence le poids de la primogéniture mâle dans la dévolution du patrimoine familial en donnant vie à des lignées d'héritiers. Mais elles concernaient aussi les filles lorsque la ligne des mâles venait à s'éteindre. La primogéniture féminine se substituait alors à la primogéniture masculine à la tête du patrimoine lignager. C'était en effet la totalité du sang partagé entre parents qui était intégrée dans les mécanismes fidéicommissaires puisqu'en cas d'épuisement de la ligne des héritiers en voie masculine, la substitution perpétuelle s'appliquait désormais en faveur des descendants mâles de la fille aînée du dernier grevé ou, à défaut, des descendants mâles d'une fille cadette”.

12. On the concepts of “figure of authority” and the historical analysis of the “authority”, see Sini KANGAS *et al.* (eds.), *Authorities in the Middle Ages. Influence, Legitimacy, and Power in Medieval Society*, Berlin, de Gruyter, 2013; Donald MOWBRAY *et al.* (eds.), *Authority and Community in the Middle Ages*, Stroud, Sutton Publishing, 1999; Frédérique LACHAUD, Michael PENMAN (eds.), *Absentee Authority across Medieval Europe*, Woodbridge, Boydell & Brewer, 2017.

13. The importance of anthropological perspectives to understand the complexity of Iberian entails has been addressed in Guy LEMEUNIER, “Porque las cosas divididas sin memoria perecen’. Regard anthropologique sur le majorat castillan”, in *La vie, la mort, la foi, le temps. Mélanges offerts à Pierre Chaunu*, Paris, PUF, 1993, p. 719-723.

14. Although in a clear sociological line, the work of Nuno G. Monteiro contains important contributions to this perspective by proposing the existence of a global and widespread model of social reproduction, in which entails had a central place (see Nuno G. MONTEIRO, “Trajectórias sociais e formas familiares: o modelo de sucessão vincular”, in Francisco Chácon Jiménez, Juan Hernandez Franco (eds.), *Familias, poderosos y oligarquías*, Murcia, Universidad de Murcia, 2001, p. 17-37; Mafalda Soares da CUNHA, Nuno G. MONTEIRO, *Aristocracia, poder e família em Portugal, séculos XV-XVIII*, in Mafalda S. Cunha, Juan Hernández Franco (eds), *Sociedade, Família e Poder na Península Ibérica. Elementos para uma história comparativa. Sociedad, Familia y Poder en la Península Iberica. Elementos para una historia comparada*, Évora, Edições Cidehus (Universidade de Évora), 2010, p. 47-75, en ligne DOI : <https://doi.org/10.4000/books.cidehus.5319>; and by inserting the behavior of the Portuguese nobility, including entail foundation and conservation, in a specific ethos which he seeks to characterize (Nuno G MONTEIRO, “O ethos da aristocracia portuguesa sob a dinastia de Bragança. Algumas notas sobre casa e serviço do rei”, *Revista de História das Ideias*, n° 19, 1998, p. 383-402; “O ‘Ethos’ Nobiliárquico no final do Antigo Regime: poder simbólico, império e imaginário social”, *Almanack Brasileiro*, n° 2, 2005, p. 4-20). The centrality of entailment in the premodern Iberian Peninsula is also strongly stressed by Enrique Soria Mesa in a historiographical review of the Spanish nobility in the modern period, regretting that the *mayorazgo* has been quite absent from the historiography, despite the fact that it had been, paradoxically, the main protagonist of the evolution of Spanish nobility, at least from the fourteenth to the nineteenth century (Enrique SORIA MESA, “La nobleza en la España moderna”, p. 225, my translation).

15. On the continuity of entailment and “entailment behavior” see Judite Maria Nunes ESTEVES, *Do Morgadio à Divisão Igualitária dos Bens: extinção do morgadio e estratégias de perpetuação familiar (entre*

o fim do século XIX e o século XX), unpublished Ph.D. thesis, Lisbon, Universidade Nova de Lisboa, 2009; Fabienne WATEAU, *Conflitos e Água de Rega. Ensaio sobre a Organização Social no Vale de Melgaço*, Lisbon, Publicações Dom Quixote, 2000; María PARIAS SÁINZ DE ROZAS, “La pervivencia de las estrategias ‘vinculares’ en las transmisiones testamentarias de la segunda mitad del siglo XIX: el caso del marquesado de Grañina, 1850-1875”, in Pegerto Saavedra, Ramón Villares Paz (coord.), *Señores y campesinos en la Península Ibérica, siglos XVIII-XX*, edições Critica, Barcelon, Concejo de Cultura Gallega, 1991, v. 1, p. 38-61.

16. Discussion in Rudolf SOHM, *The Institutes of Roman Law*, Oxford, Clarendon Press, 1892, p. 421-422; Agerson Taborda PINTO, “Da natureza jurídica da herança jacente”, *Revista jurídica da Faculdade 7 de Setembro*, n° 1, 2004, p. 13-26; on the question of the “hereditas iacens” as a juridical person, see discussion in Alessandro Buono’s paper in this volume.

17. Paolo GROSSI, *L’ordine giuridico medievale*, 2nd edition, Roma and Bari, Laterza, 1996; Nicoletta DE LUCCA, “*Anima est plus quam corpus*”, Milan, Giuffrè, 1984; Bartolomé CLAVERO, “Almas y cuerpos. Sujetos del derecho en la Edad Moderna”, *Studi in memoria di Giovanni Tarello*, v. 1, Milan, Giuffrè, 1990, p. 153-171.

18. Jorge Antonio CATALÁ SANZ, “Integridad patrimonial, perpetuidad, memoria: contradicciones de los mayorazgos valencianos en la época moderna”, *Studia historica. Historia moderna*, v. 33, 2011, p. 83.

19. Nuno G. MONTEIRO, “Trajectórias sociais e formas familiares: o modelo de sucessão vincular”, in Francisco Chácon Jiménez, Juan Hernandez Franco (eds.), *Familias, poderosos y oligarquías*, Murcia, Universidad de Murcia, 2001, p. 17-37.

20. Michael HICKS, “Heirs and non-heirs. Perceptions and realities amongst the English nobility, c. 1300-1500”, in *Making and breaking the rules: succession in medieval Europe, c. 1000-c.1600*, Turnhout, Brepols, 2007, p. 191-200.

21. Judite Maria Nunes ESTEVES, *Do Morgadio à Divisão Iguatária dos Bens: extinção do morgadio e estratégias de perpetuação familiar (entre o fim do século XIX e o século XX)*, unpublished Ph.D. thesis, Lisbon, Universidade Nova de Lisboa, 2009.

22. I shall be using data collected for my MA and Ph.D. dissertations. Both have been published, respectively as Maria de Lurdes ROSA, *O morgadio em Portugal, séculos XIV-XV, Modelos e formas de comportamento linhagístico*, Lisbon, Estampa, 1996, and *As almas herdeiras. Fundação de capelas fúnebres e afirmação da alma como sujeito de direito (Portugal, 1400-1521)*, Lisbon, IN-CM, 2012. Still to this day, they are the only extensive research on this subject in Portuguese historiography, but other monographies (focusing on different entails, regions or specific social groups) often contain valuable information that will be used accordingly.

23. See above, paragraph 4. For the first two centuries of the entail’s existence in continental Portugal, it becomes particularly difficult to provide more concrete numbers. The systematic archival research planned in project *VINCULUM: Entailing Perpetuity: Family, Power, Identity. The Social Agency of a Corporate Body (Southern Europe, 14th-17th Centuries)*, (ERC CoG 819734, 2019-2024); which aims at providing a global picture of entailment in the specified epoch / zone, taking as central case study the continental and atlantic territories of the then Portuguese kingdom. I hope to produce solid information on this aspect.

24. Maria de Lurdes ROSA, *As almas herdeiras. Fundação de capelas fúnebres e afirmação da alma como sujeito de direito (Portugal, 1400-1521)*, Lisbon, IN-CM, 2012, p. 354.

25. See below, paragraphs 59-60.

26. Bartolomé CLAVERO, *Mayorazgo. Propriedade feudal en Castilla, 1389-1836*, Madrid, Siglo XXI de España, 1974, p. 232-233.

27. Maria de Lurdes ROSA, *As almas herdeiras. Fundação de capelas fúnebres e afirmação da alma como sujeito de direito (Portugal, 1400-1521)*, Lisbon, IN-CM, 2012, p. 379. Considering the foundation (and will writing) as a process is all the more important as it relativizes the “deathbed anguish” that

many historians put forward as a component of the medieval conception of death (see K. WOOD-LEIGH, *Perpetual Chancies in Britain*, Cambridge, C.U.P., 1965, p. 31 ff.; Clive BURGESS, “Late Medieval Wills and Pious Convention: Testamentary Evidence Reconsidered”, in M. Hicks (ed.), *Profit, Piety and the Profession in Later Medieval England*, Gloucester and Wolfeboro Falls, A. Sutton, 1990, p. 14-33.

28. See below, paragraphs 17-18 and 42-43.

29. Copy of the institution document preserved in the royal chancery register – ANTT, *Leitura Nova, Guadiana*, v. 8, fl. 58, (“vemdo e emtemdendo como as casas e os casaaes da moor parte dos homens filhos d’algo de Portugal sam baixos e minguoados per rrazom dos bens e heranças que erdam, que se partem per muitas partes, assy que per esto cairom e caem em pobreza e desfalecem do estado e da honrra em que foram postos aquelles onde eles descendem [...] e entendendo que quando hi ouuer huum homeem assinado que possa manter fazenda honrada a que os outros do nosso linhagem aIam rrazam de se colher”).

30. Copy of the institution document preserved in the royal chancery register – *Chancelaria de D. Pedro I*, Lisbon, INIC, 1984, p. 16, (“Consirando el como a partiçom das heranças antre os herdeiros era aazo de nom poderem os filhos manter a honrra dos padres e dos seus auoos e os linhagens ficauam en gram mingoa e cayam dos stados e honrras que antijgamente ouueram, E esguardando que os morgados em purtugal eram muj compridoiros ao serujço de deus e dos reis e ao bem e defensom do regno e per eles eram manteúdos os linhagens nos stados e honrras do seus antecessores e como assignadamente compria aos fidalgos que som chamados defensores do regno, aos quaaes cabe antre os que no regno uiuem de fazer mujto por o bem comuum e defensom da terra. E por manter a honrra dos seus linhagens e acrescentarem em ella cada que com rrazam o puderem fazer husando sempre de bons factos”).

31. Copy of the institution document preserved in the monastery in charge of the suffrages – ANTT, *Mosteiro de S. Vicente*, mc. XI, doc. 25, fl. 2v.

32. Copy of the institution document registered in the “Registo Vincular” – ANTT, *Registos vinculares, Processo nr. 9 - Santarém*, fls. 7v-10.

33. Copy of the institution document preserved in a family cartulary – ANTT, *Arquivo da Casa de Abrantes*, nr. 257, v. 1, fls. 29-34.

34. Copy of the institution document preserved in the royal chancery register – ANTT, *Leitura Nova, Beira*, v. 2, fl. 161v.

35. Copy of the institution document preserved in the royal chancery register – ANTT, *Chancelaria de D. João I*, v. 2, fl. 12 (“...porque antre todallas cousas que boas e honestas som aos grandes e nobres homens e proveitosas a suas almas e corpos, assy he ficar boa memoria deles despois de seu saimento e esto sse fez per perpetuação dos seus bens em seus filhos e netos e no seu linhagem que delles descender”).

36. Will, Private archive –Luís de Vasconcelos e Sousa, Lisbon, *Arquivo dos Viscondes de Vila Nova de Cerveira*, cx. 43, nr. 59.

37. Copy of the institution document preserved in the royal chancery register – ANTT, *Leitura Nova, Guadiana*, v. 3, fl. 1r (“avendo muitos desvarios e contemdas e aRoidos e ódios e malquerenças, o que nam fora se a dita quytmãa nom fora partida e sempre andara em huua Pessoa soo como en moorgado. Querendo eles euitar estas cousas, sentimdo-o per serviço de Deus, Elle e a dita sua molher, ambos ensembra, hordenaram e tem hordenado de fazerem, como loguo de feito fizeram, moorgado”).

38. Copy of the institution document registered in the “Registo Vincular” – ANTT, *Registos Vinculares, Processo nr. 2 - Coimbra*, fl. 4v.

39. Copy of the institution document registered in the “Registo Vincular” – ANTT, *Registos Vinculares, Processo nr. 9 - Funchal*, 2v.

40. Maura PICCIALUTI, *L’immortalità dei beni. Fedecommissi e primogeniture a Roma nei secoli XVII e XVIII*, Roma, Viella, 1999.

41. Among others, the institution documents of the entails: João Martins de Soalhães (1304) – ANTT, *Arquivo da Casa de Abrantes*, nr. 1323, [fl. 9]; Gonçalo Esteves de Tavares (1349) – ANTT, *Chancelaria de D. Fernando*, v. 2, fl. 6; Maria de Vilhena (1483) – ANTT, *Leitura Nova, Estremadura*, v. 2, fl. 295.
42. For example the entail of Gil Lourenço de Miranda, instituted in 1430 copy of the institution document registered in a book of chapels from the “Juízo de Capelas” – ANTT, *Núcleo Antigo*, v. 272, fl. 139v.
43. As in the entail of Estêvão Gomes (1356) –copy of the institution document registered in the “Registo Vincular” – ANTT, *Registos Vinculares*, Processo 9 - Santarém, fl. 9.
44. For the Castillian entail, see a useful synthesis in Juan CARTAYA BAÑOS, *Mayorazgos. Riqueza, nobleza y posteridad en la Sevilla del siglo XVI*, Seville, Editorial Universidad de Sevilla, 2018, p. 54-91.
45. Exceptions were due to fortuitous circumstances, such as the existence of sole female heirs, in which case the entail would fall on the line of the brother of the administrator (the uncle of the daughter), see Maria de Lurdes ROSA, *O morgadio em Portugal, séculos XIV-XV, Modelos e formas de comportamento linhagístico*, Lisbon, Estampa, 1996, p. 102.
46. Maria de Lurdes ROSA, *O morgadio em Portugal, séculos XIV-XV, Modelos e formas de comportamento linhagístico*, Lisbon, Estampa, 1996, p. 102.
47. Maria de Lurdes ROSA, *O morgadio em Portugal, séculos XIV-XV, Modelos e formas de comportamento linhagístico*, Lisbon, Estampa, 1996, p. 107.
48. António Manuel HESPANHA, *Como os juristas viam o mundo. 1550-1750. Direitos, estados, pessoas, coisas, contratos, acções e crimes*, Lisbon, 2015, p. 444-445; Jorge Antonio CATALÁ SANZ, “Integridad patrimonial, perpetuidad, memoria: contradicciones de los mayorazgos valencianos en la época moderna”, *Studia historica. Historia moderna*, v. 33, 2011, p. 78; Bartolomé CLAVERO, *Mayorazgo. Propriedade feudal en Castilla, 1389-1836*, Madrid, Siglo XXI de España, 1974, p. 220; Manuel Ángel BERMEJO CASTRILLO, *Entre ordenamientos y códigos. Legislación y doctrina sobre familia a partir de las leyes de Toro*, Madrid, Dykinson, 2009, p. 563-564.
49. As mentioned before (see paragraphs 20-31) the founder might add whatever stipulations desired. Although a stable set of “normal clauses” quickly formed, the principle of freedom was there and, as we shall see, unusual conditions were not uncommon and in general were linked to self-representation.
50. For a global view, Bartolomé CLAVERO, *Mayorazgo. Propriedade feudal en Castilla, 1389-1836*, Madrid, Siglo XXI de España, 1974, p. 240.
51. See the comparative study of complete samples in Maria de Lurdes ROSA, *O morgadio em Portugal, séculos XIV-XV, Modelos e formas de comportamento linhagístico*, Lisbon, Estampa, 1996, p. 108-110; Maria de Lurdes ROSA, *As almas herdeiras. Fundação de capelas fúnebres e afirmação da alma como sujeito de direito (Portugal, 1400-1521)*, Lisbon, IN-CM, 2012, p. 600.
52. Copy of the institution document preserved in the monastery in charge of the suffrages – ANTT, *Convento de Santa Maria de Chelas*, mç. 49, doc. 970 (“[...] que todos se chamem de castel branco e doutro solar nem linhagem nom; e tragam suas armas direitas sem outra mestura nem diferença e nom as tragendo assi e tragendo-as doutra guisa e mestura e chamando-sse doutro apelido e linhagem, que aiam nem possam auer o dito moorgado”).
53. Copy of the institution document registered in a book of chapels from the “Juízo de Capelas” – ANTT, *Núcleo Antigo*, v. 276, fl. 153v.
54. Copy of the institution document preserved in the monastery in charge of the suffrages – ANTT, *São Domingos de Lisboa*, Lv. 50, fls. 92 r/v.
55. For a extensive analysis of the subject, see Maria de Lurdes ROSA, “Imagem física, saúde mental e representação familiar. A exclusão dos deficientes à sucessão de morgadio (instituições, legislação, literatura jurídica)”, in *Arqueologia do Estado. I Jornadas sobre formas de organização e exercício dos poderes na Europa do Sul, séculos XIII - XVIII*, Lisbon, História & Crítica, 1988, v. 2,

p. 1057-1097; Jorge Antonio CATALÁ SANZ, “Integridad patrimonial, perpetuidad, memoria: contradicciones de los mayorazgos valencianos en la época moderna”, *Studia historica. Historia moderna*, v. 33, 2011, p. 86.

56. José Antonio LOPEZ NEVOT, “Una aproximación doctrinal al mayorazgo castellano: el tratado legal sobre los mudos del licenciado Lasso (1550)”, in *O direito das sucessões: do direito romano ao direito actual*, Coimbra, Coimbra Editora, 2006, p. 555-566.

57. Juan CARTAYA BAÑOS, *Mayorazgos. Riqueza, nobleza y posteridad en la Sevilla del siglo XVI*, Seville, Editorial Universidad de Sevilla, 2018, p. 76.

58. The biography is found in Pedro VILLA FRANCA, “D. Álvaro da Costa da Silva (1527-1604?). O primogénito proscrito”, in Maria de Lurdes Rosa (coord.), *D. Álvaro da Costa e a sua descendência, séculos XV-XVII: poder, arte e devoção*, Lisbon, IEM (Instituto de Estudos Medievais) – CHAM (Centro de História de Além-Mar e Editora Caminhos Romanos), 2013, p. 119-154.

59. Copy of the institution document registered in a book of chapels from the “Capelas da Coroa” – ANTT, *Capelas da Coroa*, lv. 2, 89v.

60. Copy of the institution document registered in the “Registo Vincular” – ANTT, Registos Vinculares, Processo nr. 5 – Lisboa, fl. 144v-145 (“E para o tal casamento, quero que seja com conselho de seus parentes e meus que mais chegados forem, e seja com homem que tenha pesoa e isto encomendo muito que se olhe. E isto, se já não for casada; que sendo casada, não sendo por vontade e conselho dos seus parentes, como feito de si algum mau recado (que Deus não mande), que às mulheres acontece fazer, em desonra de seus parentes, não quero que herde nada da minha fazenda, se com direito o posso fazer, que não encarregue minha consciência”).

61. Copy of the institution document registered in a book of chapels from the “Juízo de Capelas” – ANTT, *Junta das Capelas, resíduos e legados pios*, lv. 131, fl. 136v.

62. Juan CARTAYA BAÑOS, *Mayorazgos. Riqueza, nobleza y posteridad en la Sevilla del siglo XVI*, Seville, Editorial Universidad de Sevilla, 2018, p. 76 ss.

63. Maria Eugenia CONTRERAS JIMÉNEZ, *Linaje e transición histórica: los Arias Dávila entre el Medioevo e la Modernidad*, Unpublished Ph.D. thesis, Madrid, Universidad Complutense, 2016, p. 302.

64. Juan CARTAYA BAÑOS, *Mayorazgos. Riqueza, nobleza y posteridad en la Sevilla del siglo XVI*, Seville, Editorial Universidad de Sevilla, 2018, p. 83.

65. Copy of the institution document preserved in a family cartulary – ANTT, *Arquivo da Casa de Abrantes*, nr. 259, fl. 17 (“[...] per boa memoria dos serviços que nestes Reinos fez meu Pai dignos, e de mui grande honra”).

66. Copy of the institution document registered in a book of chapels from the “Juízo de Capelas” – ANTT, *Núcleo Antigo*, v. 206, fl. 101 (“Porquanto em tal dia el Rey dom Iohão de Portugal Vençeo e desbaratou el Rey de castela em o campo Na batalha que se Fez em Alljubarrota em a qual Eu estiue em hidade de dezasete ou dezoito anos e liurou-nos deos e a bem aventurada santa maria do poder e sojeição dos castelãos”).

67. João da Fonseca (1515) – copy of the institution document preserved in the church in charge of the suffrages – ANTT, *Colegiada de São Bartolomeu*, d. 12, fl. 45; Vasco Eanes Corte-Real (1535) – copy of contract transferring the entail to the youngest son, due to the death of the eldest without heirs (entail founded in 1517) preserved in the convent in charge of the suffrages (ANTT, *Convento de São Francisco de Lisboa*, lv. 4, fl. 458v-466v).

68. A. D'ORNELLAS, “Documentos antigos. Instituição do vínculo de morgadio dos condes de Villa Real, feita em Ceuta em 1431”, *Elucidário nobiliarchico*, v. 1, 1928, p. 314 (“[quem comer] “tal cousa contra seu Senhor, o que Deus nom queira, porque o perder deua, ou encorrer em qualquer caso porque o Reter nom possa, emtom uenha a outro segujnte em hidade”).

69. Confiscation would become increasingly difficult, in fact. Besides the examples in the text, see José Antonio LÓPEZ NEVOT, “Delito de traición e inconfiscabilidad de mayorazgos”, in Rogelio Pérez-Bustamante, Andrés Gamba Gutiérrez, Fernando Suárez Bilbao (eds.), *Las innovaciones en la*

historia del derecho, Madrid, Servicio de Publicaciones Universidad Rey Juan Carlos, 2000, p. 141-230.

70. Maria de Vilhena (1483) – copy of the institution document preserved in the royal chancery register – ANTT, *Leitura Nova, Estremadura*, v. 2, fl. 293 (“Se aquella a que este morgado ouer e de dereito ho deua dauar fezer alguua coisa por que elle e os que delle descemderem deuan de perder os bens ou parte deles segundo dereito e custume do Regno e da terra ou per outra maneira qualquer [...] em tal caso quero e mando que o dito moorgado se torne aaquele a que lidimamente e de dereito veera se este tal fosse morto”).

71. María Concepción QUINTANILLA RASO, “Reproducción y formas de transmisión”, in *La familia en la historia: XVII jornadas de estudios históricos organizadas por el Departamento de História Medieval, Moderna y Contemporánea*, Salamanca, 2009; The solution of “null degree” was also present in cases of physical or mental disease of the heir (see Maria de Lurdes ROSA, “Imagem física, saúde mental e representação familiar: a exclusão dos deficientes à sucessão de Morgadio. Instituições, Legislação, Literatura jurídica”, *Arqueologia do Estado*, 1988, p. 1085-1086).

72. Copy of the institution document registered in a book of chapels from the “Juízo de Capelas” – ANTT, *Núcleo Antigo*, v. 276, fl. 153v (“torpe e que por suas maas manhas e costumes que segundo bom Iuizo tal carreguo Nom lhe deue ser cometido”).

73. Copy of the institution document registered in a book of chapels from the “Juízo de Capelas” – ANTT, *Junta das Capelas, resíduos e legados pios*, lv. 8, fl. 270; the heir could only inherit after concluding university studies... (Juan CARTAYA BAÑOS, *Mayorazgos. Riqueza, nobleza y posteridad en la Sevilla del siglo XVI*, Seville, Editorial Universidad de Sevilla, 2018, p. 68).

74. Copy of the institution document registered in a book of chapels from the “Juízo de Capelas” – ANTT, *Junta das Capelas, resíduos e legados pios*, lv. 4, fl. 129v.

75. Copy of the institution document registered in the “Registo Vincular” – ANTT, *Registos Vinculares, Processo nr. 5* – Lisbon, fl. 143.

76. This according to the summary describing the entail founded by the countess and her husband in 1703, in the House archives’ inventory (Private archive – Luís de Vasconcelos e Sousa, Lisbon, “Inventário do cartório do morgado da Vila Nova”, fl. 39). It is the reason why Iberian nobles frequently used the adverb *olim* to identify their names prior to inheriting entails with name obligation: Jorge Antonio CATALÁ SANZ, “Integridad patrimonial, perpetuidad, memoria: contradicciones de los mayorazgos valencianos en la época moderna”, *Studia historica. Historia moderna*, v. 33, 2011, p. 72. See also numerous examples in Enrique SORIA MESA, *La nobleza en la España moderna: cambio y continuidad*, Madrid, Marcial Pons, 2007, p. 237.

77. Copy of the institution document preserved in the church in charge of the suffrages – ANTT, *Colegiada de São Bartolomeu*, d. 12, fl. 48v-49.

78. Maria Eugenia CONTRERAS JIMÉNEZ, *Linaje e transición histórica: los Arias Dávila entre el Medioevo e la Modernidad*, Unpublished Ph.D. thesis, Madrid, Universidad Complutense, 2016, p. 302.

79. María Concepción QUINTANILLA RASO, “Reproducción y formas de transmisión”, in *La familia en la historia: XVII jornadas de estudios históricos organizadas por el Departamento de História Medieval, Moderna y Contemporánea*, Salamanca, 2009, p. 99; the problems relating to alienation of properties are analyzed by María Concepción QUINTANILLA RASO, “Propiedad vinculada y enajenaciones: métodos y lógicas nobiliarias en la Castilla tardomedieval”, *Historia. Instituciones. Documentos*, n° 31, 2004, p. 493-510.

80. As in Iberian entails in general see Vicente J. SUÁREZ GRIMÓN, “La cláusula de agregación obligatoria en los mayorazgos canarios. El ejemplo de Gran Canaria”, in María José Pérez Álvarez, Alfredo Martín García (eds.), *Campo y campesinos en la España Moderna; culturas políticas en el mundo hispano*, Madrid, Fundación Española de Historia Moderna, 2012, v. 2, p. 511-523.

81. Transcriptions of the institution document in *Cabido da Sé. Sumários de Lousada. Apontamentos dos Brandões. Livros dos bens próprios dos reis e rainhas. Documentos para a história da cidade de Lisboa*, Lisbon, Câmara Municipal, 1954, p. 224-225.
82. Copy of the institution document preserved in the convent in charge of the suffrages (ANTT, *Convento de São Francisco de Lisboa*, lv. 4, fl. 458-460.
83. Copy of the institution document preserved in a family archive – ANTT, *Arquivo da Casa de Abrantes*, nr. 78, doc. 1615.
84. Copy of the institution document registered in a book of Chapels from the “Juízo de Capelas” – ANTT, *Núcleo Antigo*, v. 272, fl. 139; it was very common in Iberian entails, Jorge Antonio CATALÁ SANZ, “Integridad patrimonial, perpetuidad, memoria: contradicciones de los mayorazgos valencianos en la época moderna”, *Studia historica. Historia moderna*, v. 33, 2011, p. 89.
85. Maria de Lurdes ROSA, *O morgadio em Portugal, séculos XIV-XV, Modelos e formas de comportamento linhagístico*, Lisbon, Estampa, 1996, p. 205-206.
86. Gil Lourenço de Miranda, Copy of the institution document registered in a book of Chapels from the “Juízo de Capelas” – ANTT, *Núcleo Antigo*, v. 272, fl. 122v.
87. Copy of the institution document conserved in a family cartulary – ANTT, *Arquivo da Casa de Abrantes*, nr. 259, fl. 40 (“[...] huas Cazas grandes com seu assentamento assim como estão todas juntas na Cidade de Lisboa na freguesias de Sta. Justa em que pouzão os ministradores das dittas Capellas por serem a cabeça do Morgado”).
88. Maria de Lurdes ROSA, *O morgadio em Portugal, séculos XIV-XV, Modelos e formas de comportamento linhagístico*, Lisbon, Estampa, 1996, p. 207.
89. Copy of the institution document preserved in the monastery in charge of the suffrages – ANTT, *Mosteiro de S. Vicente*, mc. XI, doc. 25, fl. 2v-3. (“E esto faço pera que nunca se averem a desamparar essas casas que forão de meu padre E de minha madre E de meus avoos que as fezerão, porque atee qui sempre forão pobradas E mantheudas d’omes e de molheres que temerão deus E se guardarão de mau feito. E porque nunca nemhus de minha linhagem Recebemos uergonça nem deshombra, E Recebemos muita honra de boa fama que eles avião, que tenho que Seria gram miguoa E vergonça a mim E a eles averem eles de leyxar de viver no luguar que foe de sus avoos, E desampararem-no E hirem viver em outro luguar entre estranhos huu Se nunca nembrarião de minha alma nem daqueles cujos estes bens forão”).
90. Copy of the institution document registered in a book of chapels from the “Juízo de Capelas” – ANTT, *Junta das Capelas, resíduos e legados pios*, lv. 80, fl. 410-413.
91. In the case of late medieval Lisbon, 93 per cent of the administration of chapels was put in the hands of the founder’s relatives. Within this universe, hereditary devolution is stipulated in 83 per cent of the cases, the rest being omissions (not the contrary or alternatives). This devolution is done by means of entail in 62 per cent of the cases; besides, in 36 per cent of the cases, the specification of the form of devolution is omitted or referred to only vaguely – not excluding the entailment, which is the solution progressively advised by jurists as best suited to preserving funeral suffrages in the horizon of eternity that was present in each founder’s mind (see for the data and full discussion Maria de Lurdes ROSA, *As almas herdeiras. Fundação de capelas fúnebres e afirmação da alma como sujeito de direito (Portugal, 1400-1521)*, Lisbon, IN-CM, 2012, p. 588-595).
92. Maria de Lurdes ROSA, *As almas herdeiras. Fundação de capelas fúnebres e afirmação da alma como sujeito de direito (Portugal, 1400-1521)*, Lisbon, IN-CM, 2012, p. 247-248. The distinction hardly functioned and only got worse in the passing of times: Laurinda ABREU, “Algumas considerações sobre vínculos”, *Revista Portuguesa de História*, t. XXXV, 2001-2002, p. 335-346.
93. See also J.-P. MOLÉNAT, “La volonté de durer: majorats et chapellenies dans la pratique tolédane des XIII^e -XV^e siècles”, in *En la España medieval V. Estudios en memoria del Prof. D. Claudio Sanchez-Albornoz*, Madrid, 1986, v. II, p. 683-696; Juan CARTAYA BAÑOS, *Mayorazgos. Riqueza, nobleza y posteridad en la Sevilla del siglo XVI*, Seville, Editorial Universidad de Sevilla, 2018, p. 257.

94. For example, Afonso Eanes (1506) – copy of the institution document registered in a book of chapels from the “Juízo de Capelas” – ANTT, *Junta das Capelas, resíduos e legados pios*, lv. 45, fl. 64v.; Henrique Leme (1521) – copy of the institution document registered in the “Registo Vincular” – ANTT, *Registos Vinculares, Processo nr. 5* – Lisboa, fl. 137v. Diogo Delgado (1518) – copy of the institution document registered in a book of chapels from the “Juízo de Capelas” – ANTT, *Junta das Capelas, resíduos e legados pios*, lv. 99, fl. 155.

95. Entail of Gonçalo Vaz de Castelo Branco (1485) – copy of the institution document preserved in a family archive – ANTT, *Arquivo da Casa de Abrantes*, nr. 173, d. 3409.

96. For instance, Gonçalo Lourenço de Gomide (1410) – copy of the institution document preserved in the monastery in charge of the suffrages – ANTT, *Convento da Graça de Lisboa*, lv. , fl. 70; Joana da Silva (1517) – copy of the institution document preserved in the monastery in charge of the suffrages – ANTT, *Convento de São Francisco de Lisboa*, lv.º 4, fl. 458, Maria de Rebelo (1516) – copy of the institution document registered in a book of chapels from the “Juízo de Capelas” – ANTT, *Junta das Capelas, resíduos e legados pios*, lv. 114, fl. 4. The same right applied to some chapels that were not strictly morgadios: Constança Vicente’s (reg. 52) and Condestável D. Pedro’s (reg. 168). See respectively – copy of the institution document registered in a book of chapels from the “Juízo de Capelas” – ANTT, *Junta das Capelas, resíduos e legados pios*, lv. 79, fl. 83), and, from 1457 – copy of the institution document conserved in the monastery in charge of the suffrages – ANTT, *Convento de São Bento de Xabregas*, lv. 4, fl. 1. They come in smaller numbers, especially considering that the latter, not being a morgadio strictly speaking, is an endowed foundation whose succession is in the direct line of the father of the founder.

97. João do Rego (1504) – copy of the institution document registered in a book of Chapels from the “Juízo de Capelas” – ANTT, *Junta das Capelas, resíduos e legados pios*, lv. 131, fl. 131 (“[funda para que os bens] ... se não possam partir nem emlehar nem uender mas sempre serem emteiros e juntos Com todo que ao diante se a elles acumular para se poder comprir sua uontade e a serviso e Louuor de Deos e saluação e bem de suas Almas e sempre por elles asim juntos se poder manter bem o dito seu filho e seus sucessores para sempre o qual seu filho e seus sucessores possam cumprir suas uontades e seruisso de Deos e do Rey e da terra”).

98. Maria de Lurdes ROSA, *As almas herdeiras. Fundação de capelas fúnebres e afirmação da alma como sujeito de direito (Portugal, 1400-1521)*, Lisbon, IN-CM, 2012, p. 604-606.

99. Álvaro Vaz (1513) – copy of the institution document registered in a book of chapels from the “Juízo de Capelas” – ANTT, *Junta das Capelas, resíduos e legados pios*, lv. 131, fl. 36.

100. Colin RICHMOND, “Religion”, in Rosemary Horrox (ed.), *Fifteenth-Century Attitudes: Perceptions of Late Medieval England*, Cambridge, CUP, 1994, p. 186; on the strong relation between social distinction and funerary chapels, see Simon ROFFEY, *The Medieval Chantry Chapel. An archaeology*, Woodbrige, The Boydell Press, 2007; Marie-Hélène ROUSSEAU, *Saving the Souls of Medieval London Perpetual Chantries at St Paul’s Cathedral, c.1200-1548*, Farnham, Taylor and Francis, 2016; Nigel SAUL, *Lordship and Faith: The English Gentry and the Parish Church in the Middle Ages*, Oxford, Oxford UP, 2017. On artistic features, see especially Michele BACCI, “Pro remedio animae”. *Immagini sacre e pratiche devozionali in Italia centrale (secoli XIII e XIV)*, Pisa, Gisem - Ets, 2000, p. 298-301; Samuel K. COHN, *Death and Property in Sienna, 1205-1800. Strategies for the Afterlife*, Baltimore and London, The Johns Hopkins University Press, 1988, p. 109; Samuel K. COHN, “Piété et commande d’oeuvres d’art après la Peste Noire”, *Annales HSS*, n° 3, mai-juin 1996, p. 562 ; Maria Antonietta Visceglia, “Corpo e sepoltura nei testamenti della nobiltà napoletana (XVI-XVIII) secolo”, *Quaderni Storici*, 50, ano XVII, August 1982, p. 606; Jonathan FINCH, “‘According to the Qualitie and Degree of the Person Deceased’: Funeral Monuments and the Construction of Social Udentities, 1400-1750”, *Scottish Archaeological Review*, v. 8, 1991, p. 105-114.

101. Henrique Leme (1521) – copy of the institution document registered in the “Registo Vincular” – ANTT, *Registos Vinculares, Processo nr. 5* – Lisboa, fl. 122.

- 102.** Henrique Leme (1521) – copy of the institution document registered in the “Registo Vincular” – ANTT, *Registos Vinculares, Processo nr. 5* – Lisboa, fl. 122v.
- 103.** Henrique Leme (1521) – copy of the institution document registered in the “Registo Vincular” – ANTT, *Registos Vinculares, Processo nr. 5* – Lisboa, fl. 122v: “e se porá hum Letreiro na dita Campa como eu a [a ossada do pai] mandey passar ao dito lugar, com a ossada da dita mynha may”.
- 104.** Henrique Leme, a nobleman of the king’s household, came from a family of Flemish merchants established in Portugal since the fifteenth century. His sister, the heiress, inhabited the household of a cousin, known as “Dona Maria”, the wife of D. António de Almeida and the sister of a nun in the convent of Santa Clara in Vila do Conde, a regular home to members of the nobility (see Margarida LEME, “Os Lemes: um percurso familiar, de Bruges a Malaca”, *Revista Sapiens: história, património e arqueologia*, December 2008, p. 51-83).
- 105.** Lopo Lourenço (1477) – copy of the institution document registered in a book of chapels from the “Capelas da Coroa” – ANTT, *Capelas da Coroa*, lv. 2, 89v.
- 106.** Álvaro Fernandes (1494): “Aqui jaz o bacharel (o Doutor se o eu for antes da minha morte)” – copy of the institution document registered in a book of Chapels from the “Juízo de Capelas” – ANTT, *Junta das Capelas, resíduos e legados pios*, lv. 8, fl. 271.
- 107.** Nuno Martins da Silveira (1431) – copy of the institution document registered in a book of chapels from the “Juízo de Capelas” – ANTT, *Núcleo Antigo*, v. 276, fl. 154v.
- 108.** Maria de Vilhena (1483) – copy of the institution document preserved in the royal chancery register – ANTT, *Leitura Nova, Estremadura*, v. 2, fl. 295.
- 109.** Álvaro Fernandes (1494) – copy of the institution document registered in a book of chapels from the “Juízo de Capelas” – ANTT, *Junta das Capelas, resíduos e legados pios*, lv. 8, fl. 271v.
- 110.** Álvaro Fernandes; Gonçalo Vaz de Castelo Branco (1485) – copy of the institution document preserved in a family archive – ANTT, *Arquivo da Casa de Abrantes*, nr. 173, d. 3409; Martim Ferreira (1468) – copy of the institution document registered in a book of chapels from the “Juízo de Capelas” – ANTT, *Junta das Capelas, resíduos e legados pios*, lv. 188, fl. 123.
- 111.** Diogo Delgado (1518) – copy of the institution document registered in a book of chapels from the “Juízo de Capelas” – ANTT, *Junta das Capelas, resíduos e legados pios*, lv. 99, fls. 157v-160v.
- 112.** Maria de Lurdes ROSA, *As almas herdeiras. Fundação de capelas fúnebres e afirmação da alma como sujeito de direito (Portugal, 1400-1521)*, Lisbon, IN-CM, 2012, p. 574.
- 113.** Clive BURGESS, “‘Longing to be prayed for’: death and commemoration in an English parish in the later Middle Ages”, in Bruce Gordon, P. Marshall (eds.), *The Place of the Dead. Death and Remembrance in Late Medieval and Early Modern Europe*, Cambridge, CUP, 1999, p. 44-65.
- 114.** Francisco de Matos (1525) – copy of the institution document preserved in the church in charge of the suffrages – ANTT, *Colegiada de São Bartolomeu*, d. 12, fl. 49.
- 115.** Such as in the entail founded by Leonor de Meneses – copy of the institution document preserved in a family cartulary – ANTT, *Arquivo da Casa de Abrantes*, nr. 259, fl. 9: alms were meant for five poor persons, in honour of the Five Wounds; these persons must have been servants of the count [Leonor’s father], her own, or her grandparents’ (on both sides). If no poor persons were found to meet these requirements, they should be the servants of her father’s sons or grandsons, and all his descendants (but never strangers to the family).
- 116.** Two examples from both ends of the period under study: Bishop Giraldo (who clearly states that he is “founding [an] entail as a man and not as an ecclesiastical person”) in 1319 – copy of the institution document preserved in a book of chapels of the church in charge of the suffrages – ANTT, *Cabido da Sé de Lamego*, lv. 74, fl. 30; and Maria de Rebelo in 1516, exempting the chaplain from several other duties of the church where the chantry was located – copy of the institution document registered in a book of chapels from the “Juízo de Capelas” – ANTT, *Junta das Capelas, resíduos e legados pios*, lv. 114, fls. 8.

117. Maria de Lurdes ROSA, *As almas herdeiras. Fundação de capelas fúnebres e afirmação da alma como sujeito de direito (Portugal, 1400-1521)*, Lisbon, IN-CM, 2012, p. 586, p. 608.
118. Lopo Rodrigues Patalim (1319) – copy of the institution document registered in a book of chapels from the “Juízo de Capelas” – ANTT, *Núcleo Antigo*, v. 276, fl. 51v.
119. Pedro de Meneses (1431) – institution document edited in A. D’Ornellas, “Documentos antigos. Instituição do vínculo de morgadio dos condes de Villa Real, feita em Ceuta em 1431”, *Elucidário nobiliarchico*, v. 1, 1928, p. 316 (“E ao que estes bees asy ficarem dará aa parte que depois os ouuer herdar de direito em cada hun ano por dia de Natall çem dobras cruzadas em ouro ou em prata vinte marcos de bastiães dourados nouos em treze taças. Esto por conhecimento que a herança he sua, e depois lhe nom possa ser negada”). For similar practices see for example Maria Isabel COBO HERNANDEZ, *Familia infanzona y nobleza hidalga: el mayorazgo de los “De la Guerra” en el Antiguo Régimen*, Unpublished Ph.D. thesis, Spain, Universidad de Cantabria, 2017, p. 105; Miguel Ángel MARTÍNEZ PERERA, “Ceremonial y rituales de posesión en la formación del mayorazgo del rio Adeje”, in José Antonio García Luján, *Nobleza y monarquía: los linajes nobiliarios en el Reino de Granada, Siglos XV-XIX: el linaje Granada Venegas, Marqueses de Campotéja*, Huescar, Asociación Cultural Raigadas, 2010, p. 229-244.
120. Joana da Silva (1517) – copy of the institution document preserved in the monastery in charge of the suffrages – ANTT, *Convento de São Francisco de Lisboa*, lv.º4, fl. 459v (“principal de todos meus Filhos, e que posto que todo [sic] sejam meus Filhos, e a todos tenho grande amor, a este o tenho mais em especial”).
121. Joana da Silva (1517) – copy of the institution document preserved in the monastery in charge of the suffrages – ANTT, *Convento de São Francisco de Lisboa*, lv.º4, fl. 459v: “E por as cazas que temos em Cata que farás serem mais convenientes para elle pelo Comercio das ditas Ilhas, hei por bem que a dita minha terça de todos meus bens assi moveis como de Raiz elle a haja em as ditas casas que elle fique nellas”.
122. The will is published in Luís de Lancastre e TÁVORA, *Um fidalgo português do Renascimento, D. Luís da Silveira, 1º conde de Sortelha*, Lisbon, Associação dos Arqueólogos Portugueses, 1969, p. 73-98.
123. Luís de Lancastre e TÁVORA, *Um fidalgo português do Renascimento, D. Luís da Silveira, 1º conde de Sortelha*, Lisbon, Associação dos Arqueólogos Portugueses, 1969, p. 94 (“Item mando a meus filhos mays moços sob pena de minha bênção eu como eu falleçer se ayuntem com seu Irmão mays velho que mynha casa herdar & fação delle cabeça poys ho he do seu Lynhagem & deus quis que elle fosse o maior damtre eles a quem he deuyda mais homra e acatamento. Mando que lhe tenham muyta ouediencia & a elle que com muito amor & homrra os trate & os aiude & aguazalhe sepre ajudando hos em suas necessidades como Irmãos muyto amigos damdo lhes do seu o que puder porque nom há de ter tam bons amigos”).
124. Luís de Lancastre e TÁVORA, *Um fidalgo português do Renascimento, D. Luís da Silveira, 1º conde de Sortelha*, Lisbon, Associação dos Arqueólogos Portugueses, 1969, p. 94.
125. The count of Sortelha limits paternal blessing to obedience to the norms established in his will; Diogo Delgado (1518) speaks directly of “his and God’s malediction”, besides the loss of the administration, to those infringing the entail’s prescriptions – copy of the institution document registered in a book of chapels from the “Juízo de Capelas” – ANTT, *Junta das Capelas, resíduos e legados pios*, lv. 99, fl. 160v; Martim Garcia de Oliveira (1460) curses in a specific manner, namely calling on the Devil’s torments every Wednesday and Friday, on those who contradict his will – institution document preserved in the register of the National Archive – ANTT, *Registo do Arquivo*, lv. 8, fl. 144.
126. Fernão Pires and Constança Vicente (1335) – copy of the institution document preserved in the monastery in charge of the suffrages – ANTT, *Convento de São Francisco de Lisboa*, cx. 1, mç. 1, fl. 3v.

127. Manuel ALMEIDA, Sousa de LOBÃO, *Tratado práctico de morgados*, Lisbon, Imprensa Régia, 1807, p. 217.
128. Lopo Rodrigues Patalim (1319) – copy of the institution document registered in a book of chapels from the “Juízo de Capelas” – ANTT, *Núcleo Antigo*, v. 276, fl. 51v.
129. Isabel María MELERO MUÑOZ *et al.*, “Círculos de poder en el mundo nobiliario: linaje, conflicto y mayorazgo. El caso de la familia Orozco en la Sevilla del XVIII”, *Historia. Instituciones. Documentos*, v. 44, 2017, p. 242-269; María Antonia Carmona RUIZ, “La mentira como arma. Pleitos en torno a la propiedad de un mayorazgo. Nínchez y Chozas (Ss. XV-XVI)”, *Historia. Instituciones. Documentos*, v. 36, 2009, p. 111-135; Raimundo Rodríguez PÉREZ, “Los conflictos intrafamiliares de la casa de los Vélez (1546-1567)”, *Chronica nova: Revista de historia moderna de la Universidad de Granada*, Granada, v. 38, 2012, p. 243-268.
130. María Concepción QUINTANILLA RASO, “Reproducción y formas de transmisión”, in *La familia en la historia: XVII jornadas de estudios históricos organizadas por el Departamento de História Medieval, Moderna y Contemporánea*, Salamanca, 2009, p. 100-119, for an excellent account of the dynamics of the entailment structure. It should be stressed, however, that in many families internal negotiation prevailed over formal litigation: Maria Isabel COBO HERNANDEZ, *Familia infanzona y nobleza hidalga: el mayorazgo de los “De la Guerra” en el Antiguo Régimen*, Unpublished Ph.D. thesis, Spain, Universidad de Cantabria, 2017, p. 120.
131. Maria de Lurdes ROSA, *O morgadio em Portugal, séculos XIV-XV, Modelos e formas de comportamento linhagístico*, Lisbon, Estampa, 1996, p. 233 ss.
132. Maria de Lurdes ROSA, *O morgadio em Portugal, séculos XIV-XV, Modelos e formas de comportamento linhagístico*, Lisbon, Estampa, 1996, p. 85, p. 161.
133. Thomas KUEHN, “Fideicomissum and family: the Orsini di Bracciano”, *Viator*, v. 39, 2008, p. 323-342.
134. Maria de Lurdes ROSA, *As almas herdeiras. Fundação de capelas fúnebres e afirmação da alma como sujeito de direito (Portugal, 1400-1521)*, Lisbon, IN-CM, 2012, on the subject of funerary chapels connected to entails, there a significant amount of recent Spanish studies – see Juan CARTAYA BAÑOS, *Mayorazgos. Riqueza, nobleza y posteridad en la Sevilla del siglo XVI*, Seville, Editorial Universidad de Sevilla, 2018, p. 257 ss; Gonzalo J. HERREROS MOYA, “Así en la tierra como en el cielo. Aproximación al estudio de las capellanías en la Edad Moderna: entre la trascendencia y la política familiar. El caso de Córdoba”, *Historia y Genealogía*, v. 2, 2012, p. 111-144; Candelaria CASTRO PÉREZ *et al.*, “Las capellanías en los siglos XVII-XVIII a través del estudio de su escritura de fundación”, *Anuario de historia de la Iglesia*, v. 16, 2007, p. 335-348; Enrique SORIA MESA, “Las capellanías en la Castilla moderna: familia y ascenso social”, in *Familia, transmisión, y perpetuación (siglos XVI-XIX)*, Murcia, Universidad de Murcia, 2002, p. 135-148.
135. Juan CARTAYA BAÑOS, *Mayorazgos. Riqueza, nobleza y posteridad en la Sevilla del siglo XVI*, Seville, Editorial Universidad de Sevilla, 2018, p. 160.
136. Bartolomé CLAVERO, “‘Dictum beati’. A proposito della cultura del lignaggio”, *Quaderni Storici*, 86, anno XXIX, August 1994, p. 335-363 (especially p. 335, p. 339, p. 343, max. 346-351).
137. According to Bartolomé CLAVERO, “‘Dictum beati’. A proposito della cultura del lignaggio”, *Quaderni Storici*, 86, anno XXIX, August 1994, p. 340. In the existing copy of the institution document of João do Rego, which incurs in several reading errors, the text follows as: “In nomine Domini Iezu Chrise nazareni Crucifixi, a cujo Louuor o dito Doutor João do Rego e sua mulher Catherina Mendes Loba a seruisso de Deos e porueito e honra e bem da Santa Igreja e sua linhage e geração seguindo a doctrina / de sam Bernaldo em sua Epistula que escreueo a Raymundo onde na fim diz- De filius audi mortuo patre queruntur divizion fili si nobilis sunt melior est sep eor per munduum despersion bonum hereditatis diuisio, non sepe orde sulusio suntus est iniquo modio inisiteo”. (ANTT, *Junta das Capelas, resíduos e legados pios*, lv. 131, fl. 130v-131). On “favor”

see Bartolomé CLAVERO, “Favor Maioratus, Usus Hispaniae: Moralidad de Linaje entre Castilla y Europa”, in *Marriage, Property, and Succession*, Berlin, Duncker - Humblot, 1992, p. 215-254.

138. Bartolomé CLAVERO, “‘Dictum beati’. A proposito della cultura del lignaggio”, *Quaderni Storici*, 86, anno XXIX, August 1994, p. 345. On Iberian entails as an ambiguous but powerful means of conserving power, Jean-Pierre DEDIEU, “Familias, mayorazgos, redes de poder: Extremadura, siglos XV-XVIII”, *Historia y perspectivas de investigación: estudios en memoria del profesor Angel Rodríguez Sánchez*, Merida, Editora Regional de Extremadura, 2002, p. 107-118.

139. On entails as a means for social ascension, see Nuno G. MONTEIRO, “Elites locais e mobilidade social em Portugal nos finais do Antigo Regime”, *Análise Social*, n° 141, 1997, p. 335-368; Mafalda Soares da CUNHA, “Nobreza e Estado da Índia. Um modelo de mobilidade social (século XVI e primeira metade do XVII)”, in Sebastián Molina Puche, Antonio Irigoyen López, *Territorios distantes, comportamientos similares. Familias, redes y reproducción social en la Monarquía Hispánica (siglos XIV-XIX)*, Murcia, Universidad de Murcia Servicio de Publicaciones, 2009, p. 237-260; José Damião RODRIGUES, “Endogamia, consanguinidade e reprodução social: o mercado matrimonial das elites açorianas no Antigo Regime”, in Carlota Santos, Paulo T. Matos, *A demografia das sociedades insulares portuguesas. Séculos XV a XXI*, Braga, CITCEM, 2013, p. 201-219; Dietmar ROTH, “Mayorazgos, capellanías y lugares de memoria como perpetuación del ascenso social de la oligarquía de un centro administrativo de señorío. El ejemplo de Vélez Blanco (1588-1788)”, in Francisco Andújar Castillo et al., *Los señoríos en la Andalucía Moderna. El Marquesado de los Vélez*, Almería, Instituto de estudios Almerienses, 2007, p. 213-234; Enrique SORIA MESA, *Las capellanías en la Castilla moderna: familia y ascenso social. In Familia, transmisión, y perpetuación (siglos XVI-XIX)*, Murcia, Universidad de Murcia, 2002, p. 135-148.

140. Maura PICCIALUTI, *L’Immortalità Dei Beni: Fedecommissi e Primogeniture a Roma Nei Secoli XVII e XVIII*, Roma, Viella, 1999, p. 245.

141. Bartolomé CLAVERO, *Mayorazgo. Propriedade feudal en Castilla, 1389-1836*, Madrid, Siglo XXI de España, 1974, p. 141 ss; p. 222.

142. Bartolomé CLAVERO, *Mayorazgo. Propriedade feudal en Castilla, 1389-1836*, Madrid, Siglo XXI de España, 1974, p. 129.

143. Bartolomé CLAVERO, *Mayorazgo. Propriedade feudal en Castilla, 1389-1836*, Madrid, Siglo XXI de España, 1974; specifically on these two jurists conflicting views on the mayorazgo, José Manuel PÉREZ-PRENDES, Muñoz de ARRACÓ, “Los principios fundamentales del derecho de sucesión ‘mortis causa’ en la tardía escolástica Española”, in Paolo Grossi, *La seconda scolastica nella formazione del diritto privato moderno*, Milan, Giuffrè, 1973, p. 241-279

144. Patricia CRONE, *Pre-Industrial Societies. Anatomy of the Pre-Modern World*, London, Oneworld Publications, 2015 [2003].

145. António Manuel HESPANHA, *Como os juristas viam o mundo. 1550-1750. Direitos, estados, pessoas, coisas, contratos, acções e crimes*, Lisbon, 2015, p. 263.

146. António Manuel HESPANHA, “Fundamentos antropológicos da família de antigo Regime. Os sentimentos familiares”, in José Mattoso, *História de Portugal*, v. IV, Lisbon, Círculo de Leitores, 1993, p. 273-279, here p. 274.

147. Manuel Ángel, BERMEJO CASTRILLO, *Entre ordenamientos y códigos. Legislación y doctrina sobre familia a partir de las leyes de Toro*, Madrid, Dykinson, 2009, p. 505.

148. Namely Manuel Ángel BERMEJO CASTRILLO, *Entre ordenamientos y códigos. Legislación y doctrina sobre familia a partir de las leyes de Toro*, Madrid, Dykinson, 2009; Pascual MARZAL RODRÍGUEZ, “Una visión jurídica de los mayorazgos valencianos entre la época foral y la nueva planta”, *Anuario de historia del derecho español*, n° 66, 1996.

149. Giovanni LOBRANO, *Pater et filius eadem persona: per lo studio della patria potestas*, Milan, A. Giuffrè, 1984; Melchiorre ROBERTI, “‘Patria potestas’ e ‘paterna pietas’. Contributo allo studio dell’influenza del Cristianesimo sul diritto romano”, *Studi in memoria di Aldo Albertoni*, v. I, 1935,

p. 257-270; Ángel RODRÍGUEZ SÁNCHEZ, “El poder familiar: La patria potestad en el Antiguo Régimen”, *Tiempos modernos: Revista Electrónica de Historia Moderna*, v. 3, 2002 [1990]; Juan HERNÁNDEZ FRANCO, “Reflexiones sobre la figura del padre en la Edad Moderna”, in Juan B. Vilar *et al.*, *Historia y sociabilidad: homenaje a la profesora María del Carmen Melendreras Gimeno*, Murcia, Universidad de Murcia, Servicio de Publicaciones, 2007, p. 231-244; Angiolina ARRU, “‘Padre di famiglia libero ed assoluto Padrone della sua persona’. Un introduzione”, in A. Arru (ed.), *Pater familias*, Roma, Binklink, 2002; Daniela FRIGO, *Il padre di famiglia: governo della casa e governo civile nella tradizione dell’ “economica” tra Cinque e Seicento*, Rome, Bulzoni, 1985; Romina ZAMORA, “Amor, amistad y beneficio en la biblioteca para padres de familia de Francisco Magallón y Magallón: Una defensa tardía de la oeconomía”, *Revista de historia del derecho* [online], n° 46, 2013; Thomas KUEHN, “Women, Marriage, and Patria Potestas in Late Medieval Florence”, *Tijdschrift voor Rechtsgeschiedenis / Revue d’Histoire du Droit / The Legal History Review*, v. 49, 1981 [1918], p. 127-147; Lucie LAUMONIER, “Meanings of Fatherhood in Late-Medieval Montpellier: Love, Care and the Exercise of Patria Potestas”, *Gender & History*, v. 27, n° 3, November 2015, p. 651-668.

150. This theory has been under discussion for years; among recent questionings, coming from an archival standpoint Joseph MORSEL, “Le médiéviste, le lignage et l’effet de réel. La construction du *Geschlecht* par l’archive en Haute-Allemagne à partir de la fin du Moyen Âge”, *Revue de Synthèse*, n° 25, 2004, p. 83-110, subsequently enlarged as a historiographical and conceptual analysis, in Joseph Morsel, “La production circulaire d’un concept : le *Geschlecht* (‘lignage’). Contribution à l’approche critique de la *Begriffsgeschichte*”, in *L’histoire sociale des concepts. Signifier, classer, représenter (XVII^e - XX^e siècle)*, Bernard Lacroix, Xavier Landrin (eds), Paris, CNRS, s.d., online: <https://halshs.archives-ouvertes.fr/halshs-01390124>.

151. Bernardo Vasconcelos e SOUSA, “Afirmção social e liderança nobiliárquica (sécs XIII-XV)”, *Studia Zamorensia*, v. XII, 2013, p. 41-55; and especially José A. Sottomayor PIZARRO, “A chefia da linhagem aristocrática (sécs. XII-XIV). Reflexões em torno de uma prática idealizada”, *Studia Zamorensia*, v. XII, 2013, p 7-40, and “A Coroa e a aristocracia em Portugal, sécs. XII-XV. Uma relação de serviço?”, in *Discurso, memoria y representación. La nobleza peninsular en la Baja Edad Media: Actas de la XLII Semana de Estudios Medievales*, Estella, Gobierno de Navarra, 2016, p. 141-176. For Spain see María Concepción QUINTANILLA RASO, “Reproducción y formas de transmisión patrimonial de los grandes linajes y casas nobiliarias en la Castilla tardomedieval”, in Francisco J. Lorenzo Pinar (ed.), *La Familia en la Historia*, Salamanca, Universidad de Salamanca, 2009, p. 89-119; José Ramón DÍAZ DE DURANA, Arsenio DACOSTA, “La dimensión social del liderazgo del linaje: solidaridad, poder y violencia (País Vasco, siglo XV)”, *Studia zamorensia*, v. 12, 2013, p. 87-106; Osvaldo Víctor PEREYRA, “Como casas sin çimento... Dinámica parental y articulación territorial en los espacios septentrionales del reino de Castilla en la tardo Edad Media y la temprana modernidad”, *Magallanica: revista de historia moderna*, n° 3, 2015, p. 144-185.

152. While interesting, this proposal (which can be found for example in the articles of Bernardo V. Sousa and José A. Sottomayor Pizarro cited in the previous footnote) needs to be confirmed by further research (as the authors themselves acknowledge), namely on the sociology of the first founders, among whom we find several bishops and persons related to high legal offices, besides members of the middling nobility. A first survey can be found in the recent research carried out about the mid-fifteenth century town of Évora, in the south of Portugal, showing the importance of entail foundations in consolidating lineages of the middle strata of local nobility, linked to the municipal administration (Joaquim Bastos SERRA, *Governar a cidade e servir o rei: a oligarquia concelhia de Évora em tempos medievais (1367-1433)*, Unpublished Ph.D. thesis, University of Évora, 2015, p. 324-330).

153. On this subject I follow mainly the analysis in Maria de Lurdes ROSA, *As almas herdeiras. Fundação de capelas fúnebres e afirmação da alma como sujeito de direito (Portugal, 1400-1521)*, Lisbon, IN-CM, 2012, p. 47-109 (with extensive bibliography).

154. See our analysis of chantries' foundation in late medieval Portugal following this perspective in Maria de Lurdes ROSA, "A vivência do cristianismo pelos fiéis leigos – A experiência do sagrado cristão", in José Pedro Paiva (dir.), *História da Diocese de Viseu*, Coimbra, Coimbra UP, 2016, v. 1, p. 517-568; Maria de Lurdes ROSA, "Espiritualidade(s) na corte (Portugal, c. 1450-c.1520): que leituras, que sentidos?", *Anuário de Historia de la Iglesia*, v. 26, 2017, p. 217-258.

155. Maria de Lurdes ROSA, *O morgadio em Portugal, séculos XIV-XV, Modelos e formas de comportamento linhagístico*, Lisbon, Estampa, 1996, p. 51, p. 119-120 and p. 204.

156. It is one of the research paths of VINCULUM project: *Entailing Perpetuity: Family, Power, Identity. The Social Agency of a Corporate Body (Southern Europe, 14th-17th Centuries)*, (ERC CoG 819734, 2019-2024); which aims at providing a global picture of entailment in the specified epoch / zone, taking as central case study the continental and atlantic territories of the then Portuguese kingdom.

157. Bartolomé CLAVERO, "'Beati dictum': derecho de linaje, economía de familia y cultura de orden", *Anuario de Historia del derecho español*, t. 63-64, 1993-1994, p. 7-148.

158. Antonio IRIGOYEN LÓPEZ, "La Iglesia y la perpetuación de las familias: clero y mayorazgo en Castilla durante el Antiguo Régimen", in Mónica Ghirardi, *Familias iberoamericanas ayer y hoy. Una mirada interdisciplinaria, Programa de Estructuras y Estrategias familiares*, Cordoba, ALAP Editor, 2004, p. 118-120.

159. For the evolution of the "tratadistas" discourse, see Bartolomé CLAVERO, *Mayorazgo. Propriedade feudal en Castilla, 1389-1836*, Madrid, Siglo XXI de España, 1974, p. 123.

160. José Antonio GUILLÉN BERRENDERO, "El reconociendo a los nobles y católicos castellanos en tiempos de Santa Teresa de Jesús una reflexión sobre la tratadística nobiliaria y la presencia de la devoción", *eHumanista: Journal of Iberian Studies*, v. 33, 2016, p. 191-211; Pablo ORDUNA PORTÚS, "Formas de religiosidad de la nobleza navarra en la Edad Moderna", *Hispania Sacra*, v. 64, 2012, p. 583-622; Antonia GARRIDO FLORES, "La devoción en la casa: Córdoba en el Antiguo Régimen", *Hispania sacra*, v. 66, 2014, p. 576-600; Elena POSTIGO CASTELLANOS, "Caballeros del Rey Católico: diseño de una nobleza confesional", *Hispania: Revista española de historia*, v. 55, 1995, p. 169-204.

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ABSTRACTS

Departing from the widespread importance in the Portuguese and Castilian territories, from the 14th to the 19th centuries, of the *morgado* (entail), a specific Iberian form to frame institutionally the organization of the corporate family, this article puts forward a specific understanding of the phenomenon – one that considers the figure of authority supporting it, and which, in turn, came to be supported by it: the founder. The idea and the act of founding, the figure of the founder, the founder's authority and credited capacity to rule the future, in premodern European culture, will be at the core of the questioning on the entail system's logic. The perspective will be one of anthropological history, seeking to describe and understand the set of background conditions and elements of various nature, which at a certain point combined to allow an important change in social behavior towards heritage and family organization. The article begins with a characterization of the figure of the founder in its main aspects, and then proceeds to a brief discussion of the ways through which the model was transmitted and incorporated by the agents involved, but also of the limits which it produced. The second part of this article offers a preliminary analysis of the origins and functions of these reference elements, their contextual usage by engaged agents in late medieval Portugal, and the social-cultural responses thus constructed.

Prenant compte de l'importance du morgado (majorat), forme ibérique spécifique pour encadrer institutionnellement l'organisation de la corporation familiale dans les territoires portugais et castillan du XIV^e au XIX^e siècle, cet article propose une approche spécifique du phénomène, centrée sur la figure d'autorité qui lui servait de fondement, et dont, au fil du temps, il a œuvré au renforcement : le fondateur. L'idée et l'acte de fondation, la figure du fondateur, son autorité, sa capacité reconnue dans la culture européenne prémoderne à gouverner l'avenir, seront au cœur du questionnement concernant la logique du système. Selon une perspective d'anthropologie historique, nous chercherons à décrire et à comprendre l'ensemble des conditions de fond et des éléments de nature diverse qui, combinés, ont permis à un moment donné un changement important dans les approches sociales à l'égard du patrimoine et de l'organisation de la famille. L'article s'ouvre sur la description de la figure du fondateur et de ses principales dimensions, avant de se poursuivre par une brève discussion sur la manière dont le modèle a été transmis et incorporé par les agents concernés, et sur les limites auxquelles il s'est trouvé confronté. La deuxième partie offre une analyse préliminaire des origines et des fonctions de ces éléments de référence, de leur utilisation par des agents dans le contexte du Moyen Âge tardif au Portugal, et des réponses socioculturelles ainsi élaborées.

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Mots-clés: morgado-majorat, fondateur, fondation, Portugal, histoire prémoderne

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