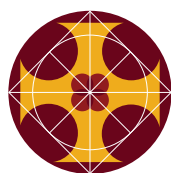


AFONSINA

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**EGAS MONIZ
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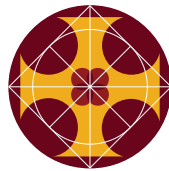


MUNICÍPIO DE
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I

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EGAS MONIZ THE TUTOR

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Aspects of the influence of the “Foral de Guimarães”* in Braga’s Royal Letter of Privileges of 1402

RAQUEL DE OLIVEIRA MARTINS

raqueldeoliveiramartins@gmail.com

Lab2PT – University of Minho

LaMOP – Université Paris 1 Panthéon–Sorbonne

Abstract

Braga and Guimarães have always been linked by their geographical and cultural proximity, in spite of their different political realities until the end of the Middle Ages and despite a centuries-long history punctuated by sporadic outbreaks of tension and violence. The political, economic and social transformations that took place in the Kingdom of Portugal with the advent of the dynasty of the House of Avis in the late 13th century and early 14th century inaugurated a new stage in the history of the city of archbishops, bringing it closer to the political and economic reality of the neighboring town of Guimarães. In this study, we will analyze the political events that made the political realities of Braga and Guimarães converge when both towns enjoyed the same legal status.

Keywords: medieval Braga, medieval Guimarães, medieval Bill of Rights, medieval lordship, jurisdiction

Introduction

On January 10, 1402, a contract was signed in Coima, Setúbal, to transfer the lordship of the city of Braga, which had belonged to the Church and the archbishops since 1112, to the Crown of the Kingdom, in the person of King John I of Portugal (Marques, 1996).

This exchange contract established a new legal, political and economic reality in the city of Braga, since it meant that henceforth the centenary archbishopric seigniorial lands would integrate a vast list of cities and towns which enjoyed the status of royal lordship. Braga would also come to enjoy similar privileges and duties. The example of the town of Guimarães, whose geographically close economic and social reality was clearly evident, served as a model for similar economic privileges for Braga. Among these privileges, we highlight those related to the free transit of people and goods, enshrined in the charter granted to Guimarães in 1095–96, and whose influence is evident in the 1402 Charter of Privileges of Braga. We will now analyze how this aspect of the reality of Guimarães specifically materialized in Braga's economic life in the 15th century.

¹ Transcription in Documentos Medievais Portugueses. I. Documentos Régios (D.M.P. i. D.R.). Lisbon: Academia Portuguesa da História. 1959, p. 40, 41.

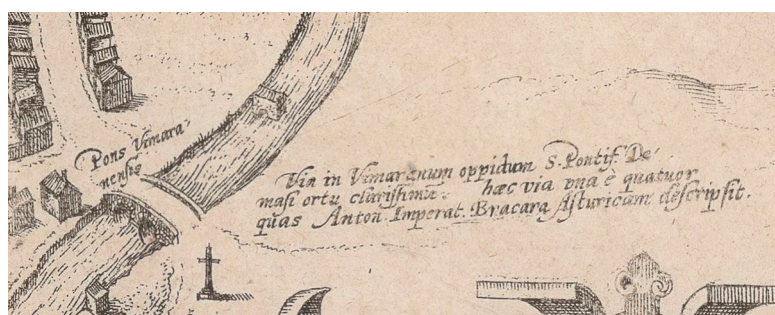


Image 1 - Detail of Georg Braun's Map of Braga from 1599, showing the so-called Vimaraneis Bridge, just outside the city, on the road that connected Braga to Guimarães.

Braga and Guimarães – Different routes, similar realities?

Before addressing the key issue of the influence of the “Foral de Guimarães” in Braga at the end of the Middle Ages, at the time when the latter acquired its status as a city under royal lordship in 1402, it is important to recall some of the decisive historical processes that would politically and economically determine, both in the short and long term, the divergent experiences of the two towns. To this end, we will go back to the period of government of the Portucalense Counts, Henry of Burgundy and Theresa of Leon, because we will recall the different donations that each municipality, Braga and Guimarães, received from these rulers: a Bill of Immunity in the first case, and a Bill of Municipal Rights in the second case.

The donation of the Bill of Immunity of Braga¹ to the Church of St. Mary's the Virgin is a well-known historical fact. It was granted in 1112, by Henry of Burgundy and by his wife, Donna Theresa, to whom the government of the County of Portugal had been attributed by King Alfonso VI of Leon, respectively father-in-law of Henrique and father of Theresa (Marques and Cunha, 2002).

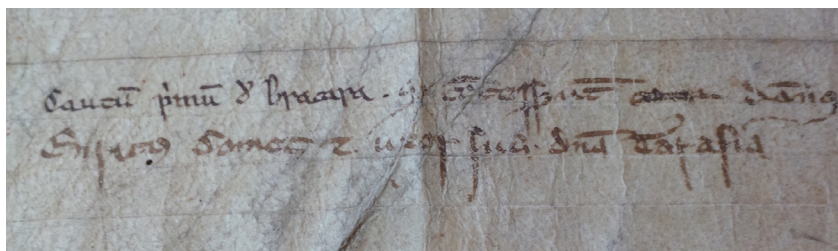


Image 2 - Excerpt from the 1112 Charter of Immunity of the Church of Santa Maria de Braga, which reads: *Cautum primum de bracara qui concesserunt domnos Enricos Comes et uxor sua domna Tarasia*. Arquivo Distrital de Braga, Coleção Cronológica, doc. 5.

The donation of the city and its *couto* [a lordship immune to royal power] to the Church and its archbishops and chapter in perpetuity led to the creation of a territorial jurisdiction with immunity, meaning that other lords — whether kings or others, whose presence was not allowed by the lords of the city (the archbishops) — could not enter or exercise their authority (Marques and Cunha, 2002).

This was not exclusive to Braga, for it was frequent to donate territories to cathedrals or monasteries, transforming them into territorial units enjoying immunity and, as such, excluded from the remaining lands of the king/count/duke, both in Christian Spain and beyond the Pyrenees (Bertrand, 2011; Cal-Pardo, 2003).

The problem would arise later, when the future monarchs wanted to exercise their authority and power by implementing measures of legal or fiscal nature and were confronted with these jurisdictional immunities, as in the instance of Braga (Barros, 1945–54).

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In practice, the donation of the Couto of Braga to the Church and to the archbishops meant that the archbishop was lord of the city and its *couto*, lord of men and of lands, and everyone consulted him regarding matters related to the administration and justice in the city (Marques e Cunha, 2002). This valence as a worldly temporal lord merged with a spiritual role, since he was also pastor of souls. The two valences were often mixed and confused: he was lord of his subjects' bodies and souls, in the manner of Israel's kings-priests mentioned in the Old Testament (Tabacco, 2000).

Therefore, there was no need for competing powers in Braga. This was probably one of the factors, among others, which led to Braga's free men community not being granted its medieval charter as it happened to Oporto's by its bishop, Don Hugo, in 1123 (Oliveira, 1959). Braga would only receive its charter from the hands of Cardinal Don Henrique in 1537.

However, the experience of Guimarães was entirely different from Braga's, since as early as 1095–96 the town was granted its charter by the same *Portucalense* Counts, Henry of Burgundy and Donna Theresa. This charter is considered the first granted by the Counts in the territory of the County of Portugal and would predate others, such as, for example, the Bill of Constantim. The Bill was undeniably important for the community of free men, as it translated into a political-legal instrument in which the rights and duties of a community of free men were consigned in writing. These men were recognized as having a voice and political existence, and the best among them were chosen to govern and administer the affairs of the town or city, representing the lord who granted them those political rights. The Bill was a binding contract between the lord and his subjects, a non-arbitrary guarantor of law, by which the parties concerned committed themselves to abide by the clauses therein contained, with the ultimate goal of achieving social peace. Its clauses varied in content and regulated the community's life, from tax payment and tax exemptions, to right to property, exercise

of justice, application of penalties, service obligations regarding the city's works and defense, among many others.

In the case of medieval Guimarães, the Bill granted by Henry of Burgundy in 1095–96 meant all of the above: it recognized both the existence and political importance of the community of free men, and their role in the government and administration of the city, stipulating their rights and duties. They were only accountable to Count Henry.

This framework differed from Braga's, whose lord was the archbishop, and the political voice of the men of Braga. Because Braga was under ecclesiastical lordship until 1402, the political and economic reality was, in a number of important issues, different from the cities and towns under royal lordship.

Braga, city of the King

Contrary to what happened with the cities and towns under royal lordship, Braga seems to have suffered from being on the margins, largely due to the fact of being an ecclesiastical seigneurie, and, among other things, not benefiting from exemption from payment of pedages for men and goods in places belonging to the Crown.

This scenario changed with the above-mentioned contract of 1402, because the transition of Braga's lordship to the Crown of the Kingdom brought about important political and economic transformations to the city — first and foremost, voice and political recognition. Once the city was converted into city of the King, issues pertaining to the government and administration of Braga would be handled between the City Council and the King (in the Courts of Justice, for instance), or his legitimate representatives (the *corregedores*, chief magistrates) (Martins, 2013).

This contract was part of a policy of royal power centralization and aimed to put an end to years of contention between the Portuguese monarchs and the lords of Braga, as can be seen in the following excerpt from the 1402 contract:

*[...] grande odio e scandallo [que] recrecera senpre antre os reys de Portugall e os arcebispo de Braga per razom do senhorio e jurdiçom da dicta cidade mero e mixto imperio dizendo senpre os dictos reis que o senhorio e jurdiçom da dicta cidade mixto e mero imperio perteeicia a elles e nom aos dictos arcebispos e os dictos arcebispos diziam que o dicto senhorio e jurdiçom perteeicia a elles e aa dicta Egreja de Bragaa per doaçom que lhe fora facta per a Raynha Dona Tareija [...]*².

By giving up on the city's jurisdiction, the archbishop and the chapter “freed” Braga from its status as a *Couto* of immunity, placing it into the orbit of the cities under the Crown, such as Guimarães. Neighborly relations could then become closer, with men and goods circulating more freely — at least in theory, since in practice things were sometimes quite different.

Having been granted its new status, Braga soon asked the Crown for a charter to guarantee its new political reality. This was not long in coming, for it materialized in that same year of 1402. King John I granted the municipality of Braga a charter of privileges, wherein he mentioned the privileges granted to the Town of Guimarães, including those related to the exemption of tolls and pedages in the King's lands, granting them also to Braga, as can be read in the following excerpt:

*[...] Dom Joham pella graça de deis Rey de portugal e do algarue A quantos esta carta virem Fazemos saber que Nos querendo fazer graça e merçee aos Moradores e pobradores da nossa Cidade de bragaa Teemos por bem E queremos E mandamos que elles ajam daqui en diante pera todo senpre taais priuilegios asy elles como suas mercadorias quanto monta aas portagens dellas per todos os dictos nossos Regnos asy como os am os da Nossa villa de Guimaraaes [...]*³.

² Arquivo Distrital de Braga, Gavetas de Braga, doc. 22.

³ Arquivo Municipal de Braga, Pergaminhos, docs. 4. There are authentic copies of this letter from 1404 – Scroll 6 (January) and Scroll 7 (October). Both also contain the place where the pendant seal of King John I would have been. The Appendix contains the transcription of the 1402 Charter of Privileges.

This privilege referred undeniably to one of the privileges contained in the confirmation and enlargement of the Charter of Guimarães made by Don Affonso Henriques in 1128, wherein was added this clause of toll exemption throughout the future King's territory. It reads: [...] *et insuper dono vobis foros quod in tota mea terra non donetis portaticum* (Reis, 1996).

4 Arquivo Distrital do Porto, Livro dos originais do Cabido, livro 15, fl. 8.

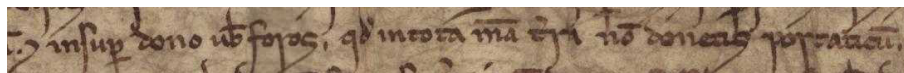


Image 3 - Excerpt of the Charter of Guimarães, in its confirmation by Affonso Henriques in 1128.

This important clause was frequently evoked, especially when some neighboring municipalities refused to comply with it and exempt the residents of Guimarães from paying tolls and pedages. Such an example occurred in 1385, when the Bishop of Oporto did not accept Guimarães' privilege of toll exemption in Oporto and decide to lift an embargo on the shipping of merchandise by merchants from Guimarães until they paid what they owed. Therefore, the municipality complained to King John I, referring to the charter granted by Affonso Henriques, as shown below:

[...] *os homens boos do dicto concelho de guimaraaes nos emviarom dizer que elles ouverom privilegio do Jfante dom afonso anriquez primeiro Rey que fora em estes Regnos em que privilegiara E isentara todos os moradores della e todos seus filhos e Sua geraçom E os que aa dicta villa veessem morar que nom pagassem portagem nem passagem nem custumagem per todos nossos Regnos E senhorio E que ouverom outros privilegios e cartas dos Reis que despois foram e de nos per que lhe foram confirmados todos seus privilegios E todos seus foros e boos hussos e costumes que Sempre ouverom [...]*⁴.

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Toll exemption by the municipalities was undeniably important, as it boosted economic growth, which was as desirable in the case of Guimarães as in the case of Braga. The latter was more economically closed and restricted due to its particularities of being an ecclesiastical seigneurie.

After the municipality of Braga was granted its letter of privileges, the document was shown and published in Guimarães. We do not know whether the charter was published in other neighboring municipalities, but it is to be expected that it was published as commercial transactions were made via the movement of men and animals.

Documentary sources show that this new reality of Braga as being under royal lordship and, as such, enjoying new privileges from 1402 onwards, was difficult to implement due to the city's long tradition of almost three hundred years as an ecclesiastical lordship. Perhaps this is why throughout the 15th century we find recurrent requests from the municipality of Braga to the King to let the Kingdom's justices know that Braga enjoyed equal privileges as Guimarães, namely regarding exemption from toll and pedage payment of people and goods.

In the coeval documentation, especially in the royal chancelleries, throughout the 15th century there is a continuing desire to equate the privileges of Braga with those of Guimarães.

In 1442, the municipality of Braga complained to the King about the non-fulfillment of its privileges — forty years after the contract as a city under royal lordship was signed! The municipality of Braga therefore asked for a high pecuniary penalty for those who failed to comply with Braga's Royal Letter of Privileges:

*Dom afonso e etc a quantos Esta carta virem fazemos saber que da parte do Conçelho e homes boos e Regedores da nossa çidade de bragaa nos foy apresentada huã carta del rei dom Joham meu avoo que deus aja da quall ho theor della he este que se segue dom Joham e etc a quantos esta carta virem fazemos saber que quando ora nos ouvemos a cidade de bragaa pera nos por ho caynbo que fezemos com o arçebispo da dictaçidade lhes outorgamos aquelles mesmos privilegios que aviom os moradores da nossa villa de guimaraaes [...] ho dicto Conçelho e homees boos e regedores da dicta çidade nos Enviarom dizer que em alguns lugares de nossos regnos lhes nom queriom guardar esta carta pidindonos de merçee que por lhe ser guardada lhe mandasemos em ela poer outra tall que quaes quer ou quall quer pessoa que lhes for contra esta carta e lha nom quiser guardar que pague mil reais brancos para a nosa chancelaria [...]*⁵.

⁵ Arquivo Nacional Torre do Tombo, Chancelaria Régia, Chancelaria de D. Afonso V, Livro 27, fl. 129.

⁶ Arquivo Distrital de Braga, Gaveta de Braga, doc. 23.

Braga's experience as a city under royal lordship lasted only seventy years. In 1472, a new contract was signed between King Alfonso V and Don Luís Pires, the archbishop of Braga, which would return Braga to the status of episcopal seigneurie. But many of the political rights, as well as the economic privileges achieved after 1402 — which equated Braga with Guimarães — were preserved and ensured, namely the rights of exemption from payment of toll and pedage. In fact, this right was enshrined in the contract of 1472, as can be read in the following excerpt:

*[...] nem fara perjuizo este contraucto ao privilegio que teem os moradores e vezinhos da dicta cidade de Bragaa e seu termo per vertude do quall nom pagam portajem em estes Regnos porque o dicto privilegio ficara em sua virtude segundo em elle he contheudo [...]*⁶.

It was critically important for the Municipality of Braga to secure this clause, given its importance for the city's economic development. Accustomed over seventy years to such vital tax exemptions on the movement of men and goods throughout the Kingdom, Braga fought continuously to enforce them.

Conclusion

The rivalries between Braga and Guimarães are centuries-old and their origins are lost in the mists of time. However, in the Middle Ages, the geographic and cultural proximity between Braga and Guimarães translated into social and economic realities that converged rather than diverged. This explains why for the men of Braga's governance and the King of Portugal himself it made sense to refer to the Charter of Guimarães regarding the matter of the privileges of Braga. And Braga certainly was adamant on not giving them up. The different political realities faced by Braga and Guimarães until the beginning of the 15th century, mainly due to the fact that Braga was an ecclesiastical seigneurie until 1402, were attenuated by their geographical proximity. Contact and exchange between the two populations were inevitable, and most of the time they were made *in peace and in safety*. The 1402 contract actually mitigated political differences, but it also brought to light similarities regarding their economic and social frameworks. The 1402 Charter of Privileges of Braga is testament to this, as it evokes a scenario that is known and applicable to the reality of Braga. The good men of 15th-century Braga were aware of this and therefore asked for the same privileges as Guimarães.

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Appendix

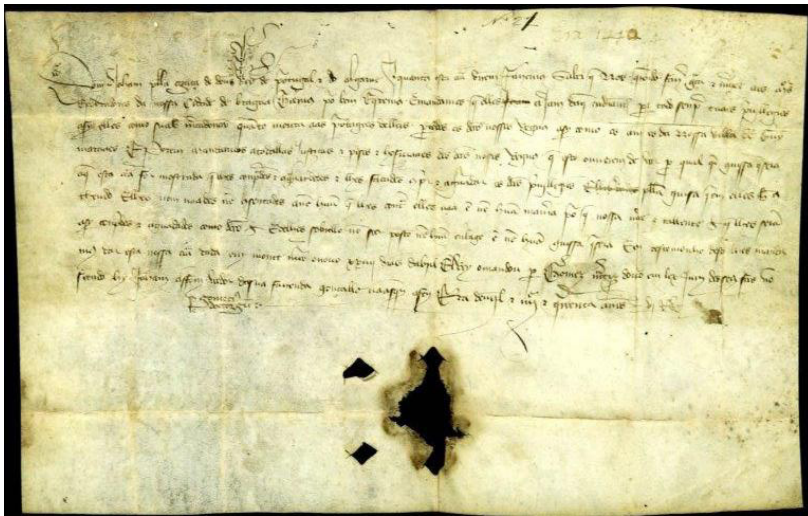


Image 4 - Montemor-o-Novo, April 24, 1402 - King John I of Portugal grants a Letter of Privileges to the residents of the City of Braga, granting them the same privileges as Guimarães. Arquivo Municipal de Braga, Pergaminhos, doc. 4.

Dom Joham pella graça de deis Rey de portugal e do algarue A quantos esta carta virem Fazemos saber que Nos querendo fazer graça e merçee aos Moradores e pobradores da nossa Cidade de bragaa Teemos por bem E queremos E mandamos que elles ajam daqui en diante pera todo senpre taais priuilegios asy elles como suas mercadorias quanto monta aas portagens dellas per todos os dictos nossos Regnos asy como os am os da Nossa villa de Guimaraaes E Porem mandamos a todallas Justiças e pesos e hofiçiaaes dos dictos nossos Regnos que esto ouuerem de veer per qualquer guissa que seia a que esta carta for mostrada que lhes comprides e a guardedes e lhes façades comprir e aguardar os dictos priuilegios pella guissa que em elles he contheudo E lhes nom uaaades nem consentades a nenhuum que lhes contra elles uaa em nenhuma maneira porque nossa merçee e tallente he que lhes sejam asy compridos e aguardados como dicto he E de lhes sobrello nom seer posto nenhuum embargo en nenhuma guissa que seia Em testemunho desto lhes mandamos dar esta nossa carta dada em monte moor o nouo xxiiij dias dabrill El Rey o mandou per Gomez martinz doutor em lex Juiz dos fectos nom seendo hy Joham affonso vedor da sua fazenda gonçallo uaasquez a fez Era de mil e iiijc e quarenta anos//xb Reais

Gomecius doctor