

The Last King's “*Naturais*”: Nobility and *naturalidade* in Portugal from the Fifteenth to the Seventeenth Century¹

Antonio Terrasa Lozano²

Abstract

This article considers the evolution of the importance of nativeness, which is just one of the meanings of the Portuguese word *naturalidade*, according to the different interests of the nobility and merchants from the fifteenth to the seventeenth century. By analyzing early modern Portuguese Codes, as well as some petitions sent to the *Cortes*, and the strong bonds that existed between the Castilian and Portuguese nobility from the Middle Ages onwards, I propose an interpretation of the evolution of the modern concept of nativeness, not in its absolute sense, but instead according to the nobility or the lack of it of individuals considered to be either natives or foreigners.

Keywords

Nobility, nativeness, foreigner, border, codes, privileges, merchants, court, royal marriages

Resumo

Neste artigo considera-se a evolução da importância jurídica da naturalidade em função dos diferentes interesses da nobreza e dos comerciantes durante os séculos XV, XVI e XVII. Através da análise das ordenações portuguesas da época moderna, de algumas petições em Cortes e dos fortes laços que ligaram, desde a Idade Média, as famílias da nobreza castelhana e portuguesa, propõe-se uma interpretação da evolução do conceito moderno de naturalidade, não em sentido absoluto, mas sim em função da nobreza ou da falta dela dos indivíduos considerados naturais ou estrangeiros.

Palavras-chave

Nobreza, naturalidade, estrangeiro, fronteira, códigos, privilégios, mercadores, corte, matrimónios régios

¹Translated by Mary Solari.

²CIDEHUS—University of Évora. Postdoctoral researcher of FCT, SFRH/BPD66015/2009; member of the research team “Circulación, patrimonio y poder de élites en la Monarquía Hispánica (1640- 1715)” (GECOFIN 8015: HAR2009- 12963-C03-01/HIST). *E-Mail*:aterrasa@gmail.com

1. Introduction. Nobility, the crime of lese majesty and treason: change and continuity.

In the year 1660, Dom Raimundo de Lencastre, the fourth Duke of Aveiro (c. 1620-1666) traveled secretly to Brest and from there to Madrid to meet his Castilian mother, Doña Ana Maria Manrique de Lara, as well as his French wife, Doña Luisa de Ligné, the daughter of the Prince of Ligné.³ That escapade sealed the process of severance between the House of Aveiro and the new royal dynasty of Portugal. Since 1640, when the Duke of Bragança was proclaimed King of Portugal, the Aveiros, his eternal rivals,⁴ had afforded the Restoration⁵ regime a tepid reception. Tried *in absentia*, the Duke of Aveiro was found guilty of the crime of lese majesty in August 1663. He was therefore sentenced to capital punishment—executed in effigy—and both his personal possessions and the estate belonging to his lineage were confiscated and returned to the Crown.⁶ Although several of Dom Raimundo's relatives who had remained in Portugal claimed to be his heirs,⁷ the Crown Procurator decided to deny their claims and recognize only Dom Raimundo's sister, Dona Maria Guadalupe de Lencastre (1630-1715) and his uncle, Dom António⁸ as heirs to Dom Raimundo. Since Dom João IV's (1640-1656) accession to the throne, the Crown had implemented an efficient system, fueled by the Portuguese nobility's flights to Castile, to regain possession of huge and wealthy manorial estates. The anti-Bragança conspiracy of 1641 had allowed the Crown to confiscate the luxurious estates of the Marquis of Vila Real and the Duke of Caminha.⁹ In March 1642, the jurisdictions and estates of the Marquis of Castelo Rodrigo were added, and in the following years the Crown recovered the lands of the marquissate of Porto Seguro—belonging to a second-

³Torres (1904: 873).

⁴The founder of the House of Aveiro had been Dom João II (1481-1495), *O Príncipe Perfeito*, who, in his will and testament had established that entailed estate for his bastard son, the *maestre de Avis*, thus creating a noble house which would only be surpassed in rank and riches by the House of Bragança. It was the same Dom João II who, at the height of the purges implemented against the nobility during his reign, had the Duke of Bragança's throat slit in Évora in 1483.

⁵In 1640, when Dom João IV was proclaimed King of Portugal, Dom Raimundo was not yet of age and still under the tutelage of his Castilian mother, Doña Ana Maria Manrique de Lara. In 1641, obeying his mother, and due to a supposed indisposition, the Duke of Aveiro did not attend the *Cortes* summoned to swear allegiance to the new monarch. This event led to the confinement of both mother and son in Coimbra. Valladares (1998: 237-239).

⁶*Allegação*: 34.

⁷At different moments, these claimants were the Marquis of Porto Seguro, his younger brother Pedro de Lencastre, the future General Inquisitor, the Count of Figueiró, the Countess of Faro, the Marquis of Gouvea, and his mother, the Marchioness.

⁸For the lawsuits brought to prevent the House of Aveiro reverting to the Crown of Portugal, see Terrasa Lozano (2009a: 227- 243).

⁹For the 1641 conspiracy and the repression of the noblemen involved in it, see Costa and Cunha (2006: 105-128).

born branch of the House of Lencastre—and the estates of the earldoms of Tarouca, Assumar, Lumiar, Figueiró, Armamar, Basto and Arcos. Such vast territories were not added to the Crown in one single set; rather, they were divided among several Houses belonging to different members of the Royal Family. Thus, the House of Bragança was reserved for the Crown Prince; the House of the Queen (*Casa da Rainha*) was re-established in February 1642 in order to provide queen consorts with their own property, and in August 1654 the powerful House of the Infantado was created for the second-born son of each king. The possession of a vast estate administered through the queen and the princes guaranteed the Crown indirect control of large tracts of Portuguese territory in a period of political turmoil and war with neighboring Castile.¹⁰

The Crown's interest in recognizing Dona Maria Guadalupe's rights at such a point in time and in the context of the policies implemented for the recovery of royal possessions (which actually intensified in the period 1654-1665)¹¹ was perfectly understandable: having betrayed Dom Afonso VI (1656-1683) and departed to the Court of Castile in the middle of the war, she was also guilty of treason and would therefore have to consider her rights to the dukedom, as transmitted by her elders, to have been lost forever. Together with her, all her relatives would also be affected, whether they remained loyal to Dom Afonso VI or not. Such a situation was established by the laws of the kingdom, which stated that, just like the rights of succession to primogeniture, treason was also transmitted by blood lineage, and spread like an infectious disease from parents to children.¹²

After Dom Raimundo's death sentence in 1663, Dom Pedro de Lencastre, the uncle of the fugitives and the future Inquisitor General in Portugal, sued both the Portuguese Crown and his nephews and nieces in order to be recognized as Duke of Aveiro. To prevent the Lencastre estate falling into the hands of the Crown, Dom Pedro's lawyers disputed the doctrine by which the treason of one family member tarnished the whole lineage:

O que cometeu delicto, porque seus bens devem ser confiscados, só perde os bens seus propios & liures, & nam aqueles que ficaram de seus antepasados, & que se ham de restituir a

¹⁰For the strategies devised to return the lands to the Crown after the accession to the throne of Dom João IV in 1640 and the foundation of the House of the Infantado, see Lourenço (1995b: 25-33). For the House of the Queen, see Lourenço (1995a) and Lourenço (2005).

¹¹It was during these years that the largest number of lands were incorporated into the estate of the House of the Infantado. Lourenço (1995b: 49).

¹²The *Ordenações Manuelinas*, and later the *Ordenações Filipinas*, clearly stated the seriousness of betraying the king and the way in which this stain was transmitted to the traitor's descendants.

os seguintes, que nelles tem vocaçam. [...] aonde o neto, nam perde a dignidade do Avoo pello crime do Pay.¹³

Aside from the complexities of that lawsuit, what I am interested in now are the accusations and defamatory remarks that Dom Pedro's allegations voiced against his niece. In 1666, after Dom Raimundo's death, his sister Dona Maria Guadalupe, proclaimed herself the fifth Duchess of Aveiro from her exile in Madrid. Her uncle was to state against her that she was, "incapacitada & inhabilitada para succeder por huir pera Castela Reyno inimigo, que estâ em guerra com esta Coroa, ou fosse mandada por sua vontade, por ella assi pedir, ou contra sua vontade, por assim o pedir a razam de Estado,¹⁴ he certo que esta desnaturada deste Reyno de Portugal."¹⁵

Consequently, just like her brother (whose civil death had been established in effigy), as far as her heritage and succession rights were concerned, Dona Maria de Lencastre was like an aborted child or a child who had died before his or her parents, that is to say, a nobody. Because, from the moment she betrayed her king and her homeland, Dona Maria "perdeo a cidade & Reyno, & esta feita Peregrina pella deportaçam [...] & ficou incapaz de successam [...] & por esta razam, nem pode o deportado ser instituido por herdeiro, nem adquirir causa alguna do testamento de outrem."¹⁶

From the moment this lady, already over twenty-five years of age and deaf to the requirements to return to Portugal, had fled to Castile, "perdeo o ser natural deste Reyno quo ad omnes effectus pois deixando a sua patria originaria, se passou para Castella fora des terras da jurisdiçam de Portugal sojeitando-se a obediência de Castella."¹⁷ Furthermore, those who "se passam de hum Reyno a outro, o qual nam esta sub dictione ejusdem Principis, mais de outro inimigo, & ibi domicilium constituunt, que se reputem como

¹³"Those who have committed a crime, because their estate must be confiscated, only forfeit their own free goods and not those inherited from their ancestors, and which must be returned to the following (heirs) who have a right to them. (...) where the grandson does not forfeit the title of the grandfather due to the father's crime." *Allegaçam*: 23.

¹⁴We do not know whether an argument of this sort would have been used by Dona Maria in her lawsuit to justify fleeing to Madrid, although it would not have been surprising, given the justifications put forward by some of the Portuguese families exiled at Felipe IV's Court. About this type of justification, see Terrasa Lozano (2009b).

¹⁵"Disqualified and unable to succeed for having fled to the enemy Kingdom of Castile, which is at war with this Crown. Whether she was sent there willingly because she had asked for it or against her will because it was necessary for reasons of state, the truth is that she has lost her nativeness of this Kingdom of Portugal." *Allegaçam*: 131.

¹⁶"(...) lost her city and her Kingdom and has become a pilgrim through deportation (...) and she has been disqualified from inheritance (...) and for that reason the deported cannot be considered an heir, nor have any claim upon the will of another person."

¹⁷"She ceased to be a native of this Kingdom quo ad omnes effectus, since by leaving her country of origin she moved to Castile outside the territory of Portuguese jurisdiction, subjecting herself to obedience to Castile."

estrangeiros pera nam poderem ter dignidades no Reyno que deixaram.”¹⁸ It is indisputable therefore that any benefits proceeding from the loss, in this case Dona Maria de Lencastre's rights to succession, were also forfeited. In conclusion, “como a senhora Dona Maria se foi pera Castella Reyno estranho, & inimigo, & ahi tenha seu domicilio deixando sua patria em guerras tam acezas com Castella, ex dictis perdeo a origem & ficou alienigena, com que o que nam pode ter em este Reyno dignidade, ou bens alguns, assim he de direito Divino [...] como de direito Comum.”¹⁹

The succession to the dukedom of Aveiro was not resolved until judgment was passed on the lawsuit on 20 October 1679, that is to say, after Dom Pedro's death, the end of the war and the recognition of the independence of Portugal by Carlos II (1665-1700). The victor was Dona Maria Guadalupe, but under certain conditions. Before taking possession of her estate she had to return to Portugal, establish residence there and swear allegiance to the King of Portugal, thereby regaining her nativeness. Her return to Portugal was nevertheless somewhat complicated, for, since 1665, she had been the wife of Don Manuel Ponce de León, the sixth Duke of Arcos. Although she had forfeited her Portuguese nationality because of her betrayal and exile before getting married, her marriage to a foreigner in whose kingdom she lived, where she had her residence and where her children had been born, all of which were necessary conditions for obtaining a new “nativeness,” complicated her legal situation even further. The definitive solution was not reached until some years later: the Dukes separated and, in 1681, the Duchess of Aveiro *in pectore* received Carlos II's permission to return to Portugal and regain possession of her estate.²⁰

The switching of allegiance from the King of Portugal to the King of Castile had been common practice among the Portuguese and Castilian nobility since at least the fourteenth century. During the Middle Ages, what had mattered for the nobility, even in their power conflicts with the kings, was their bond with the monarch, the loyalty they offered him in exchange for the guarantee of titles and lands in Castile or Portugal. This was a common relationship in the early modern period, based on service, grace and favor.²¹

¹⁸“(…) go from one Kingdom to another, which is not sub dictione ejusdem Principis, but of another enemy, & ibi domicilium constituunt, are considered foreigners so that they cannot have privileges in the Kingdom that they have left.” *Allegaçam*. 134.

¹⁹“As Dona Maria has left for Castile, a foreign and enemy kingdom, and has taken up residence there, leaving her homeland in such bitter wars against Castile, ex dictis she has forfeited her origin and has become a foreigner, so she cannot have a title or any possessions in this kingdom, which is so by both divine and common law.” *Allegaçam*. 134-135.

²⁰Torres (1904: 872-873).

²¹On the subject of grace and favor, in addition to the pioneering and prolific study by Mauss (2008) [1950], there is an interesting bibliography. It is important to mention the fundamental work by Olival (2001). See

Such ties between lord and king had been a feature of the discourse of the nobility throughout the early modern period, while the concept of being a *native* (“*natural*”) of the kingdom, with all of its legal implications, had gained in complexity and had become a crucial factor in determining membership of the political community and ensuring access to certain trading privileges. In the mid-seventeenth century, the Duke of Aveiro’s defection was considered not only a crime of lese-majesty but was also an act of treason against the kingdom of Portugal. What, in the fifteenth century, would have been considered an act of treason against the legitimate sovereign in accordance with Natural Law, had, by the time of Dom Afonso VI, turned into a loss of nativeness by becoming a foreigner. Nevertheless, leaving aside this rhetoric, once peace had been reached between the kings of Portugal and Castile, the Dukes of Aveiro recovered their lands and estates, as had been the case several centuries before. When, in 1479, Dom Afonso V of Portugal (1438-1481) made peace with the Catholic Monarchs and signed the treaty of Alcáçovas, they did not neglect to include a clause in which, “es acordado e asentado que los dichos señores rrey e rreyna de Castilla e Leon, e cétera, ayán de rremittir e perdoar a todos los caualleros e escuderos e otras personas, naturales e non naturales de los dichos sus rreynos e señoríos y a sus hijos, de qualquier estado e calidad que sean, que pública e notoriamente están con los dichos señores rreyes de Portogal e príncipe, su fijo, así en el dicho rreyno de Portogal commo en los dichos rreynos de Castilla o en otra qualquier parte, de todos los casos e enojos e cosas pasadas.”²²

In order to avoid getting lost in translation, I will briefly make some conceptual remarks. This article deals with the Portuguese concept of *naturalidade* and the Spanish one of *naturaleza*. Amongst the meanings of these polysemic notions are nativeness, municipal citizenship and, when used to refer to a king, his legitimate sovereignty in accordance with Natural Law. As a matter of fact, it is impossible to translate all the meanings of *naturalidade* and *naturaleza* into one single English word or concept for two reasons: first, because such a word simply does not exist in English; second, because the English legal vocabulary belongs to the Common Law tradition while the Portuguese and Spanish legal systems were built on the framework of Roman Law. Therefore, in this article when dealing with

also the works by Esteban Estúgana (2012) and Guillén Berrendero (2012) for this subject’s relationship with the discourse of the nobility.

²²“It is agreed and established that the said king and queen of Castile and Leon, et cetera, will pardon and forgive all the knights and squires and other native and non-native people of their kingdoms and dominions and their children, whatever their status or quality, who publicly and notoriously are with the said king and queen of Portugal and the prince, their son, both in the kingdom of Portugal and in the kingdoms of Castile or anywhere else, of all cases and disturbances and past things”. Cited in Fonseca and Ruiz Asensio (1995: 86).

naturalidade and trying to translate it, I will specify which meaning I am referring to in each case.

From this point of view, and assuming that the concept of *naturalidade* evolved polysemically, perhaps we should consider that until the late modern period, both for the nobility and the monarchy, the status of being a native was neither solely nor essentially the reason for belonging to a kingdom. As the *Partidas Castellanas de Primera Instancia* stated, it was “debdo que han los homes unos con otros por alguna derecha razon en se amar et se querer bien.”²³ There were ten reasons whereby one enjoyed this nativeness:

la primera et la mejor es la que han los homes con su señor natural, porque tambien ellos como aquellos de cuyo linage deceden, nascieron, et fueron raigados et son en la tierra onde es el señor; la segunda es la que viene por razon de vasallage; la tercera por crianza; la quarta por caballeria; la quinta por casamiento: la sexta por heredamiento; la setena por sacarlo de cativo, ó por librarlo de muerte ó de la deshonra; la ochava por aforramiento de que non rescibe prescio el que lo aforra; la novena por tornarlo cristiano; la decena por moranza de diez años que faga en la tierra maguer sea natural de otra.²⁴

All the meanings that the term comprised therefore had some common features which ensured a deep connection—with a monarch or a kingdom—originating from different causes, all of which created rights and duties.

The studies about *naturalidade*, nativeness, immigration and naturalization in the early modern period have assumed that the first was essentially a synonym for the recognition of belonging to a kingdom, with all the privileges attached to it. If, as has so far been the case, we do not consider what *naturalidade* and being a *natural* might have meant for the nobility—in both practical and ideological terms—then the study of these concepts is incomplete. Or else, to use Skinner's terminology,²⁵ any attempt to reconstruct the genealogy of the *natural* concept will be incomplete as the historian rules out one of its branches, the one that ended up being extinguished, for purely teleological reasons. In this article, I will focus on the study of the connection of the concept of *natural* with the

²³“the duty that men have towards each other, for some lawful reason, to love one another and to be concerned for their well-being.”

²⁴“The first and the best reason is the [connection] that men have with their natural lord, because they too, as well as those of the lineage they descend from, were born and were rooted in and belong to the land where the lord is; the second connection is that which comes through vassalage; the third through upbringing; the fourth through chivalry; the fifth through marriage; the sixth through inheritance; the seventh by being released from captivity, or by being freed from death or dishonor; the eighth by being made a freeman with the one who frees him receiving no price for this; the ninth by becoming a Christian; the tenth by living on the land in spite of being a native of another.” *Partidas*, Tit. XXIV, Leyes I and II.

nobility,²⁶ understood as being equivalent to the entitlement to membership of a kingdom in the Portuguese legal texts of the fifteenth, sixteenth and seventeenth centuries. Bearing in mind what is stated above, I will maintain that the evolution of one meaning of the concept of *naturalidade*, i.e. nativeness, its legal development, and the need to see it recognized, was a minor question for the nobility until well into the early modern period, whereas, for other groups, particularly tradesmen, merchants and businessmen, it became a crucial matter. As Maria Inés Carzolio wrote in relation to the concept of *vecindad* (municipal citizenship), and a definition that I consider perfectly applicable to nativeness, the nobility insisted "on trying to continue being ruled by personal privileges and not by territorial jurisdiction."²⁷ And such a bifurcation in the history of *naturalidade* (nativeness) into two paths, the noble one and the non-privileged one, took place in Portugal sometime in the fifteenth century, at the same time as the process that would end up turning vassals into natives was taking place, in other words during the century when Portugal and Castile controlled the trade on their borders with iron fists and reinforced the commercial routes with which they were attempting to delimit their respective areas of expansion overseas.

With the configuration of the borders and the attempt to close the Iberian areas overseas, legal nativeness became more important from the practical point of view for merchants, tradesmen and bureaucrats, an importance that would increase even further during the union of the crowns of Portugal and the Catholic Monarchy from 1580 to 1640.²⁸ During this centuries-old process, *naturalidade* gradually lost some of its meanings and came to be essentially understood as relating to membership of a particular community and the enjoyment of its exclusive rights.²⁹ It was in this final part of the process to which we are now referring that modern nativeness started to become an inconvenience for the aristocracy, which until then had relied on royal graces and favors to prosper and grow. The union of Portugal with the Catholic Monarchy and the agreement with Tomar's restrictive conditions, together with the laws which sought to prevent traditional marriages between Castilian and Portuguese lineages, began to pose a problem for the strategies of

²⁵As Professor Skinner recently mentioned, "*When we trace the genealogy of a concept, we uncover the different ways that may have been used in the past. When retrieving these uses, we also gain a useful tool for reflection on how this concept is used today,*" Skinner (2011 [2008]: 9).

²⁶In this article, I will refer to the nobility as a whole, without breaking it down into categories. For the categories established for this group at the end of the Ancien Regime, see Monteiro (1987).

²⁷Carzolio (2002: 651).

²⁸For an analysis of the adaptations and conflict between the different legal nations of the Catholic Monarchy, see Gil Pujol (2004).

²⁹According to Tamar Herzog's definition for Castile, nativeness "*was a status that appeared in Castile in the late medieval period and was immediately distinguished from vassalage and subjection. By the fifteenth century, it defined a particular community of people who enjoyed exclusivity in office holding and in the use of ecclesiastical benefices in the kingdom*". Herzog (2003: 8).

important families on either side of the border. According to a Law of 9 June 1595, later included in the *Ordenaciones Filipinas* (Philippine Ordinances), it was established that, “esta ley [referring to an earlier one, of June 5, passed in order to prevent primogeniture unions in Portugal] queremos e mandamos se entenda não somente casando as pessoas destes Reynos e Senhorios de Portugal com outras naturaes delles, mas que tambem haja lugar nas pessoas que casarem fóra dos ditos Reynos com pessoas estrangeiras e não naturaes: por maneira que em nenhum tempo se possam ajuntar, nem ajuntem as ditas casas e Morgados deste Reyno, com os outros de outro Reyno de fóra deste, senao na forma desta Ley.”³⁰ Clear examples highlighting the harsh process of becoming aware of the importance of nativeness as a practical issue for the nobility were the lawsuits and disputes which, in the first decades of the seventeenth century, Don Diego de Silva y Mendoza (1564-1630), the Count of Salinas,³¹ the Marquis of Alenquer and Viceroy of Portugal,³² had to face. Firstly his rivals in the Council of Portugal and then the political enemies he had among the representatives of the Portuguese Crown (taking advantage of the importance that nativeness requirements had acquired after 1580) denied him his rights both to the positions he had and the titles Felipe III had given him during his reign, as well as to his right to succeed in Portugal to his family's Portuguese estates because he was born and lived in Castile. He, on the other hand, did everything within his power to be acknowledged as a legal and natural citizen of Portugal, but in vain.³³

It has again been pointed out recently that, in the early modern period, identities were multiple and capable of adapting to one another according to circumstances,³⁴ in the same way that there were several imaginary communities³⁵ to which the individuals of the *Ancien Régime* could feel that they belonged. In my opinion, this is undoubtedly most fertile ground for analyzing the relationship between nobility and *naturalidade* in the early modern period. Nevertheless, in this article, my purpose is to study the legal reflections of the very

³⁰“We desire and command this law to be understood to apply not only to people from these kingdoms and dominions of Portugal who marry other natives from the same places, but also to people who marry outside the said kingdoms to foreign and non-native people, so that at no time can those houses and entailed estates of this kingdom be joined together or be united with those of another kingdom outside this one if not in accordance with this law.” Ord. Filip., Lib. IV, Tit. C, 14.

³¹For a biography of the Count of Salinas, see the works of Trevor Dadson, which are fundamental. It is important to mention that there is a recent compilation of some of these in Dadson (2011).

³²For the public career of the Count of Salinas in the Council of Portugal and his viceroyalty, as well as the problems that the accusations of not being Portuguese caused him, see Gaillard (1982).

³³For the speeches and debates in which the Count took part in order to match the different nationalities of the Monarchy in the context of his lawsuits under the reign of the Catholic king, see Terrasa Lozano (2012b). For the lawsuits and the general difficulties that the Silvas faced in seeking to inherit their ancestors' estate in Portugal, as a result of their not having Portuguese nativeness, see Terrasa Lozano (2012a).

³⁴For a reflection on this subject, see Pulido Serrano (2011: 130- 142).

³⁵As has been defended by recent historiography in several areas by recovering the concept coined in the 1980s by Benedict Anderson. Anderson (1991) [1983].

secondary position that the connection with *naturalidade*—now meaning mainly nativeness—occupied in the nobility's economic, political and family practices. In spite of the criticism directed against historical research that focuses too heavily on legal texts, the importance of the latter cannot be denied because, as António Manuel Hespanha has pointed out, legal texts are a compact way of expressing the political, theological and philosophical concepts that are produced by and about different societies, as well as a way of reinforcing the social spread of those same concepts.³⁶ Therefore, without seeking to investigate aristocratic imagery at this point, I will focus on the study of nativeness, not as an element of identity, but as a legal requirement, as a need to access or enjoy privileges. And, furthermore, this will be done bearing in mind Tamar Herzog's warning that very seldom were efforts made to define nativeness in the legislation of both kingdoms, something that was, in fact, only referred to in relation to conflictive contexts in their respective codes.³⁷ In fact, nativeness, natives and foreigners are concepts that were taken as given and were only mentioned in connection with privileges, prohibitions and recognitions, or the lack thereof.

Starting then from these premises, I will try to prove my hypothesis in the following way: first, I will discuss the dual process taking place in Portugal in the fifteenth century, which included closing the borders and imposing trading restrictions on outsiders, while the nobility were able, without much difficulty, to pursue their political and family strategies as if the border of Castile did not exist. Then, through an analysis of the relationship between the concepts of native, foreigner or other origins in the *Ordenações Afonsinas*, *Manuelinas* and *Filipinas*, I will attempt to determine the importance that this characteristic had had for merchant groups since at least the reign of Dom Duarte (1433-1438), whereas, for the nobility, it remained of little relevance practically until the accession of Felipe II in 1580.

2. Absolute Royal Power, borders and commercial affronts.

The fifteenth century, as the historiographical cliché states, was a turbulent time in most Western European kingdoms, which ended after various periods of violence and civil wars with the consolidation on the throne of strong monarchs able to pursue policies that would help them to reassert their royal power. This was the case with Henry VII (1485-1509) in England after the War of the Roses and Isabel *la Católica* (1474-1504) in Castile

³⁶Hespanha (1993: 27).

³⁷Herzog (2003: 4).

after the civil war that followed the death of her brother Enrique IV (1454-1474). In their disputes, conflicts and temporary alliances with the nobility, the Church and the urban oligarchy, these strong monarchs, just like their weaker predecessors, sought to use their alleged absolute royal power as the legitimizing element. Through this reasoning, the monarch could take decisions that ran counter to the legal codes of their kingdoms, which could help potential allies. The importance that the acceptance of this authority had for the consolidation of royal power is obvious. As has been noted in the case of France at the end of the Hundred Years' War (1337-1453),³⁸ as well as in the Castile of the Trastamaras in the fifteenth century,³⁹ a transcendental phenomenon had begun to take place, by means of which the royal power would play an important and conflictive role: the consummation of the direct bond between the monarch and his or her subjects, leaving aside the intermediate relationships of vassalage⁴⁰. In the mid-fifteenth century, the bond of *naturalidade*—assimilating being *natural* with being a native of the kingdom—had been established everywhere, although as we will see below this did not mean that vassalage was to lose its importance. In the reign of Juan II of Castile (1406-1454), it had already been established that, in general, nativeness came from birth and that when this did not exist, it could be obtained through the *Cortes* if a person's roots or residence in any city of the kingdom could be proved. However, if anyone that was powerful and lacked those requirements wished to obtain *naturalidade*, they could approach the monarch, appealing to his absolute royal power and his grace and favor. This procedure, the ability to grant nativeness in an exceptional and irregular way, normally as a reward, became part of the repertory of pardons that a monarch could bestow.

The dynastic crises of the fifteenth century in both Castile and Portugal merely reinforced the notion of nativeness in contrast to the more traditional personal ties.⁴¹ In Portugal, it was Dom João II (1481-1495) who crucially made the ability to bestow nativeness an important part of the armory that monarchs could call on when administering pardons. The use of absolute royal power in bestowing *nativeness* must have met with great resistance from the beginning, particularly when a weak monarch tried to do this, as is shown by the contrast between the excessive forcefulness with which Juan II of Castile produced his *nativeness* letters when compared with the simple rhetoric of the ones

³⁸Krynen (1993).

³⁹Nieto Soria (1998).

⁴⁰Nieto Soria (1998: 197).

⁴¹Gutiérrez Nieto (1995: 23).

bestowed by Dom João II of Portugal. Thus, for example, at the end of his turbulent reign, Juan II of Castile was to bestow letters of nativeness, with the privileges that this implied,

non embargantes quales quier leys e fueros e dichos ordenamientos, fazzanas, costumes, estilos e toda otra cosa de qual quier natura, vigor e misterio que en contrario sea o pueda. Ca yo, de mi çierta çiencia e proprio motu e poderio real avsoluto, lo abrogo e derogo en quanto a esto atanne, e dispenso contra todo ello e contra cosa e parte dello, e espeçialmente contra las leys e ordenamientos que dizen que las cartas dadas contra foro o derecho deven ser obedeçidas e non complidas aunque contengan qualquier clausulas derogatorias e que las leys e fueros e derechos non pueden ser derogatorias e que las leys e fueros e derechos non pueden ser derogados, salvo por Cortes.⁴²

For his part, Dom João II of Portugal, at the end of his reign, and from a position of uncontested power, when he granted nativeness to the Castilian apothecary Alfonso Alvarez, a resident of Setúbal, limited himself to letting it be known “que nos queremos fazer gracia e honor,”⁴³ to the said apothecary, to make him a native of his kingdoms, with all the rights pertaining to his natives.⁴⁴ During the reign of Dom João II, special naturalizations of foreigners were channeled through his Chancellery, as can be seen in its files. With the creation of the *Desembargo do Paço*⁴⁵ at the end of his reign and its organic constitution in 1521, in the reign of Dom Manuel I (1495-1521), those files were to become its jurisdiction. This new office, made up of the high court judges presided over by the king, had as its main area of competence to decide on matters of grace and favor, among which the naturalization of foreigners may have played a predominant role. Among the requirements asked of those who applied for Portuguese nativeness was the applicant’s occupation,⁴⁶ which undoubtedly supports my hypothesis that those interested in being or not being identified as natives or foreigners, or in becoming natives, were by no means mainly the members of the nobility.

⁴²“notwithstanding any laws, jurisdictions and said ordinances, exploits, customs, and any other thing of whatever nature, strength and mystery that is or might be otherwise, I, in my certain knowledge and through my own free will and absolute royal power, rescind and repeal all that relates to this and discharge against all this and against each and every part thereof, and especially against all the laws and ordinances that say that the letters given against the jurisdiction or right must be obeyed and not complied with although they may contain any derogatory clauses and that the laws and jurisdictions and rights may not be derogatory and that the laws and jurisdictions and rights may not be derogated, except by Parliament.” Nieto Soria (1998: 142).

⁴³“that we wish to make a grace and favor...”.

⁴⁴ANTI, Chancelaria de Dom João II, Liv. 15, f. 34v.

⁴⁵For this institution, we follow Rodrigues (2000: 13-53) and Subtil (1996).

⁴⁶The other requirements for nativeness related to birth, religion, length of residence in the kingdom, place of residence and the reason for the request. Rodrigues (2000: 53).

So, nativeness and its acquisition, or its granting, were first of all a matter that depended on the strengthening of royal power. Nativeness brought with it economic and commercial privileges, obviously affected by the difficult relations between Portugal and Castile throughout the fifteenth century. When the Treaty of Alcañices (1297) almost definitively shaped the frontiers of Portugal, the border between the two kingdoms became a major feature of both Castilian and Portuguese laws and their *Cortes* received petitions to either facilitate or impede (depending on the circumstances), the trade of goods, animals and people. This issue has in fact merited the attention of a great many historians because of the considerable body of information it has left behind.⁴⁷ Throughout the Middle Ages, a series of rules were produced in order to control the traffic of goods, and to regulate or sometimes forbid the export of products that were considered too valuable; they also established the location of customs houses and their duties.⁴⁸

Furthermore, during most of the fifteenth century, the border between Castile and Portugal was a hot spot where open war broke out on several occasions. The treaties of Medina del Campo (1431), Almeirim (1432) and Alcáçovas (1479) were only precarious islands of peace in a highly conflictive sea. In those years, both for reasons of economic policy and retaliation against the wars being fought, there started to appear at the *Cortes* discriminatory petitions and regulations against the "foreign" merchants in much larger numbers than can be identified in the files preserved from the fourteenth century.⁴⁹ From the beginning of the fifteenth century onwards, there were a lot of petitions presented against outsiders, which indicates a clearly hostile environment towards them. It is worth dwelling on some of these petitions to understand the increasing inconvenience that those wishing to do business faced if they were foreigners in Portugal. The *Cortes* of Santarém in 1418 requested that foreign merchants should be inspected before they left for their countries, in order to prevent them taking away their gold and silver, and so did the *Cortes* of Leiria-Santarém in 1433.⁵⁰ At the *Cortes* of Évora in 1436, it was petitioned that foreign merchants loading merchandise onto Portuguese ships should be obliged to repay the kingdom the profits from their sale within a year;⁵¹ at the *Cortes* of Lisbon in 1439, it was requested that foreign merchants should be declared unable to hold positions in the courts

⁴⁷Cardoso (2000: 1).

⁴⁸Cardoso (2000: 315). For a list of these laws in Portugal between 1253 and 1482, see Cardoso (2000: 349) and, for their rendering in Spanish, see Cardoso (2000: 359-360). To see the petitions made under these laws in the Portuguese *Cortes* between 1385 and 1390, whether or not they were approved by the king, see Sousa (1990).

⁴⁹For information about the Portuguese *Cortes* in the mid-fourteenth century, see Marques and Dias (1982), Marques and Dias (1986), and Marques and Dias (1990).

⁵⁰Sousa (1990: 274-311).

or the treasury and that the cities where they could sell retail goods should be controlled;⁵² at the *Cortes* of Santarém in 1451, the demand was that they should declare the goods that they intended to sell in the kingdom.⁵³ At the *Cortes* of Lisbon in 1455, the dispute which the Portuguese wanted to avoid by hampering foreign merchants' activities was finally made clear: obviously it was related to the increasing importance that was being given to overseas trade. Thus, it was requested that "o rei não dê os seus trautos a mercadores estrangeiros sem primeiro contactar os nacionais"⁵⁴ and at the *Cortes* held in the same city in 1459 that "o rei não dê a mercadores estrangeiros exclusivos de exportação de nenhuma mercadorias por nenhuma espécie de contratos mesmo ventajosos; que todas as mercadorias do reino sejam exportadas exclusivamente por mercadores nacionais; que sejam expulsos do reino os mercadores estrangeiros."⁵⁵ At the *Cortes* held in Coimbra/Évora in 1472-1473, the king was asked to take measures against the foreign merchants in the kingdom who, thanks to wholesale transactions, received large amounts of gold and silver, which they then exported.⁵⁶ In the same *Cortes* and on the eve of the war with Castile, in an atmosphere of open hostility, the king's authority was requested so that "os naturas do reino possam, a titulo de justa compensação, resarcir-se nos castelhanos dos roubos e furtos que eles lhes fazem por mar e por terra."⁵⁷ In a war or pre-war atmosphere, retaliatory petitions of this nature were common and, in every case, the power to grant them was always a royal matter.⁵⁸ The situation was the same in Castile, and, when the monarch bestowed such a right, he did so based on the premise that, as an act of war, the retaliatory action could be exercised against anyone having the same nature as the offenders. Thus, for example, in August 1478, the Catholic Monarchs granted Juan García Menayo, a resident of Badajoz, the petition of retaliation which he had requested against some Portuguese who had stolen his cattle and goods during the truce with Portugal. The Catholic Monarchs Isabel and Fernando thus ordered,

⁵¹Sousa (1990: 322).

⁵²Sousa (1990: 330-333).

⁵³Sousa (1990: 345).

⁵⁴"The king should not grant his business to foreign merchants without first contacting national merchants." Sousa (1990: 352).

⁵⁵"The king should not give foreign merchants exclusive rights to the export of any goods through any kind of advantageous contracts; all of the realm's goods should be exported exclusively by national merchants; foreign merchants should be expelled from the realm." Sousa (1990: 366).

⁵⁶Sousa (1990: 399).

⁵⁷"Natives of this realm may, by way of just compensation, seek redress from the Castilians for the robberies and thefts that they have committed on land and at sea." Sousa (1990: 434).

⁵⁸Albuquerque (1972: 853).

a todos e cada vno de vos, que dexedes e consyntedes libremente al dicho Juan Garcia, e al que su poder ouiere, fazer prendas e represarias en el dicho reyno de Portugal e en qualesquier vezinos e moradores del dicho reyno e en sus gentes e bienes e mercaderias, doquier que los pudieren aver, e se entreguen dellos e de los dichos sus bienes, e de los dichos seys asnos con sus cargas de sardina que le tomaron, e del dicho rescate que le lleuaron, e de los dichos veynte mill maravedis de su estimacion, con las costas que a fecho e fiziere, fasta los cobrar de todo bien e conplidamente, que le non mengue ende cosa alguna.⁵⁹

The antagonism displayed towards foreign merchants during peacetime reached its peak at the *Cortes* of Évora/Viana of 1481-1482, when it was requested “que o rei determine um prazo dentro do qual todos os mercadores estrangeiros estantes no reino se vao embora; que todos os estrangeiros vindos ao reino para mercadejar regressem nas naus e navios em que vieram, sob uma pena taxativa.”⁶⁰

Unless made during wartime, these petitions seldom gained royal approval. From the fourteenth century onwards, international trade, and maritime trade in particular, had reached such a level of complexity that a mechanism had been established to minimize the impact which possible periods of war might have on it.⁶¹ Nevertheless, during the fifteenth century and particularly between Castile and Portugal in the context of their overseas and dynastic rivalry, this rudimentary form of commercial protection almost always failed to achieve its purposes. In any case, and under certain particular circumstances, nativeness had acquired exceptional importance by the end of the century, above all since the fact of not being a native might lead to limitations being imposed on the business intended to be carried out in Portugal. The signing of the treaties of Alcáçovas (1479) and Tordesillas (1494), later ratified by the renowned papal bulls, formally meant a long period of peace between Castile and Portugal. But they also meant the creation of a new privilege for the natives of each of those kingdoms—or for the foreigners who managed to obtain a favor from either the Castilian or the Portuguese monarch—namely the permission to trade in

⁵⁹“each and every one of you to allow and freely consent that the said Juan Garcia and whoever is empowered to act on his behalf may make seizures and reprisals in the said kingdom of Portugal upon any neighbors and residents of the said kingdom and upon its people, goods and merchandise, of whatever possessions they may have, and recover from them their said goods, and the said six donkeys with their loads of sardines that they took from him, and the said reward that they received from him, and the said twenty thousand maravedis of their price, together with the costs that he has incurred and will incur, until he has received everything well and completely, and that he is not prejudiced in any way.” De la Torre and Suárez Fernández (eds.) (1958: 167- 169).

⁶⁰“(…) that the king should fix a period within which all foreign merchants existing in the kingdom should leave; that all foreigners coming to the kingdom to engage in trade should return to the ships and vessels in which they came, under pain of restraint.” Sousa (1990: 478).

⁶¹On this subject, see Ferreira (1995: 33-57).

their new overseas world, delimited by the renowned line drawn at 370 leagues from Cape Verde,⁶² and to partake directly in its riches and opportunities.

At the end of the fifteenth century and during the first half of the sixteenth century, the border between Portugal and Castile was no longer an area of conflict and began to flourish as the trading area which it had always been⁶³. But by then the difference between being a native or not, and the privileges and contingent inconveniences which each of those conditions entailed, had become firmly consolidated. It is easy to understand that nativeness of the kingdom had started to be of great importance for merchants and businessmen alike. But the question that must now be answered is when and how did that condition become equally useful or necessary for the nobility?

3. Wandering nobility, a few vassal princes and double *naturalidade*.

After the Treaty of Alcañices (1297), and during and after the wars of the fourteenth and fifteenth centuries, the frontier between Portugal and Spain did not mean anything to the Castilian and the Portuguese nobility, although the possibility of changing their natural king did, as well as the idea of supporting either Iberian king depending on the situation. Referring to early modern nobility, António Manuel Hespanha has pointed out that if native-born nobles belonged to the titled nobility, to the *fidalgos* of the noble houses and to those inscribed in the registers of the Royal Household,⁶⁴ as long as there was a king to guarantee those sources of nobility, little did it matter which crown he was wearing or which kingdom his subjects were native to.

From the fourteenth century onwards, Castilian and Portuguese noblemen had been crossing the border for the most varied reasons—fleeing from a betrayed king, seeking prosperity by offering vassalage to another king—which allowed them to establish a family network on both sides of the frontier.⁶⁵ The same trend was continued at the beginning of the fifteenth century with the accession to the Portuguese throne of the House of Avis.⁶⁶ By the end of the fifteenth century, there were few Portuguese noble families who did not have Castilian blood in their veins and vice-versa. In 1486, Fernando

⁶² An excellent digital version of the Treaty of Tordesillas can be found at http://www.mcu.es/archivos/docs/Documento_Tratado_Tordesillas.pdf 14/04/2012.

⁶³See Braga (2001).

⁶⁴Hespanha (1994: 344- 345).

⁶⁵On this subject, see the studies made by Regina Fernández (2005) of the comings and goings of some fourteenth-century branches of important Portuguese families, such as the Castros, Albuquerque, Pachecos, and Teles de Menezes.

⁶⁶Cunha (1996).

del Pulgar published his celebrated *Claros varones de Castilla*, dedicated to Queen Isabel la Católica. The chronicler, driven by his “amor de mi tierra” (love for my land) set to “escribir de algunos claros varones, perlados e cavalleros, naturales de los vuestros reinos.”⁶⁷ In that list of illustrious males from Castile, there were three of Portuguese origin who enjoyed considerable power in the kingdom of the Catholic Queen. One was the Marquis of Villena, Don Juan Pacheco “de nación portoguesa, de los más nobles de aquel reino, nieto de Juan Fernández Pacheco, uno de los cavalleros que vinieron de Portugal a Castilla al servicio del rey don Juan, el que fue vencido en la batalla de Aljubarrota;”⁶⁸ the second was Don Juan de Silva, the Count of Cifuentes, “fijodalgo de limpia sangre,”⁶⁹ whose grandparents “fueron naturales del reino de Portugal;”⁷⁰ and the third one was none other than the famous Archbishop of Toledo, Don Alonso Carrillo, who was “de los fidalgos e de limpia sangre del reino de Portugal. Su avuelo fue un cavallero portugués que vino a Castilla al servicio del rey don Juan, el que fue vencido en la batalla de Aljubarrota.”⁷¹

Contrary to what was happening with merchants and tradesmen, the nobility did not find their realm's *naturalidade*, meaning that concept the love which bound them to their king, to be an obstacle. The turbulent fifteenth century was particularly propitious for emigrations from one side of the border to the other and, in all cases, the most important thing was the strength of their loyalty to the king—or its weakness—and knowing how to choose the right one, rather than having the status of a “native” of one of the two realms. There are numerous examples that could be provided, but we are going to focus here on two from 1475, one of which illustrates certain practices for the establishment of ties, while the other shows that, in the long run, there was a latent close connection between *naturalidade* and political necessity, even in the sphere of the privileged minority.

As is known, when Enrique IV of Castile died in December 1474, his sister Isabel hurried to proclaim herself Queen of Castile in advance of her niece Juana, known as *La Beltraneja*, who was willing to marry Dom Afonso V of Portugal. This dynastic conflict would be the cause of two wars, a civil one in Castile and another one against Portugal. From the very first moment, the king of Portugal sought to procure for himself and his

⁶⁷“writing about some illustrious men, prelates and knights, native to your kingdoms.” Pulgar (2007 [1486]: 73).

⁶⁸“of Portuguese nationality, one of the most noble of that kingdom, the grandson of Juan Fernández Pacheco, one of the knights who came from Portugal to Castile in the service of the king Don Juan, the one that was defeated at the battle of Aljubarrota.” Pulgar (2007 [1486]: 121).

⁶⁹“a pure-blooded nobleman”.

⁷⁰“were natives of the kingdom of Portugal”. Pulgar (2007 [1486]: 137).

⁷¹“one of the most pure bred noblemen in Portugal. His grandfather was a Portuguese knight, who came to Castile in the service of the king Don Juan, the one who was defeated at the Battle of Aljubarrota.” Pulgar (2007 [1486]: 178).

future wife the support of the high nobility who had sided against Queen Isabel. On March 29, 1475, Dom Afonso V signed an agreement with the son of the Marquis of Villena through which, in exchange, he would receive his support and the recognition of himself and Juana la Beltraneja as the monarchs of Castile,

ofrecia y prometia guardar la Persona Casa y estado de dicho Sr. Dn. Diego [hijo del marqués de Villena] y en confirmarle todas las mercedes de las Ciudades Villas y lugares que hubiese tenido en tiempo del Sr. Dn. Enrique [IV], y que le faboreceria con todas sus fuerzas para que consiguiesse el Maestrazgo de Santiago y ayudaria con sus gentes contra todas las personas del mundo, aunque expusiese su Persona y estado R[ea]l. Y que le tendria cerca de si en su Casa, Corte y Consejo, y governazion dandole en todo esto el mejor lugar, y que haria de dicho sr. mayor confianza que de otro alguno: Y que asi mismo guardaria y conserbaria las Personas Casas y estados del M. de Calatraba, y del Conde Don Juan sus primos, y del Marques de Cadiz.⁷²

This deal was not exceptional in the least and it did nothing more than continue the tradition of negotiating an agreement whereby the Castilian nobility would support a possible accession of Dom Afonso V to the Castilian throne,⁷³ an idea that came from the turbulent years of Enrique IV's reign, with many of them being rendered single by civil war, in which Portugal had sometimes intervened. The relationships—loyalties and betrayals—between the king and the noblemen were frequently not a question of nativeness (and now we are referring to the fifteenth century), but more a matter of the recognition of legitimate sovereignty and mutual convenience. The chronicler Garcia de Resende, talking about the habits of Dom João II, says that, “*não soamente fazia merces a seus criados, e naturaes, mas nos Reynos estrangeiros de Castella, Aragoão, França, Roma, e outras muytas partes, muytas e grandes pessoas recebiam delle em cada hum anno muytas e grandes merces secretamente.*”⁷⁴ The

⁷²“He offered and promised to keep the Personal House and estate of the said Don Diego (son of the Marquis of Villena) and confirm all the favors from the Towns and places that he should have had in the reign of Don Enrique (IV) and that he would favor him with all his strength so that he would obtain the Grand Mastership of Santiago and would help with his people against everyone in the world, even risking his own Self and Royal estate. And that he would have him near to him in his House, Court and Council, and governance, giving him in all of these the best place, and that he would have in the said gentleman greater trust than in any other, and that we would also keep and preserve the Personal Houses and estates of the Marquis of Calatraba, Count Don Juan his cousins and the Marquis of Cadiz.”

⁷³In May 1469, when Enrique IV was still alive, he had made a similar deal to the one made with the son of the Marquis of Villena in 1475 with the Archbishop of Seville, the Marquis of Villena, the Count of Plasencia, the Marquis of Santillana and Don Pedro Velasco, the son of the Count of Haro. AHN, Frías, c. 16, d. 23. AHN, Frías, c. 16, d. 30.

⁷⁴“He not only granted graces and favors to his servants and natives, but also in the foreign kingdoms of Castile, Aragon, France, Rome and many other places, many great people secretly received from him many great favors each year.” Garcia de Resende (1798 [1545]: XIX).

economics of grace and favor, therefore, did not establish bonds only between the natural king and his natural vassals. Going back to Dom Afonso V, it is clear that he was willing to pay a substantial price in order to be considered a natural king by the Marquis of Villena's son if that might have meant his being recognized as king of Castile. Hence, on occasions, the nobility had quite a lot of leeway for deciding which king or queen they would consider their natural monarch, and what they would receive in exchange for that, regardless of whether or not this monarch had already been recognized by his or her own kingdom.

Through the *Anales de Aragón* by Zurita—presumably unaltered—we have access to a manifesto by Juana *la Beltraneja* to the Castilians, signed in Plasencia on May 30, 1475, just two months after her royal consort had promised the earth to the Marquis of Villena's son and his relatives. It is important to note the defense that Doña Juana makes of the legitimacy of her husband at the end of this important and illustrative document. The strongest point that *la Beltraneja* makes is that the king of Portugal, the third monarch of the House of Avis, “mi señor es natural destes mis reynos: e que de la casa real de Castilla: e descende del Rey don Enrique el segundo de gloriosa memoria; e del Rey don Juan su fiyo visaguelo del dicho Rey mi señor, e padre que Dios aya.”⁷⁵ The fact that Dom Afonso V of Portugal was declared a native of the kingdoms of Castile and Leon was a clear indicator of the importance which that legal category was beginning to gain in the increasingly strong Iberian monarchies and a sign of the importance which that status would have for the nobility when the moment came to inherit estates in kingdoms of which they were not natives.

For a certain time, nevertheless, nativeness of a kingdom, the bond with the natural king, and also vassalage, would continue to be a concept that depended on a confederacy of diffuse borders and was placed at the service of the nobility's strategies for preserving their estates. And we are not only talking about the strategies of the nobility. It is important to mention, albeit only briefly, that the declaration made by a non-European prince of *naturalidade* and vassalage to the king of Portugal could mean—and in fact implied—the effective control of a strategic territory. In 1490, the *caíd* of Azamor in North Africa let it be known to the king Dom João II through his “cavaleiros naturaes e vassallos” (native knights and vassals), Joham Froez and Martym Reynell, that it was the will of the whole of his Republic (sic) to take him as

⁷⁵ “My lord is a native of these kingdoms of mine; and of the Royal House of Castile: he descends from the King Don Enrique the second of glorious memory; and from the King Don Juan, his son, the great-grandfather of the said King, and the father that God now holds.” Sousa (1948: 83).

their lord; he therefore asked him to treat him and his subjects “como vossos naturaes e vassallos.”⁷⁶ All this was, of course, done in exchange for a series of military, commercial and territorial concessions. This was common legal practice in both Iberian overseas worlds, which I just mention here in order not to omit one of the most important meanings that *naturalidade* was beginning to gain in connection with early modern social elites, including those of non-European territories assimilated by the conquistadores.

So far, we have seen the ease with which the Portuguese and Castilian nobility were able to switch allegiance from one monarch to the other thanks to the permeability of the Portuguese-Castilian border. In this process, the granting of nativeness, or the lack thereof, did not seem to have any importance in the host kingdom. Nevertheless, treason was not the only cause of emigration for those Iberian nobles. There was another and very significant one, between the mid-fifteenth and the mid-sixteenth century, which implied considering nativeness as a measure of grace, and was nothing other than the many marriages agreed between the Castilian and Portuguese royal houses.

After almost seven decades since the last Castilian marriage—that of Dona Beatriz, the daughter of Fernando I of Portugal (1367-1383) to Juan of Castile (1379-1390) in 1383—there began once more, in 1455, to be marriages between the Portuguese and Castilian royal houses.⁷⁷ That year, Enrique IV of Castile married Princess Joana, the sister of Dom Afonso V of Portugal. This was just the start of a practice that ended up becoming almost customary. Leaving aside the fleeting marriage between Dom Afonso V and Juana *la Beltraneja* in 1475, in 1490, Princess Isabel, the daughter of the Catholic Monarchs, married Prince Afonso of Portugal. On his death, she married Dom Manuel I, who, in turn, on her death, married firstly the Castilian princess Maria (1501) and then Leonor (1509). In 1525, Isabel of Portugal, the daughter of Dom Manuel I, married Carlos V (1516-1556), and João III of Portugal (1521-1557) married Catarina de Austria, the sister of the Emperor. In 1543, there was a marriage between their daughter, Princess Maria Manuela of Portugal and the future king Felipe II (1556-1598). The last Portuguese-Castilian marriage took place in 1552 between Prince João, the son of Dom João III of Portugal and Juana de Austria, the daughter of Carlos V. These ten marriages in the space of a century led to the non-stop

⁷⁶“As your natives and vassals.” Rego (1960: 26- 28).

⁷⁷Though perhaps we might bring that date forward to the year 1447, when Princess Isabel of Portugal, the daughter of Prince Dom João, married Juan II of Castile.

transfer of nobility from one kingdom to the other, a situation that inevitably sheds light upon the relationship between the aristocracy, nativeness and the acquisition thereof.

In the matrimonial capitulations of 1453 of the first of the mentioned marriages, which joined together the future king Enrique IV of Castile and Princess Juana of Portugal, the bride was granted a series of rents and rights in Ciudad Rodrigo and Ciudad Real. In order to exercise her authority and collect her dues, she was allowed to “poner en los castillos e fortalezas dellas alcaydes mayores castellanos o portugueses o otros de qualquer naçion que sean quantos ella quisere e por bien touiere q a nos sean gratos e q a ella fagan dellos omenaje simplemente sin cautela ni condiçion, siempre salua e yrda da lealtad e verdat al señor Rey mi padre e a nos.”⁷⁸ So, in the mid-fifteenth century the queen was afforded the difficult privilege of appointing alcaides who were not natives of the kingdom, as long as they were loyal to the king. Within a few decades, the privileges of nativeness would improve considerably both in Portugal and Castile and become a channel of promotion and prosperity for the nobility.

In September 1479, shortly after the end of the war between Castile and Portugal, the first matrimonial capitulations were signed to marry the eldest daughter of the Catholic Monarchs, Princess Isabel, to a son of Dom Afonso V. In them, there was included for the first time—to our knowledge—a clause which would become canonical in the future capitulations between members of the Houses of Avis and Trastámara—and Austria when the time came. Once married, Princess Isabel would by virtue of that clause,

haveda por natural de los dichos Reynos de Portugal y haya todos los privilegios y honrras y libertades q han las Reynas de Portugal, pero si algunos privilegios son otorgados a las Reynas estrangeras de los quales no gozan las naturales de los dichos Reynos que ella los haya y goze dellos como estrangeras. E assimismo todos los hombres y mugeres de qualquer condicion que sean que con la dicha señora Infante fueren puesto que sean estrangeros sean havidos por naturales de los dichos Reynos de Portugal como si fuessen verdaderamente naturales dellos y hauran los dichos privilegios y libertades como los naturales y estrangeros.⁷⁹

⁷⁸“(…) *place in her castles and fortresses Castilian or Portuguese alcaides or others from any nation, as many as she should wish or want, who are acceptable to us and who pay homage to her simply, without caution or condition, always greeting and showing loyalty and truth to the said King, my father and us.*” Braga (2001: 135).

⁷⁹“*Be considered as a native of the said Kingdoms of Portugal and have all the privileges and honors and freedoms that the Queens of Portugal have, but, if any privileges are granted to foreign Queens which the natives of those kingdoms do not have, she should have them and enjoy them as a foreigner. And, similarly, all the men and women of any condition whatsoever who, with*

The same clause was repeated in the capitulations between Princess Maria and Dom Manuel I in 1500;⁸⁰ in the ones agreed between the latter and Leonor de Austria in 1518;⁸¹ in those of 1524 between Dom João III and Catarina of Austria⁸² and, in 1543, between Prince João and Juana of Austria.⁸³ Such a decision was reciprocal and both Isabel of Portugal, in 1525,⁸⁴ and Princess Maria Manuela of Portugal, in 1543,⁸⁵ as well as her servants, became Castilian natives under the same conditions as the Castilian brides and servants had been granted Portuguese nativeness.

Being a member of the royal entourage was, without doubt, a great opportunity for prospering in the neighboring kingdom. Queens did their best to arrange good marriages for the servants who had recently become natives. Nativeness provided a career within the palace structure, helped to connect those who enjoyed this status with good native families, and could even mean the beginning of a promising ecclesiastical career in the host kingdom. Proof of this is to be found in the analysis made by Maria Paula Lourenço, in the House of Queen Catarina of Austria, of the careers of several Castilians who had become natives when arriving in Portugal in her entourage. Thus, the Bocanegra, Velasques and Aguilar families managed to build significant alliances which helped them consolidate their position within the House of the Queen during her long reign; and Don Julián de Alva, the new Queen's confessor and almoner, ended up being promoted to the Episcopal See of Portalegre, in 1550, being awarded a seat on the Royal Council.⁸⁶ In conclusion, the possibility of having both the privileges of the host kingdom and of the kingdom of origin—and therefore none of their inconveniences—certainly made the nobility aware of the advantages of achieving legal nativeness. In fact, when Portugal was annexed to the Catholic Monarchy, and that road to prosperity and double nativeness became blocked, the nobility tried to retain some of the advantages that the Portuguese-Castilian marriages had brought them. Among the conditions presented to Felipe II in Tomar, was the one that, “la

the said Infanta, were classed as foreign should be considered natives of the said Kingdoms of Portugal as if they were truly natives thereof and had the same privileges and freedoms as the natives and the foreigners.” AGS, Patronato Real, leg. 49, doc. 36, f. 145v.

⁸⁰AGS, Patronato Real, leg. 49, doc. 49-2, f. 285v.

⁸¹AGS, Patronato Real, leg. 50, doc. 32, f. 108.

⁸²AGS, Patronato Real, leg. 50, doc. 39, f. 151.

⁸³AGS, Patronato Real, leg. 50, doc. 58, ff. 245- 245v.

⁸⁴Sousa (1948: 118.)

⁸⁵Gonzalo Sánchez-Molero (1998: 380).

⁸⁶Sousa (1948: 118).

Reyna se servirá ordinariamente de Señoras y Damas Portuguesas, y que las casará en la Patria, y en Castilla.”⁸⁷

4. Natives and Foreigners in Early Modern Legal Codes (15th-17th century).

In this section, I will analyze the scant references made to natives and foreigners in the three main Portuguese early modern legal codes, the *Ordenações Alfonsinas*, *Manuelinas* and *Filipinas*. The study of the different codes in which they appear and the people to whom they are applied will allow me to confirm the trend noted in the sections above, where we saw the immediate connection between trade and the need to be a native of the respective kingdom, as well as to analyze the progressive convergence of the nobility towards that same process. The conclusions I come to will constitute a theoretical framework for the future analysis of nativeness and the deprivation of nativeness, practices that I intend to develop in my present research project.

The Afonsine Ordinances were already in force by the mid-fifteenth century and therefore listed laws that dated back even to before the reign of Dom Duarte (1433-1438), as well as more recent ones promulgated by Dom Afonso V (1438-1481) in 1454. In the laws collected in that code, in the headings and pleas, there coexist expressions such as our vassals, *pessoas de nossos Reynos* (people of our Kingdoms) and our natives, a proof that the nativeness meaning of *naturalidade*, without having reached any hegemony, had achieved maturity in the sense which interests me in this article. Of course, the word was also used in the more restricted sense of belonging or living in a village, town or city, or being from a “*terra*” or a royal or manorial estate. Thus, for example, a Law issued by Dom Duarte establishes that “*vizinho se entenda de cada hua Cidade, Villa, ou lugar aquelle que delle for natural ou em elle tiver alguua dignidade, ou officio nosso, ou da Raynha muito amada, e prezada Mulher, ou d’outro alguu Senhor da terra.*”⁸⁸ In my analysis, I will omit those generic references, as they are, generally speaking rhetorical in nature and do not contribute in any way to answering the questions we are facing here.

In the first of these ordinances, but not as overwhelmingly as was to be the case in the following two, which were to govern life in the sixteenth and seventeenth centuries, nativeness started to gain in importance as an element to be used for distinguishing between

⁸⁷ “*The Queen will normally have at her service Portuguese Ladies and she will have them married in Portugal and in Castile*”. Lourenço (2002-2003: 370-371). That was one of the clauses Felipe II swore to respect in Tomar, as stated by Faria e Sousa (1687: 322).

the merchants belonging to the kingdom and foreign merchants, stating the privileges corresponding to the latter. The Afonsine Ordinances included a law introduced by Dom Fernando I (1367-1383) with the significant title of *Dos Mercadores Estrangeros, como ham de comprar e vender suas mercadarias*.⁸⁹ The sole purpose of that law was to protect "os Mercadores nossos naturaes," "dos nossos Regnos, e naturaes," and "todolos nossos naturaes"⁹⁰ from the always shady, quick-witted and opportunistic "Mercadores Estrangeiros" (foreign merchants); or as stated in a law by João I (1385-1433) about cloth, from the "Mercadores, e outras qualquer pessoas de fora de nossos Regnos."⁹¹

At that moment, the laws and the king himself as a lawmaker reflected an identity somewhere between the condition of being a native of the king and a native of the kingdom and, in that context, the classification can be applied to both the noble and the plebeian. *Naturalidade* still implies a community in which the kingdom's political structure and the political body of the monarch intermingle. In this regard, the beautiful heading of Title III of Book III of the Afonsine Ordinances is highly illustrative. It refers to those who cannot be called to Court, where we read, "a Corte d'ElRey he chamada em Direito terra comu a todos os naturaes desse Reyno, assi como a corte de Roma a todos os Christaos do Mundo."⁹² The court was the place where the king was found; it was therefore his presence that determined the state of the nation, the common territory of all his natives, the natives of the kingdom. Within this concept, in which the bond with the monarch was predominant, the nobility could feel comfortable when being qualified as natives. In fact, contrary to what was to happen in the subsequent codes, the link between native and noble in any of its categories was quite frequent in the Afonsine Ordinances.

In fact, a law passed by Dom Fernando I,⁹³ and designed in theory to instill harmony between his direct vassals and his vassals' vassals, but in practice to tie them all to him through a bond of vassalage, uses a kind of rhetoric which proves that being a native of the king is not the same as being a native of the kingdom. In the already mentioned law, Dom Fernando I refers to his "*naturaees e Vassallos*," natives and vassals, when issuing laws about the duties of vassalage that were to be paid either to him or to his princes, and describing the cases that were exempt from that formality. In item eight of that law, those

⁸⁸"a neighbor is understood to be of each city, town or place a person that is a native thereof or holds there any rank or position of ours or of our beloved and most esteemed queen or of any other lord of the land." Ord. Alf.L. II, tit. XXX, 2.

⁸⁹"Of Foreign Merchants, how they should buy and sell their goods." Ord. Af. L. IV, tit. III.

⁹⁰"Our native merchants", "those from our kingdoms and natives", and "all our natives".

⁹¹"Merchants and any other people from outside our kingdoms." Ord. Af. L. IV, tit. III, 10.

⁹²"The King's Court is called in Law common land to all the natives of this Kingdom, just as the court of Rome is common to all the Christians of the world"

⁹³Ord. Af., L. IV, Tit. XXVI.

subject to the law are more clearly specified, the “Fidalgos nossos naturaees, e outros que vivem no nosso Senhorio [...] [que] servirem em defensom da terra, d’hu som naturaees, ou em que vivem, e devem a todo o tempo estar presentes;” in conclusion, “quacesquer Fidalgos, que em nossa terra e Senhorio vivem, ou daqui em diante viverem, que sejam nossos Vassallos, ou do Ifante, ou dos nossos Vassallos maiores, que de nós teem lugar, e estado per a esto.”⁹⁴ At that moment, or at least at the end of the fourteenth century—and still respected in the mid-fifteenth century—what determined the power of the nobility to become natives of the king and to enjoy the political and territorial power which this entailed was not the identity of the realm to which they belonged, but their bond with the monarch, contrary to what was already happening with merchants.

In fact, and leaving aside the names of native vassals, we have found only one peculiar kind of nativeness among the nobility. At the *Cortes* of Elvas (in 1361), the clergy lodged a complaint with Dom Pedro I (1357-1367) about the abuse of the nobility who occupied churches and monasteries, organized feasts and invited whoever they wanted, taking wines and cattle and even using the rooms of abbots and priors.⁹⁵ The *fidalgos* claimed they had a right to perpetrate what the clergy called abuses, since they were “naturaees desses Moesteiros e Igrejas” (natives of these monasteries and churches). On the subject of what it might mean to be a native of a church or monastery, we have found a clue in a law recorded in the books of the Chancellery of Juan I (1385- 1433), which also appears in the Afonsine Ordinances⁹⁶ where it is stated that,

alguus Fidalgos apropiarm a sy muitas Igrejas, e Moesteiros, dizendo que ham em elles pousadias, e comedorias, e de feito as tomam, e constringem os Abades, que lhas dem, e constringem-nos dizendo que esto ham de’aver porque jazem enterrados em esses Moesteiros, e Igrejas, e dizem, que a elles pertence a enliçom per enlegerem Abade como os Clerigos, e Coonegos, e Fraires, que em essa Igrejas, e Moesteiros stam; e fazem outras cousas, que parecem agravo a essas Igrejas, e Moesteiros.⁹⁷

⁹⁴“Our native *fidalgos* and others who live in our dominion (...) [who] serve in the defense of the land, from where they are natives, or where they live and where they must be present at all times.” In conclusion, “any *fidalgo* who lives or henceforth will live on our land and in our dominions, be they our vassals or those of the Infante or those of our more important vassals, whom we have given a place and estate for this purpose.”

⁹⁵Ord. Alf., L. II, Tit. V, XXV y XXVII. A significant number of complaints regarding this matter were made at those Courts. Marques and Días (1986: 24- 28).

⁹⁶Ord. Af., L. II, Tit. XVII, 1.

⁹⁷“Some *fidalgos* appropriate many churches and monasteries, saying that they have accommodation and food therein, and in fact many take them and force the abbots to give these places to them, and they force them by saying that they should have them because their ancestors lie buried in these monasteries and churches and they say they have the right to choose the abbot, priests, canons and friars who are in these churches and monasteries; and they do other things which seem an offence to those churches and monasteries.” Ord. Alf., L. II, Tit. XVII, 1.

It can be inferred from Juan I's law that the monastic nativeness of the nobility—to give it a name—was related to the kind of connection that their lineages had with those religious institutions where their ancestors lay buried and which would undoubtedly display their families' coats of arms; the fact that the present religious communities were not willing to recognize that authority any longer was beside the point. In any case, as the example shows, at the end of the fourteenth century and until at least the mid-fifteenth century, for the nobility, *naturalidade* referred to a personal and family tie which connected with their lineage and the monarch, and had little to do with the legal requirements of belonging to the kingdom (nativeness), a consideration that was starting to become important for tradesmen and merchants.

TABLE I

References Made to Natives and Foreigners in Manueline Ordinances (1521 edition).

Nativeness requirement for position.	Trials and lawsuits. Murder victims. Diplomatic Immunity.	Foreigners Tramps Gang members	Pilots, Sailors, caravel building	As a proof of cavalry	Ban on dueling	Overseas trade restrictions and deals with infidels	Cattle and meat control	Tradesmen
1. Lib. I, I.	1. Lib. I, I	1. Lib. I, LIV, 6	1. Lib. V, LXXXVII I 11	1. Lib. II, XXXVIII , 3	1. Lib. V, XCIII	1. Lib. V, LXXXI	1. Lib. V, LXXXVIII , 7	1. Lib. III, XLV, 17
1. Lib. I, LVI	1. Lib. I, II.	1. Lib. V, LXXXVII	1. Lib. V, XCVIII, 2			1. Lib. V, LXXXI, 2	1. Lib. V, LXXXVIII , 8	1. Lib. IV, II
1. Lib. I, LVI, 5.	1. Lib. II, XXIX					1. Lib. V, LXXXI, 3	1. Lib. V, LXXXIX, 5	1. Lib. IV, II, 3
1. Lib. II, XXIX	1. Lib. III, III.					1. Lib. V, LXXXI, 4	1. Lib. V, LXXXIX, 6	1. Lib. IV, II, 4
	1. Lib. V, XLII.					1. Lib. V, LXXXII	1. Lib. V, LXXXIX, 18	1. Lib. IV, XXIV, 2
	1. Lib. III, III, 2.					1. Lib. V, LXXXVIII , 3	1. Lib. V, LXXXIX, 19	
	1. Lib. V, LXXIII, 4					1. Lib. V, LXXXVIII , 5		
						1. Lib. V, CXII, 1		
						1. Lib. V, CXIII.		
Total: 4	Total: 7	Total: 2	Total: 2	Total: 1	Total: 1	Total: 9	Total: 6	Total: 5

This trend was to become more noticeable in the laws drawn up in the reign of Dom Manuel I, known as the Manueline Ordinances, the final and official version of which, after the withdrawal of the 1512, 1513, and 1514 editions, was published, as is known, in 1521.⁹⁸ In this document, as shown in Table I, most of the references to natives and foreigners are found in questions relating to legal procedures with tradesmen and merchants, and the Crown's control over the trade in cattle and overseas products. Of the thirty-seven times that natives and foreigners are mentioned, in only two cases is there a clear reference to native or foreign nobles: in the law forbidding duels and in the regulations governing the award of knighthoods overseas, which contains a questionnaire that the fortunate person has to answer and which includes a question about his nativeness, although it is not clear in this case if the question refers to the kingdom, the town or the city of the knight *in pectore*.

A remarkable novelty that we find in the Manueline Ordinances, which was to become important in the course of the century and even more so from 1580 onwards, is the requirement of nativeness in order to be elected for certain positions and public situations, which would affect the small nobility. Thus, to be elected as a Councilor of Justice for the *Casa de Suplicação*, one of the main legal positions in the kingdom, in addition to proving nobility, virtue, goodness and fear of God, a man "deue seer Nosso natural."⁹⁹ In the same way, as far as the mayors of towns and cities in Portugal were concerned, it was established that they "nom sejam estrangeiros, mas naturaes de nossos Reynos, e Senhorios,"¹⁰⁰ whereas with council officials there was greater flexibility, since it was requested that they should be "naturaes, ou moradores."¹⁰¹ Likewise, the Governor of the *Casa do Civel* also had to be "Nosso natural."¹⁰²

I believe that the inclusion of the nativeness requirement for access to certain positions and public offices in Portugal was closely linked to a remarkable situation that lasted from 1498 to 1500, the length in fact of the life of Prince Miguel, the son of Dom Manuel I, *O Venturoso*, and his first wife, Queen Isabel, and the grandson of the Catholic Monarchs. Known as a child of feeble health, he was the heir to Portugal, Castile and Aragón between 1499 and 1500. Given the possibility of an Iberian Union under the reign

⁹⁸For earlier versions of the Manueline Ordinances than those of 1521, see Alves Dias (1995) and Alves Dias (2002). As far as matters concerning nativeness and vicinity are concerned, there are not any great differences between the first versions of the Manueline code and those of 1521. The most important law regarding this matter is the one concerning vicinity, which is literally copied under heading XIX of the second book in the ordinances of both 1512-13 and 1521.

⁹⁹"*must be a native of our land.*" Ord. Man., Lib. I, Tit. I.

¹⁰⁰"*They must not be foreigners, but natives of our kingdoms and dominions.*" Ord. Man., Lib. I, Tit. LVI.

¹⁰¹"*natives or residents.*" Ord. Man., Lib. I, Tit. LVI.

of Prince Miguel and because of the pressure that he was under from his subjects, Dom Manuel issued a royal charter stating how Portugal should be governed in such an eventuality.¹⁰³ In that document, it was written for the first time that all the important positions in the kingdom, absolutely all of them, would always be reserved for the Portuguese: viceroys and governors, all the positions of justice, *los veedores da fazenda* (treasury officials) and high-ranking accountants, military positions (constables, admirals, standard-bearers, marshals, captains) and overseas captains. The premature death of Prince Miguel rendered all of these instructions ineffective, but the awareness that the day might come when the Portuguese would share a king with natives of other kingdoms undoubtedly gave a significant push to the recognition of nativeness as a criterion for reducing the number of competitors in the bureaucratic, judicial and military careers.

It is nevertheless worth pointing out—though it is also absolutely logical—that side by side with this tendency to impose the requirement of nativeness for positions and situations that we might call bureaucratic and related to the administration of justice, there should coexist the extraordinary importance of loyalty to the king in military appointments, a requirement that was also in force. It was required of the *Alcaldes Mayores* (the governors of castles), that, in addition to being of good lineage, having military competence and the ability to mobilize men and resources for the defense of royal fortresses, not they should have the status of natives of the kingdom, but that they should demonstrate loyalty.¹⁰⁴ Of the governors that they should appoint to defend the king's castles in the case of their necessary and inexcusable absence, it was requested, in addition to *fidalgua*, that “nom aja feita traiçam, nem aleiue, nem venha de homes que a ouuessem feita.”¹⁰⁵ In fact, when they occupied their position, they had to pledge allegiance to the very powerful Dom Manuel, “meu verdadeiro, e natural Rey, e Senhor.”¹⁰⁶

Thus, according to what the Ordinances showed, in the transition from the fifteenth to the sixteenth century, there began to be a bifurcation of the evolving etymology of *naturalidade* in the sense that interests me in this article. The first one, connected with legally belonging to the kingdom (nativeness), was to grow in importance for non-privileged classes whose economic activities could be affected by their condition of being either natives or foreigners; and the other one, which more clearly retained the original

¹⁰²“*A native of our land*”. Ord. Man., Lib. II, Tit. XXIX.

¹⁰³The full text of this royal charter can be found in Dias (2001: 26- 35).

¹⁰⁴Ord. Man., Lib. I, Tit. LV.

¹⁰⁵“*They have not committed treason, nor any defamation, nor descend from men who have done so.*” Ord. Man., Lib. I, Tit. LV, 1.

¹⁰⁶“*my true and natural king and lord*”. Ord. Man., Lib. I, Tit. LV, 4.

sense of having a bond with the monarch that stretched beyond borders and legal territories. The evolution of this dual process would become a source of conflict in the following years.

TABLE II
References Made to Natives and Foreigners in the Philippine Ordinances.

Nativeness requirement for position	Trials and lawsuits involving native and foreign tradesmen and sailors	Native defense, book publication, requisition and control	Threat of being deprived of nativeness	Definition of native	Ban on dueling	Restrictions on exports,, overseas trade and dealings with infidels	Control of Successions
1. Lib. I, XXXV.	1. Lib. I, XLIX-3	1. Lib. I, XIII, 3.	1. Lib. II, XIII.	1. Lib. II, LV.	1. Lib. V, XLIII	1. Lib. III, LIX, 19	1. Lib. II, XXXV.
1. Lib. I, LXXV	1. Lib. I, LII.	1. Lib. II, XXVI, 7	1. Lib. II, XV		1. Lib. V, LXXX-6	1. Lib. IV, II, 2	1. Lib. IV, XCVI, 17
1. Lib. I, LXXXI.	1. Lib. I, LII, 2	1. Lib. V, CII.				1. Lib. V, LXXXVI, 1	1. Lib. IV, C, 5
	1. Lib. I, LII, 4.					1. Lib. V, LXXXVI, 4	1. Lib. IV, C, 14
	1. Lib. III, XX, 6.					1. Lib. V, LXXXVI, 7	
	1. Lib. V, CXXII, 7.					1. Lib. V, XCVII	
						1. Lib. V, CVI,	
						1. Lib. V, CVI, 7	
						1. Lib. V, CVIII.	
						1. Lib. V, CIX.	
						1. Lib. V, CXII.	
						1. Lib. CXII, 5.	
						1. Lib. CXIII	
Total: 3	Total: 6	Total: 3	Total: 2	Total: 1	Total: 2	Total: 13	Total: 3

The uncoded decrees essentially promulgated by Dom Manuel I and Dom João III are not relevant to this research; all the regulations relating to foreigners merely refer to special courts for national groups, such as Germans,¹⁰⁷ or repeat the same old ban on Castilian exports of cattle.¹⁰⁸ The Philippine Ordinances (1603) did, however, contain a series of laws of great relevance relating to nativeness and its relationship with the nobility. As shown in Table II, the laws that most frequently referred to natives and non-natives were those which, for different reasons, imposed restrictions on exports and overseas trade. Nevertheless, the most significant was a series of laws which, although not large in number, were of great relevance for the subject under study here. Firstly, it is worth mentioning Title LV of Lib. II, *Das pessoas que devem ser havidas por naturaes destes Reinos*.¹⁰⁹ This was the first time that Portuguese laws had revealed the need to establish who could

¹⁰⁷Leyes Extravagantes, Tit. II, ley V. License of May 4, 1563.

¹⁰⁸Leyes Extravagantes, Tit. IV, ley II. License of November 3, 1529.

legally claim Portuguese nativeness and the requirements that had to be met in order to do so. Those laws, promulgated by the new Habsburg dynasty after the Iberian Union, were a response to the growing demands for nativeness in the kingdom. As Felipe II had agreed at the *Cortes* of Tomar, viceroys and governors and all those holding legal and financial positions now had to be Portuguese, as well as those working for the royal household, those holding military positions on land and at sea, and the beneficiaries of secular and religious prebends and of jurisdictional and royal allowances.¹¹⁰ Further proof of the importance of nativeness is shown by the fact that, for the first time, it was established that renouncing one's nativeness would be a punishable offence when the intention was either to gain some benefit from the kingdom or to protest to the Holy See against royal privileges.¹¹¹

Even though the nobility might feel that being a *natural* represented a loving bond with their monarch, it was obvious that after 1580 they could not close their eyes either to the meaning of nativeness, which had become hegemonic, or to its consequences. The unification of the two dynasties had ended the freedom of movement and the alliances which the nobility had enjoyed, as if the border between Spain and Portugal did not exist. Part 14 of Heading C of Book IV of the Philippine Ordinances, the famed law of 1595, restricted, for the first time, marriages and the joining together of estates between members of the nobility who were natives of different kingdoms. Many different strategies would be devised in order to get around those obstacles, among them taking part in debates about what was involved in being a vassal of the Catholic king in any of his kingdoms.¹¹² But the truth is that no longer was being a native of the kingdom a matter that only concerned merchants.

Epilogue

On August 25 1770, Dom José I (1750-1777) issued an *alvará* declaring that Dom Estêvão Soares de Mello, the lord of the Casa dos Donatários de Mello, and his sister, Dona Teresa de Mello, had been deprived of the *naturalidade* of their family, whom, as the

¹⁰⁹Of the people who must be considered natives of these Kingdoms."

¹¹⁰Faria e Sousa (1687: 321- 322).

¹¹¹Faria e Sousa (1687: 321- 322).

¹¹²For those strategies devised, for example, by the Earl of Salinas, see Terrasa Lozano (2012b); for an analysis of this type of discourse within the framework of the Spanish West Indies at the time of the union of the two crowns, see Cardim 2008.

king justified, they had insulted so much with their behavior.¹¹³ Unfortunately, the royal decree provides no more details about the indignities of the siblings of the House of Mello; nevertheless, some have become public thanks to other sources. For example, we know that Dona Teresa once pretended to be pregnant by her fiancé in order to be released from the Encarnación convent, where she lived in seclusion. Also, she accused her brother Dom Estêvão of being a deserter from war.¹¹⁴ These actions made them unworthy of representing the memory of their glorious ancestors so, once they had been divested of their family's *naturalidade*, and being *reputados por estranhos*,¹¹⁵ the Mello siblings and their descendants were divested of all the Crown property and Military Orders¹¹⁶ that they held. According to the genealogist Felgueiras, this stripping of the family's *naturalidade* was tantamount to their being deprived of their status of being natives of the kingdom.¹¹⁷

In spite of the historian's temptation to tell lineal stories and draw clear genealogies with lines which reach our days, the example of the Mello siblings and the concepts involved in the deprivation of their *naturalidade*- meaning nativeness and family belonging- prove that, at least in connection with nobility and despite what has been stated above, polysemy remained in Portugal until the end of the Old Regime. In the history of *naturalidade*, in its slow elaboration, it is clear that the legal aspects were relevant; but as it is demonstrated by the dissolute Mello siblings that in order to reach an accurate understanding of the full meaning of being *natural* and what it entailed to be deprived of it in that period, it is important to go on researching along the path of identities, imaginaries and conflictive practices in the kingdoms of early modern Europe.

¹¹³ANTT, SP 3567 (61), f. 339.

¹¹⁴Gayo (1992 [1938]: 130).

¹¹⁵"Considered foreign"

¹¹⁶ANTT, SP 3567 (61), f. 339.

¹¹⁷Gayo (1992 [1938]: 130). Dom Estêvão de Mello was exiled to Angola but, in the reign of Dona Maria I, his family's *naturalidade* was restored and returned to him. Gayo (1992 [1938]: 130).

Bibliographical References

- Alagaçam de direito por o senhor Dom Pedro, sobre a successam do Estado, Caça, Titulo do Duque de Aveiro (1666)*. Lisbon, Oficina de Domingos Carneiro.
- Albuquerque, Ruy, (1972). *As Represálias. Estudo de história do direito português (sécs. XV e XVI)*. Lisbon: R.M. Albuquerque.
- Anderson, Benedict (1991) [1983]. *Imagined communities. Reflections on the Origin and Spread of Nationalism*. London and New York: Verso.
- Braga, Isabel Mendes Drumond (2001). *Um Espaço, Duas Monarquias. (Interrelações na Península Ibérica no Tempo de Carlos V)*. Lisbon: Centro de Estudios Históricos, Universidade Nova de Lisboa.
- Cardim, Pedro (2008). "Todos los que no son de Castilla son yguales. El estatuto de Portugal en la Monarquía española en tiempos de Olivares". *Pedralbes*, 28 (2): 521-552.
- Cardoso, Isabel Vaz de Freitas Botelho (2000). *Uma fronteira entre mercados. A Norte do Douro na Idade Média*. Porto: Universidade de Porto, PhD Thesis.
- Carzolio, Maria Inés (2002). "En los orígenes de la ciudadanía en Castilla. La identidad política del vecino durante los siglos XVI y XVII". *Hispania*, LXII/2 (211): 637-692.
- Costa, Leonor and Cunha, Mafalda (2006). *D. João IV*. Rio de Mouro: Círculo de Leitores.
- Cunha, Mafalda Soares (1996). "A nobreza portuguesa no início do século XV: renovação e continuidade". *Revista Portuguesa de História*, 31 (2): 219- 252.
- Dadson, Trevor (2011). *Diego de Silva y Mendoza. Poeta y político en la corte de Felipe III*. Granada: Universidad de Granada.
- Dias, João José Alves (1995). *A primeira impressão das Ordenações Manuelinas, por Valente Fernandes*. Lisbon: Colibri.
- Dias, João José Alves (2001). *Cortes Portuguesas. Reinado de D. Manuel I (Cortes de 1499)*. Lisbon: Centro de Estudos Históricos, Universidade Nova de Lisboa.
- Dias, João José Alves (2002). *Ordenações Manuelinas. Livros I a V. Reprodução em fac-símile da edição de Valentim Fernandes (Lisboa, 1512- 1513)*. II. Lisbon: Centro de Estudos Históricos, Universidade Nova de Lisboa.
- Esteban Estríngana, Alicia (ed.) (2012). *Servir al Rey en la Monarquía de los Austrias. Medios, fines y logros del servicio al soberano en los siglos XVI y XVII*. Madrid: Sílex.
- Faria e Sousa, Manuel (1687). *Epítome de las historias portuguesas. Adornado de los retratos de sus Reyes con sus principales hazañas*. Brussels: Francisco Foppens.
- Gayo, Manuel José da Costa Felgueiras (1992) [1938]. *Nobiliário de famílias de Portugal*. VI (18). Braga: Carvalhos de Basto.
- Ferreira, Ana Maria (1995). *Problemas marítimos entre Portugal e a França na primeira metade do século XVI*. Cascais: Patrimonia Historica.
- Fonseca, Luís Adão y Ruiz Asensio, José Manuel (1995). *Corpus documental del tratado de Tordesillas*. Valladolid: Sociedad V Centenario del Tratado de Tordesillas y Comissão Nacional para as Comemorações dos Descobrimentos Portugueses.
- Gaillard, Claude (1982). *Le Portugal sous Philippe III d'Espagne. L'action de Diego de Silva y Mendoza*. Perpignan: Université des Langues et Lettres de Grenoble.
- Gonzalo Sánchez-Molero, José Luis (1998). "La formación de un privado: Ruy Gómez de Silva en la Corte de Castilla (1526-1554)". In José Martínez Millán (dir.), *Felipe II (1527- 1598). Europa y la Monarquía Católica*. Madrid: Parteluz, 379- 400.
- Gil Pujol, Xavier (2004). "Un rey, una fe, muchas naciones. Patria y nación en la España de los siglos XVI y XVII". In Álvarez-Ossorio, Alvariño and García García, Bernardo

- (eds.), *La Monarquía de las Naciones. Patria, nación y naturaleza en la Monarquía de España*. Madrid: Fundación Carlos de Amberes, 39-76.
- Guillén Berrendero, José Antonio (2012). "Com muito perigo das suas vidas. La teoría nobiliaria y la imagen del servidor en el imperio portugués en tiempo de los Felipes". *Historia Social*, 72: 3-21.
- Gutiérrez Nieto, Juan Ignacio (1995). "Guerras dinásticas y nobleza en Castilla y Portugal al finalizar la Edad Media". In Luis Suárez Fernández and Juan Gutiérrez Nieto (coord.), *Las instituciones castellano-leonesas y portuguesas antes del Tratado de Tordesillas*. Valladolid: Sociedad V Centenario del Tratado de Tordesillas, 21- 26.
- Herzog, Tamar (2003). *Defining nations: immigrants and citizens in early modern Spain and Spanish America*. New Haven and London: Yale University Press.
- Hespanha, António Manuel (1993). "A Nobreza nos Tratados Jurídicos dos séculos XVI a XVIII". *Penélope. Fazer e desfazer a História*, 12: 27- 42.
- Hespanha, António Manuel (1994). *As vésperas do Leviathan. Instituições e poder político. Portugal-séc. XVII*. Coimbra: Almeida.
- Krynen, Jacques (1993). *L'empire du roi. Idées et croyances politiques en France, XIIIe-XVe siècle*. Paris: Gallimard.
- Lourenço, Maria Paula Marçal (1995a). *Casa, corte e património das rainhas de Portugal (1640-1754)*. Lisbon: PhD Thesis for the University of Lisbon.
- Lourenço, Maria Paula Marçal (1995b). *A Casa e o Estado do Infantado, 1654-1706. Formas e Práticas Administrativas de um Património Senhorial*. Lisbon: Junta Nacional de Investigação Científica e Técnica.
- Lourenço, Maria Paula Marçal (2002-2003) "Mulheres e Homens ao serviço da Casa de D. Catarina de Áustria: estatuto, prestígio e poder (1525-1578)". *Revista Portuguesa de História*, 36 (1): 367-390.
- Lourenço, Maria Paula (2005). "The Household of Portuguese Queens in Modern Times: Patronage and Powers". *Mediterranean Studies*, 14 (1): 17-26.
- Marques, António Henrique, Rodrigues, Maria Teresa Campor and Dias, Nuno José Pizarro Pinto (eds.) (1982). *Cortes portuguesas. Reinado de D. Afonso IV (1325-1357)*. Lisbon: Instituto Nacional de Investigação Científica.
- Marques, António Henrique Oliveira and Dias, Nuno José Pizarro Pinto (1986). *Cortes portuguesas. Reinado de D. Pedro I (1357-1367)*. Lisbon: Instituto Nacional de Investigação Científica.
- Marques, António Henrique Oliveira and Dias, Nuno José Pizarro Pinto (1990). *Cortes portuguesas. Reinado de D. Fernando I (1367-1383)*. Volumen I (1367-1380). Lisbon: Instituto Nacional de Investigação Científica.
- Mauss, Marcel 2008 [1950]. *Ensaio sobre a dádiva*. Lisbon: Edições 70.
- Monteiro, Nuno Gonçalo (1987). "Notas Sobre Nobreza, Fidalguia e Titulares nos Finais do Antigo Regime". *Ler História*, 10: 15-51.
- Nieto Soria, José Manuel (1998). "El poderío real absoluto en el siglo XV". *La España Medieval*, 21: 159-228.
- Olival, Fernanda (2001). *As ordens militares e o estado moderno. Honra, mercê e venalidade em Portugal (1641-1789)*. Lisbon: Estar.
- Pulido Serrano, Juan Ignacio (2011). "Plural identities: the Portuguese New Christians". *Jewish History*, 25: 129-151.
- Pulgar, Fernando (2007) [1486]. *Claros varones de Castilla*, ed. M. A. Pérez Priego. Madrid: Cátedra.
- Rego, António de Silva (1960). *As Gavetas da Torre do Tombo (1960)*. Vol. 1. Lisbon: Centro de Estudos Históricos Ultramarinos.
- Regina Fernández, Fátima (2005). A nobreza, o rei e a fronteira no medievo peninsular. *En la España medieval*, 28: 155-176.

- Resende, Per Garcia (1798) [1545]. *Chronica dos valerosos, e insignes feitos del rey Dom Joam II de Gloriosa memoria, em que refere sua Vida, suas Virtudes, seu Magnanimo Esforço, Excellentes Costumes, e seu Christianissimo Zelo, com outras Obras que adiante se seguem, e vay acrescentada a sua Miscellania*. Coimbra: Real Officina da Universidade.
- Rodrigues, Ana Maria do Rosário (2000). *Desembargo do Paço. Inventário. Volume I. Repartição das Justiças e Despacho da Mesa. Repartição da Corte, Estremadura e Ilhas*. Lisbon: Instituto dos Arquivos Nacionais/Torre do Tombo.
- Skinner, Quentin (2011) [2008]. *Uma Genealogia do Estado Moderno*. Lisbon: ICS.
- Sousa, Armindo (1990). *As Cortes Medievais Portuguesas (1385-1490)*. Porto: Instituto Nacional de Investigação Científica.
- Sousa, António Caetano (1948). *Provas da História Genealógica da Casa Real Portuguesa*. Coimbra: Atlântida.
- Subtil, José Manuel Louzada Lopes (1996). *O Desembargo do Paço (1750-1833)*. Lisbon: Universidade Autónoma de Lisboa.
- Terrasa Lozano, Antonio (2009a). *Patrimonios aristocráticos y fronteras jurídico-políticas en la Monarquía Católica: los pleitos de la Casa de Pastrana en el siglo XVII*. Florence: PhD thesis, European University Institute.
- Terrasa Lozano, Antonio (2009b). "De la raya de Portugal a la frontera de guerra: los Mascarenhas y las prácticas nobiliarias de supervivencia política durante la guerra de la Restauração". In Bartolomé Yun Casalilla (dir.), *Las Redes del Imperio. Élités sociales en la articulación de la Monarquía Hispánica, 1492-1714*. Madrid: Marcial Pons, 233-258.
- Terrasa Lozano, Antonio (2012a). *La Casa de Silva y los duques de Pastrana. Linaje, pleito y contingencia en el siglo XVII*. Madrid: CEEH y Marcial Pons Historia.
- Terrasa Lozano, Antonio (2012b). "Por la polémica gracia del Rey Universal. Las mercedes por servicios de Felipe III en el reino de Portugal: debates y conflictos". In Alicia Esteban Estríngana (ed.), *Servir al Rey en la Monarquía de los Austrias. Medios, fines y logros del servicio al soberano en los siglos XVI y XVII*, Madrid: Sílex., 297-319.
- Torre, Antonio de la y Suárez Fernández, (eds.) (1958). *Documentos referentes a las relaciones con Portugal durante el reinado de los Reyes Católicos*. Valladolid: CSIC.
- Torres, João Romano (1904). *Dicionário Histórico, Corográfico, Heráldico, Biográfico, Bibliográfico, Numismático e Artístico*, Lisbon: João Romano & Cía.
- Valladares, Rafael (1998). *La rebelión de Portugal, 1640-1680. Guerra, conflicto y poderes en la monarquía hispánica*. Valladolid: Junta de Castilla y León. Afonso, António Jorge (1998).