

The commons in Portugal: forms of uses and management

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Texto recebido em / Text submitted on: 14/01/2025

Texto aprovado em / Text approved on: 03/07/2025



Abstract. As in many regions of Europe, common lands and communal rights in Portugal have constituted a fundamental element of the agrarian-pastoral system from the Middle Ages to the present day. An exception occurred between 1938 and 1976, when the state undertook extensive afforestation of most common lands and privatized the remainder, thereby reducing areas available for collective use to a few negligible remnants. Following the collapse of the authoritarian regime in 1974, communities of common land users advocated for the restoration of their rights to utilize the commons (referred to as baldios), a goal that was realized in 1976. Concurrently, a management framework was established that integrated customary practices while drawing upon contemporary theoretical developments, notably the work of Ostrom (1990, 2010). Between 1976 and 2018, legislative measures were introduced with the objective of accommodating new uses and promoting greater scale through the integration of commons administered by multiple communities.

Keywords. Portugal, common lands, common rights, governance.

Introduction

In this paper, we aim to present aspects of the history of commons in Portugal, with a particular focus on the self-governance experiences of user communities. In recent decades, the issue of common property has undergone a profound reassessment, driven by debates on the use of common goods (commons), particularly those surrounding the theories of Garrett Hardin and Elinor Ostrom. In his article, *The Tragedy of the Commons*, published in 1968 in the journal *Science*, Hardin emphasized the vulnerability of open-access commons to overexploitation, leading to resource depletion and unsustainability. In contrast, Elinor Ostrom (1990) in her seminal work *Governing the Commons: The Evolution of Institutions for Collective Action*, drew 800 case studies of fisheries and irrigation systems based on efficient and sustainable experiences of self-management of common goods. Ostrom demonstrated the virtues of self-management by the users according to rules defined by them.

This debate was taken up by the historiographical community, leading to numerous research projects, including studies in comparative history. In 2002, Martina De Moor, Leigh Shaw-Taylor, and Paul Warde published the book *The Management of Common Land in Northwest Europe, c. 1500–1850*, which features a series of historical accounts from France, Germany, Sweden, Holland, and England. Similarly, Marie-Danielle Demélas and Nadine Vivier edited the work *Les propriétés collectives face aux attaques libérales (1750–1914): Europe occidentale et Amérique latine*, which explores collective property systems confronted by liberal attacks in Western Europe (England, Northwest Europe, Germany, Switzerland, Belgium, France, Italy, Portugal, Spain) and Latin America (Mexico, Guatemala, Venezuela, Peru, Bolivia).

These works, along with many others devoted to the topic under analysis, challenged several perspectives within historical analysis particularly the notion that common pool resource (CPR) was merely a vestige of feudal economic systems. This representation of CPR emerged in the late 18th century and was reinforced during the liberal era, was rooted in the paradigm of agricultural development in England and Flanders. In contrast, a new model has emerged, portraying community practices as systems with adaptive capacities and the ability to integrate innovation. These can ensure a more balanced use of scarce resources and promote behavior that is more conducive to environmental protection (IÑAKI 2002).

Simultaneously, the understanding of the role of property and communal uses within peasant economies has expanded. Beyond its economic function – which is no longer viewed as exclusively serving the interests of the economically weaker social groups – its social and political roles have been emphasized, particularly in terms of shaping and sustaining local identities (VIVIER 1988) and reinforcing the social cohesion of communities. These identities and social cohesion were often forged and solidified during moments when communities needed to defend communal assets from “internal usurpers” – such as local elites or town oligarchies – or “external enemies,” including neighboring towns, manorial authorities, or the state (NETO 2013).

From this perspective, Albert Soboul argued that the survival of communities and their capacity to resist various powers were shaped through collective practices. He also noted that the French Revolution, by promoting private property, accelerated the disintegration of peasant communities (SOBOUL 1957: 283-315).

A comprehensive study of the issue of commons requires it to be understood as a complex system intersecting environmental, political, social, economic, and cultural variables. It also entails cross-referencing the discourses

– both ideological and scientific – of authorities and the legislative and doctrinal instruments aimed at regulating the commons, with the social practices.

In turn, according to new institutionalist perspective, it is crucial to consider the temporal and spatial diversity in the forms and conditions of the use and management of common resources, the multiplicity of institutional and social interests, and the legal concepts and contexts of shared ownership. Additionally, as with other historiographical subjects in rural history, the most appropriate temporal perspective for analysis is the long term. Only through such a perspective can one reveals continuities that may be concealed beneath the apparent ruptures in ideological discourses, doctrinal interpretations and legislative language.

The following points will be covered in our analysis: 1. The legacy of the past; 2. Historical and current common uses; 3. The process of the private appropriation of common lands; 4. The state's offensive against CPR; 5. Institutions and rules for managing Portuguese commons (1976-2017); 6. “Design principles are applicable to the Portuguese management experience?”

1. The legacy of the past

In the history of Portuguese communal lands, several periods can be distinguished. The first corresponds to the formation of the Kingdom of Portugal (12th and 13th centuries), during which the Crown granted land to lords and municipalities for settlement. These new communities, originating from earlier periods, may have coexisted with older ones that governed themselves autonomously. A second period occurred between the 16th, 17th, and 18th centuries and was characterized by a population increase that led to greater demand for land. Lordly entities granted uncultivated land through emphyteutic (long-term lease) contracts. This process gave rise to conflicts involving municipalities, noble houses, local populations, and royal authorities (NETO 1997; 2013). The lords prevailed, basing their power on the maxim, “No land without a lord”. A period begins with the publication of the law of July 23, 1766, which aimed to control the alienation and administration of municipal lands by central power. Due to a perverse effect, the publication of this law became an opportunity to denounce the alienation of lands carried out by ecclesiastical landlords (NETO 1997). In this context, an anti-lordship protest movement began, which would only end with the extinction of the religious orders. Meanwhile, in the mountainous areas where there were no lordly lands and where the state was unable to exercise authority, the commu-

nities continued to self-govern. The economic situation at the end of the 18th century and the beginning of the 19th century (poor harvests, rising prices, financial difficulties of the State and the landlords) accelerated the process of suppressing common lands. According to Silbert (1985) “the regression of common lands is the significant event in agricultural evolution at the end of the 18th century.” In the coastal regions, demographic pressure increased in the following decades, leading to more intensive use of the soil and the suppression of collective goods and uses, except in the sandy areas of the coastal Beira. In the Minho region, compulsory crop rotation with fallow grazing was limited to non-irrigated lands called “*agras*,” used for fattening cattle. Due to a lack of pastures, sheep farming almost disappeared from Minho and the coastal regions. In Estremadura, in the second half of the 19th century, the commons were transformed into vineyards and olive groves. Everywhere, a movement to clear uncultivated land emerged.

2. Historical and current commons usages.

As uncultivated spaces, common lands were primarily used as grazing areas for cattle, pigs, sheep, and goats, both local and transhumant¹. They were also used for collecting firewood, vegetation for soil fertilization, construction materials (wood, stone, and clay), and fruits, both wild and cultivated (cherries, chestnuts). The production of charcoal and honey were also traditional activities carried out on these communal lands. In the mountainous regions of the North and Interior of the country, there was an annual periodic distribution of plots of lands, which were individually exploited by various households. Agricultural exploitation could also involve the entire community, a phenomenon referred as “collective clearings.” As grazing fields and sources of plant fertilizers, common lands played a crucial role in supporting agropastoral activities, conducted within the context of a subsistence economy as well as market economies. Indeed, as demonstrated by Albert Silbert (1978), “land collectivism” ownership and usage in Beira Baixa and Alentejo underpinned the activities of large cattle breeders, both local and transhumant coming from Serra da Estrela. This thesis can also be applied to other regions of the country that hosted transhumant herds, such as the fields of “Baixo Mondego”. Currently, traditional uses are practiced in the commons, with increased investment in forestry, hunting, and the gathering of tradition-

¹ About traditional usages: See PEIXOTO 1990; VELOSO 1953; SILBERT 1972, 1978; DIAS 1981; BRITO 1996.

al edible products. There is also a notable emphasis on cultural and tourism activities.

By resolution of the assembly of joint owners, the common lands may still constitute a communal area for the joint owners for cultural and social purposes of interest to the inhabitants of the nucleus or population centers of their area of residence. The use, possession, enjoyment, and administration of the common lands shall be carried out in accordance with this law, local uses and customs, and the resolutions of the competent bodies of the local communities, democratically elected (artigo 3.º da Lei n.º 75/2017, de 17 de agosto).

One of the necessary measures to improve the use of common lands is to increase scale. According to the information available at <https://www.baladi.pt/>, the National Federation of Common Lands manages an area of 56,000 hectares, made up of 10 groupings and 55 common lands.

3. The process of the private appropriation of common lands or “the tragedy of privates”.

The process of private appropriation of common lands, as well as the extinction of communal uses, with the consequent fencing off of fields, is described in Modern and Early Modern Age as an effort to promote the rise and improvement of cultivated areas and the consequent increase in production and productivity. The political discourse about commons in the end of 18th and 19th centuries was legitimized by the agronomic, with a physiocratic approach, as well as the following citations of members of the Lisbon Academy of Sciences “Culture is in line with the right to property (Villa Nova Portugal); property is the great motive for improving the land” (José Veríssimo Álvares da Silva “Nothing is more contrary to good culture than the lack of property” (Rodrigo de Sousa Coutinho). Alexandre Herculano (1898: 33) a famous liberal politician in the mid-19th century, considered that “the existence of municipal wastelands and common pastures” was “one of the most serious obstacles to the progress of agriculture”.

The liberal politicians and intellectuals continued their fight against agrarian communitarianism, determined to put into practice the new conceptions of property as an absolute, exclusive and unlimited right, and to promote an increase in agricultural production by plowing up vast uncultivated areas. At the end of

the same century, Oliveira Martins presented a rural development bill in which he advocated the division of common property by all its legitimate users, common land proposed by this notable Portuguese essayist was, however, based on a type of individualization of collective assets prescribed in nineteenth-century royal legislation since 1804, and in particular in the law of 28 August 1869 (Neto 1981). In fact, this law established the methods of “disentangling” common land, as sale or emphyteusis at public auction and distribution of the land among all the neighbors who so requested, a method practiced by users of common property, sometimes with the aim of safeguarding their possession. In the meantime, some town and parish councils took over the administration of uncultivated land and began a process of individualization for the benefit of local elites, including the councilors themselves. The struggle for the privatization / individualization of “imperfect” property is expressed in various legal instruments:

Civil Code of 1867: authorizes the closure of fields; Law of August 28, 1869: decides on the removal of communal property from parishes and municipalities that are no longer necessary for communal use, and regulates their alienation; Administrative Code of 1878: grants parishes and municipalities the power to impose taxes for the use of communal property; Decree of December 20, 1893: orders municipalities to carry out land registries of communal property and proposes the alienation of “baldios” to install agricultural colonies (plots of 2 to 4 hectares); Decrees of 1918, 1920, 1921, 1924, 1925: authorize municipalities and parish boards to divide communal property when the majority of inhabitants request it. The difficulties in enforcing laws regarding commons arise from the lack of updated registries.

4. The state’s offensive against the CPR

Given the inability of local and regional authorities, as well as the populations, to collaborate with the central government in the creation of a land registry², a necessary tool for identifying community ownership, it was created the Internal Colonization Board (1936), the institution responsible for registering wasteland and promoting its afforestation or transformation into farmland (SILVA 2020). This wasn’t the first time that Portugal’s central authorities had decided to inventory the uncultivated areas for community use; they had already tried to do so in the past, particularly in the context of the liberal legislation, which was part of a drive to promote economic develop-

² A case study in NETO, 1981.

ment, known as *Regeneration*. The state's effort had no effect, however, due to the lack of cooperation from municipal and parish councils the authoritarian regime, named *Estado Novo*, assigned to a group of specialized technicians the use of repressive methods to silence popular discontent.

Finally, they were created the conditions for drawing up the first communal land registry in Portugal (*Reconhecimento dos baldios do continente*, 1939, 3 vols). 7.638 “baldios” corresponding to 407,543 hectares of commons were measured and classified, 4.6% of the continental territory. The largest areas of common land were found in the regions of Alto Minho, Trás-os-Montes, and Beira, the districts with the highest percentages of collective property were located: Viana do Castelo (27%), Vila Real (25%), Viseu (15%), and Coimbra (9%) (see map 1). Thus, the regions where extensive communal lands persisted were mountainous areas, characterized by an agropastoral economy and a prevalence of smallholdings.

Conversely, the areas with the least common land were the plains — Beira Baixa and Alentejo, dominated by large estates — as well as the districts of Lisbon, Coimbra (coastal part), Aveiro, Porto, and Braga, which experienced significant demographic pressure in the 18th and 19th centuries alongside strong social demand for land. By the early 1970s, most of the wasteland was under the supervision of the Forestry Services, with “almost 500,000 hectares placed under management north of the Tagus” (ESTÊVÃO 1983: 1260).

The *Estado Novo* policy on communal property proved to be particularly damaging to family economies. In fact, the suppression of communal areas led to a drastic drop in cattle breeding and disrupted subsistence economies, particularly those in the mountains. The afforestation drove many families out of the countryside and into the cities and abroad (particularly to European countries from the 1960s onwards), and is responsible for the current depopulation of some areas in the interior of the country. The “costs of exclusion” from the community's enjoyment of the wasteland were therefore very high, at various level. In environmental terms, a forest composed of various shrub and tree species was replaced by a monoculture of *Pinus Pinaster* more vulnerable to erosive phenomena and forest to fires. The replacement of pasture land, firewood collection and temporary cultivation with pine forest was justified by economic rationality criteria - to fix the soil in order to prevent the silting up of rivers and increase national wealth. However, afforestation was subordinated to the interests of the cellulose, resin and chemical fertilizer industries (ESTÊVÃO 1983). With this policy of promoting the forest, the authoritarian state also eliminated forms of community cooperation and local self-government, experiences of democracy, which did not please an author-

itarian and centralist state (FREIRE 2004). The afforestation of the baldios by the Forestry Services is associated with the central role of the baldio in the agrarian system, in line with the general consensus among authors that it contributed to reducing small livestock. More than two hundred and seventy thousand hectares were afforested in a process that was linked to the profound transformation that took place in the baldios and local communities, since the afforestation cycle thus forced the people to coexist with the authoritative entry of the State into community lands (GRALHEIRO 2022: 63).

The effectiveness of political power was not, however, absolute. Some mountain communities, as well as those in border regions, such as Alentejo, managed to preserve areas of common land. Others used equally successful strategies to prevent the central authority's policy of standardization: in Rio de Onor, for example, particular features were recorded that continued the collective use of land; in this case, the "council of neighbors" managed to maintain the administration of communal property through a legal strategy that consisted of the transfer of common land from the parish council to the council of neighbors (BRITO 1995).

In the 20th century, the writer Aquilino Ribeiro stood out among the resisters, publishing a work entitled *Quando os lobos uivam* (*When the wolves howl*). The book was banned and the writer imprisoned, but the clandestinely disseminated book fueled the denunciation of the afforestation that destroyed the already fragile family economies and the hope for the popular recovery of the wastelands.

5. Institutions and rules for managing Portuguese commons (1976-2017)

Following a strong collective action, under the slogan "the commons (baldios) belongs to the people", and heated debates in the Constituent Assembly, the decree-law 39/76 of January 19 returned "to the use, enjoyment and administration of the respective "commoners" the commons that had been expropriated by the "Estado Novo". They are returned to the use, enjoyment, and administration of the respective holders, under the terms of Decree 39/76 of January 19, by whose provisions they shall henceforth be governed: the common lands subject to the forestry regime and those reserved (under paragraph 4 of article 173 of Decree-Law n. 27 207, November 16, 1936), to which the Internal Colonization Board has not assigned any purpose or use".

The return of common lands to the communities from which they were dispossessed by the fascist state corresponds to a long-standing and persistent demand of the people and fulfills an intention repeatedly announced by the various governments that have succeeded each other since April 25, 1974 (decree-law 39/76 of January 19).

The aim was to concretely associate the restitution of common lands with the institutionalization of forms of local democratic organization, which are granted broad decision-making powers and given wide responsibilities in choosing their own model of administration. Here, too, the most open and anti-bureaucratic approach was adopted, by allowing a form of autonomous administration in which the limits imposed on the area of expression of the will of local assemblies are reduced to a minimum (decree-law 39/76 of January 1).

In line with these principles, the legislator defined the “administrative bodies” of local self-government and their powers:

- the sharecroppers’ assembly, made up of all users.
- the board of directors, an executive body made up of five sharecroppers.
- the supervisory committee also made up of 5 sharers.

Beyond autonomous management and co-management arrangements with state and local authorities (municipal councils and parish councils). Within this legal framework, around 600 communities have organized themselves to ensure the management of the “baldios”. In 1995, the national association BALADI was created, whose objectives are:

To coordinate and lead, at the national level, the associative movement of the ‘baldios’; To represent the governing bodies of the ‘baldios’ and their associative movement before the Sovereignty Bodies, official departments, local authorities, and other national and international organizations; to support the associative movement of the ‘baldios’³.

From 1976 to 2017, the use and management of commons have been subject to various laws regulating resource utilization. Our analysis and reflections are based on legislation enacted between 1976 and 2017, using the decree that is currently in force: the regime applicable to “baldios” and other

³ <https://www.baladi.pt/> (accessed on June 6, 2025).

means of community production⁴. It should be noted that these laws were the result of debates in the national parliament, with active participation from politicians representing various parties and a strong collective action.

Here is the content of the law:

Law n. 75/2017 of August 17,

Cap. 1, article 1

Object

This law establishes the regime applicable to wastelands and other community means of production owned and managed by local communities as part of the cooperative and social sector.

Article 2

Definitions

For the purposes of this law, the following definitions apply:

a) “Baldios” are lands, together with their parts and integral equipment, owned and managed by local communities, specifically those that meet the following conditions:

- Lands considered “baldios” and as such possessed and managed by the local community, even if they are not currently being used, either wholly or partially, for the communal purposes for which they were originally constituted;
- Lands considered “baldios” and as such possessed and managed by the local community, or which, having previously been used as communal lands, were subsequently subject to forestry use or other uses, but whose communal use has not been abandoned, (according to Decree-Law n. 27207 of November 16, 1936, and Decree-Law n. 2069 of April 24, 1954, and which are not covered by Decree-Law n. 39/76 of January 19);
- Lands subject to private grazing rights, whose traditional holders are the communities that possess them, as long as such rights are provided for in Decree-Law n. 40/76 of January 19;
- Lands used or enjoyed by the community, even if they are lawfully occupied by third parties, as long as such occupation does not affect the communal use or the community as a whole.
- “Group of common lands”: the association of common lands created to achieve scale of area and/or complementarity of resources for the enhancement and better exploitation of common land areas.

⁴ For example, the Baldios Law no. 68/93, of September 4; Law no. 89/97 of July 30; Decree-Law no. 165/2015 of August 17; and the current law in force, Law no. 75/2017 of August.

- Community means of production: “the unit or set of productive units owned and managed in a unified way by local communities, namely common lands or other community properties, such as threshing floors, ovens, mills and watermills, which are not owned by any legally constituted individuals or collectives, being an integral part of the cooperative and social sector of the means of production”.
- Institutional framework.

the sharecroppers’ assembly, made up of all users.

- the board of directors, an executive body made up of five sharecroppers.
- the supervisory committee also made up of 5 sharers.

Shareholders are the owners of the common land. “The universe of sharers is made up of citizens who live in the area where the corresponding properties are located, respecting the customs and practices recognized by the local communities, and may also be assigned by the sharers’ assembly to citizens who are non-resident. All sharers shall be guaranteed equality in exercising of their rights, namely in matters of enjoyment of the common lands and the exercise of management rights, which must respect local customs and practices which, in a sustainable manner, must allow the resources to be exploited, in accordance with the decisions taken at the sharers”

“Local community,” a group of joint owners organized under the terms of this law that owns and manages the commons and other means of community production.

6. “Design principles are applicable to the Portuguese management experience?”

In her book *Governing the commons. The evolution of institutions for collective action*, Elinor Ostrom presents a set of principles, known as ‘design principles’ or “good practices” (OSTROM 2010), which, according to the author, can ensure the effective and sustainable management of ‘common property resources’ (CPRs) (OSTROM 1990: 90-102). We now propose to compare the historical and current Portuguese experience of self-government of commons with the principles defined by Ostrom, in order to check their applicability to the Portuguese case.

Resource units from the CPR must be clearly defined, as must boundaries of the CPR itself.

The first principle refers to the spatial delimitation of the wasteland managed by a community, as well as the definition of the universe of users⁵. Although the community of wasteland users doesn't always coincide with the community of residents of an administrative circumscription, the territorial configuration of these communities has always been clearly defined and ensured over generations. The shepherds were the main guardians of these borders. In times of scarce resources, particularly grass, these territorial boundaries were sometimes the scene of conflicts between neighboring communities over grazing land. Such conflicts did, however, reinforce feelings of belonging and local identities.

Congruence between appropriation and provision rules and local conditions

“Appropriation rules restricting time, place, technology, and/or quantity of resource are related to local conditions and provision rules requiring labor, material and/or money”⁶.

The Portuguese experience in terms of the use and management of commons allows us to conclude that, both now and in the past, this use has been regulated by written and oral rules drawn up by bodies representing the users.

According to current legislation “the use and enjoyment of the common lands is carried out in accordance with the decisions of the competent bodies of the sharers or, failing that, in accordance with customs and usage”. In turn, the rules guiding use and management are contained in “wasteland use plans”, drawn up by the sharecropper assemblies in cooperation with the official entities that oversee land use planning and environmental protection.

In the past, the rules were drawn up by a group of people representing the communities. The anthropologist Jorge Dias, in a work dedicated to the community village of Rio de Onor (a village located in the region of Trás-os-Montes, on the border between Portugal and Galicia) writes:

The Rionorese council is the organization of all the participants in the integral collective property. It can be said that until the beginning of the 20th

⁵ Clear boundaries are present that define a resource system and separate it from the larger biophysical environment (COX, ARNOLD & VILLAMAYOR-TOMÁS 2010).

⁶ Congruence between appropriation and provision rules and local conditions: The benefits obtained by users from a CPR, as determined by appropriation rules, are proportional to the amount of inputs required in the form of labor, material, or money, as determined by provision rules (COX, ARNOLD & VILLAMAYOR-TOMÁS 2010: 20).

century, the council was the social organization that allowed the community inhabitants of Rio de Onor to manage the multiple problems of their economy as cattle-raising and farming peoples (DIAS 1981: 81).

In turn, Pais de Brito, another anthropologist who re-examined agrarian communitarianism in Rio de Onor and other community villages in Trás-os-Montes, classified the council as the “the top institution of the village” (BRITO 1995: 69).

“Colletiv choice arrangements”

“Most individuals affected by the operational rules can participate in modifying the operational rules”.

Given the potential for conflict that external interventions in the management of community property could generate (which is explained by the communities’ sense of belonging to the common lands), the drafting of rules, as well as their amendment, has always emanated from representative assemblies of the communities’: councils of neighbors in the past, assemblies of sharecroppers today - or has been done after hearing the people in extended councils.

Monitoring

“Monitors, who actively audit CPR conditions and appropriator behavior, are accountable to the appropriator or are the appropriators”⁷.

As far as monitoring the application of the rules is concerned, it is currently the responsibility of the supervisory committee, made up of five common land users, to “monitor compliance with the common land use plans”. In the past, this was the responsibility of the aforementioned bodies. However, as these are communities of inter-knowledge, it is acceptable that all beneficiaries of common resources should mobilize to ensure fairness in their use.

Graduate sanctions

Appropriators who violate operational rules are likely to be assessed graduated sanctions (depending on the seriousness and context of the offense) by other appropriators, by officials accountable to the appropriators or by both.

Regarding jurisdiction

It is up to the territorially competent common courts to hear disputes that,

⁷ “Monitoring: Monitors are accountable to or are the appropriators” (COX, ARNOLD & VILLAMAYOR-TOMÁS 2010: 20).

directly or indirectly, involve vacant lands or other community properties, especially those relating to ownership, delimitation, use, occupation or appropriation, exploitation rights, as well as decisions, actions or omissions of these bodies, the rights and contractual responsibilities—both contractual and extra-contractual—of contracts entered into with public entities under this law, as well as the rights that the bodies of local communities over these lands have and that are directly derived from this law.

“Conflict resolution mechanisms”

“Appropriators and their officials have rapid access to low-cost local arenas to resolve conflicts among appropriators or between appropriators and officials”.

“The joint owners, the governing bodies of the common lands, and the Public Prosecutor’s Office are exempt from court fees in lawsuits that, directly or indirectly, have as their object common lands. Current and historical experience of the management of commons tells us that the rules, and the sanctions for non-compliance, emanate from the communities themselves, with the intervention and/or consent of the users of community resources. As for conflict resolution, in early modern times, in rural mountain or inland communities, it was up to the local courts, which were sometimes illiterate (rural courts) but had strong authority in resolving local problems due to social recognition by the community (HESPANHA 1988).

Minimal recognition of rights to organize

“The rights of appropriators to devise their own institutions are not challenged by external governmental authorities”.

The state has, however, tried to encourage good self-government practices, particularly those that promote the sustainability of resources. Referring back to previous legislation, the preamble to Decree-Law 165/2015 of August 17 states that it

introduced sustainable and transparent management of the common lands, as principles for the use and enjoyment of their resources by the respective local communities, respecting traditional uses and customs and the decisions of the sharers, and also guaranteeing the perpetuation of these resources for the benefit and enjoyment of future generations.

Current and historical experience of the management of the commons tells us that the rules, and the sanctions for non-compliance, emanate from the

communities themselves, with the intervention and/or consent of the users of community resources. As for conflict resolution, in early modern times, in rural mountain or inland communities, it was up to the local courts, which were sometimes illiterate (rural courts) but had strong authority in resolving local problems due to social recognition by the community (HESPANHA 1988).

The current and historical experience of managing commons tells us that the rules, and the sanctions for violating them, must be applied in accordance with the approved use plan, and by decision of the allottees, as well as to forestry, agricultural and pastoral investment, and to the improvement of the forest.

In terms of the use of revenue, the most recent legislation stipulates that it must be used in accordance with the approved utilization plan, and by resolution of the sharers, for forestry, agricultural or pastoral investment, as well as for improvements to the wasteland itself, namely the construction and maintenance of community facilities (threshing floors, ovens, mills and watermills). Income from the use of common land, particularly from the installation of communication wind antennas (one of the most substantial sources of income today) has also gone towards the construction of social facilities.

Nested enterprises

Appropriation, provision, enforcement, conflict resolution and governance activities are organized in multiple layers of nested enterprises.

The principle of nested enterprises highlights that in complex or large-scale systems, governance and management tasks are not handled by a single centralized authority. Instead, these activities are distributed across multiple, interlinked layers of organization, each responsible for specific aspects of resource management.

In 1990, Elinor Ostrom proposed eight design principles, positing them to characterize robust institutions for managing common-pool resources such as forests or fisheries. Since then, many studies have explicitly or implicitly evaluated these design principles. COX, ARNOLD & VILLAMAYOR-TOMÁS (2010) analyzed 91 such studies to evaluate the principles empirically and to consider what theoretical issues have arisen since their introduction and found that the principles are well supported empirically and that several important theoretical issues warrant discussion.

The design principles of Ostrom (1990) and other scientists who have pursued this line of thinking thus are an interesting point of exit, but only partly explain the success of management institutions. Most of the conditions men-

tioned are merely characteristics of the community or institution, such as scale, village size, homogeneity, or the ability to exclude outsiders, and even though these factors undoubtedly contribute to their functionality, from our study it has become clear that the real 'glue' that keeps an institution alive over time are the social *mechanisms*, i.e., trust, legitimacy, and transparency COX, ARNOLD & VILLAMAYOR-TOMÁS (2010).

Conclusion

The long history of communal property in Portugal is one of the most interesting components of Portuguese rural history because of the multiple approaches it can take. In economic terms, community property has been the mainstay of family economies in mountain regions and support activities for cattle and sheep farming for food production and wool trade in the Alentejo region. From a social point of view, the forms of use and enjoyment of community property in Portugal is a vast field for the analysis of mechanisms of cooperation, reciprocity as well as mobilization and social cohesion in the defense of common interests in contexts of abusive external interference in community life. From a political and institutional point of view, the management of community assets is a demonstration of collective action institutions relating to the self-management of communities.

Regarding the legislative framework that regulates the governance of common lands, it establishes a balance between traditional and new practices and theories inspired, among others, by the work of Ostrom.

From the above, we can conclude that the Portuguese experience in terms of communal resource is an ecosystem with adaptive capacities and the ability to integrate innovation, as demonstrate in this text. These can ensure a more balanced use of scarce resources and promote behavior that is more conducive to environmental protection.

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