

The hand behind the handwrite: The Notary Public of Porto from the 13th to the 15th centuries

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Abstract

The present article presents some results of an ongoing research on the medieval notary public of Porto, Portugal, from the 13th to the 15th century. We begin by drawing a theoretical framework, including an approach to medieval legislation about the notarial activity, focusing not only on the juridical acts written by these notaries public, but also on their cultural background, language, clientele, juridical techniques and jurisdiction. The information extracted from the notarial acta drawn up, the diverse typology of documents and commercial references, helps us to understand a little more about this particular group of individuals: our intention is to know who were the notaries public in Porto and their socio-professional status, their kinship and the extension of their assets, identify their clientele networks and connections to the royal and city council power, and determine their role in the urban hierarchy.

Keywords: *notary public, porto, medieval history, diplomatic, manuscript.*

1. Michel Zimmerman's statement: *Le respect de la Loi nourrit le prestige de l'écrit*¹ seems to be fitting the Middle Ages, in the aspect that in the medieval period the importance of the written testimony and of the excellence of documental memory, appears as fundamental features of society. Any written transaction confers a lasting reality: it is not only a valuable support of a failing memory but also, from the beginning of the 10th century, it stands as a constitutive necessity of the *actum* itself, a requirement which is rooted in a distant past when men endeavored and organized the conditions of their collective life by laws. But, alongside the importance of the document, matters the importance of the responsible for its writing, or in other words, the notary. This article aims to

¹ Michel Zimmermann, *Écrire et lire en Catalogne (IXe – XIIIe siècle)* (Madrid: Casa de Velazquez, 2003), 11.

present some preliminary results of an ongoing research focusing on medieval notary public between 1242 and 1495 in Porto, Portugal. The analysis of this particular group of men, in a city of high political and economic importance in the Portuguese kingdom, aims to identify notaries public and to establish a relationship between their profession and the history of the city, establishing a chronology of their notarial activity, and to analyse the development of notarial practices, such as organization, articulation, hierarchy and succession, as well as to uncover their socio-economic position.

The basis of work consisted mainly in primary sources such as *Livros dos Originais* deposited in the Porto Distrital Archive, several monastic funds deposited in the Torre do Tombo National Archive, Censual do Cabido da Sé do Porto, and also in the *Corpus Codicum Latinorum eorum qui in archivo municipalis portugalensi asseverantur antiquissimorum*.² Besides these volumes we consulted other documental collections and searched for information about the notary public in general in several published and unpublished chanceries and courts.

The chronological spectrum of our research focuses between 1242, first reference of a notary public of Porto, and 1495, date of the death of King João II (1481-1495). To that end, we study the figure of the notary public from a juridical point of view, in order to understand their legal position, using the Regiments of 1305, 1340 and 1379³ as well as the *Ordenações Afonsinas*⁴ which show us some of the limitations of the notarial activity, such as the income for each *actum* written, their dress code, and travel expenses.

The first approach on the topic of the Portuguese notaries public dates back to the 1700's, although João Pedro Ribeiro's (1758-1839) study⁵ had no immediate successor. José Leite de Vasconcelos (1858-1941)⁶ and Henrique da Gama Barros⁷ (1833-1925) continued this subject of research. Until the mid-twentieth century,

² *Corpus codicum latinorum eorum qui in archivo municipalis portugalensi asservantur antiquissimorum* (Porto: Curiae Municipalis editum. Vols. I, II, IV, VI. (1891-1917).

³ The *Regimentos* of 1305, 1340 and 1379 is specific royal legislation concerning the exercise of the notarial practice.

⁴ *Ordenações Afonsinas* is a juridical compilation of Canon and Roman Law for the Portuguese kingdom.

⁵ João Pedro Ribeiro, *Dissertações Chronologicas e Críticas sobre a história e jurisprudência eclesiástica e civil de Portugal* (Lisboa: Academia Real das Ciências 1860-1896).

⁶ José Leite de Vasconcelos, *O Archeologo Português: Sinais medievais de tabelião: séculos XI-XIII* (Lisboa: Imprensa Nacional, 1920).

⁷ Henrique da Gama Barros, *História da Administração Pública em Portugal nos séculos XIII-XV* (Lisboa: Sá e Costa, 1945).

only the work of Jorge Alarcão⁸ stands out. From 1980 onwards, scientific knowledge on notaries public increased fuelled by the research done by Eduardo Borges Nunes,⁹ Isaiás da Rosa Pereira,¹⁰ and Maria Cristina Almeida e Cunha.¹¹ The works of Maria Helena da Cruz Coelho,¹² Maria do Rosário Barbosa Morujão,¹³ and Saúl Gomes¹⁴ in the following decade have also contributed to the further development of this field. However, the main input came from Bernardo Sá Nogueira in his doctoral thesis,¹⁵ and other work undertaken or supervised by him, such as the presentation of a case study on the activity of a Lisbon notary public, in a primarily diplomatic critique, by João Paulo Oliveira Fresco.¹⁶

The topic of notaries public of Braga,¹⁷ Bragança,¹⁸ Lamego¹⁹ and Coimbra²⁰ in the fourteenth and fifteenth centuries was also subject of analysis. The town of

⁸ Jorge de Alarcão, “Emolumentos do tabelionato medieval português: uma tabela inédita,” *Revista Portuguesa de História* 8 (1959), 299-305.

⁹ Eduardo Borges Nunes, “Martim Martins, primeiro tabelião de Guimarães,” *Actas do Congresso Histórico de Guimarães e sua Colegiada* 4 (1981), 25-30.

¹⁰ Isaiás da Rosa Pereira, “O tabelionato em Portugal,” *Notariado Público y Documento Privado: de los orígenes al siglo XIV*. In *Actas del VII Congreso Internacional de Diplomática* (Valencia, 1986), 615-690.

¹¹ Maria Cristina de Almeida e Cunha, “Alguns tabeliões do Algarve durante a Idade Média,” *Revista de História* 4 (1987), 151-157.

¹² Maria Helena da Cruz Coelho, “Os tabeliões em Portugal. Perfil sócio-económico (séculos XIV-XV),” in *Estudios sobre el Notariado Europeo (siglos XIV-XV)*, ed. Pilar Ostos and María Luísa Pardo (Sevilla: Secretariado de publicaciones de Sevilla, 1997). There are few references to Portuguese notarial registries. Only recently has a portuguese notarial registry been published for the first time: *Livro de Notas de Lopo Vasques, Tabelião do Julgado de Refojos de Riba de Ave (1458-1459, 1469)*. Org. João José Alves Dias e Pedro Pinto (Lisboa: Centro de Estudos Históricos, 2014).

¹³ Maria do Rosário Barbosa Morujão, *A Sé de Coimbra: a instituição e a chancelaria (1080-1318)* (Lisboa: Fundação Calouste Gulbenkian, 2010).

¹⁴ Saul António Gomes, “O Notariado Medieval Português. Algumas notas de investigação,” *Humanitas* 52 (2000), 241-286.

¹⁵ Bernardo de Sá Nogueira, “Tabelionato e instrumento público em Portugal: génese e implantação: (1212-1279),” PhD diss. (University of Lisbon, 1998). First edition Bernardo de Sá Nogueira, *Tabelionato e instrumento público em Portugal: génese e implantação: (1212-1279)* (Lisboa: Imprensa Nacional Casa da Moeda., 2008)

¹⁶ João Paulo Oliveira Fresco, “O tabelião lisboeta Afonso Guterres: reconstituição e análise diplomática da sua actividade de escrituração (1400-1441)” (Master diss., University of Lisbon, 2006).

¹⁷ Maria Cristina de Almeida e Cunha, “Tabeliões bracarenses no século XIII,” in *IX Centenário da Dedicção da Sé de Braga. Congresso Internacional Comemorativo Actas* (1990): 249-65.

¹⁸ Maria Cristina de Almeida e Cunha, “Tabeliões de Bragança no século XIV,” *Revista de História* 7 (2006): 313-324.

¹⁹ Anísio Miguel de Sousa Saraiva, “Tabeliões e notários de Lamego na primeira metade do séc. XIV,” *Humanitas* 50 (1998): 588-624.

²⁰ Maria José Azevedo dos Santos, *Alguns aspectos do tabelionato em Coimbra (séculos XIV-XV)* (Coimbra: Coimbra Editora, 1993).

Santarém was first explored by Luís António Mata²¹ and, more recently, in a Master thesis on Diplomats carried out by Maria Leonor Dias Antunes Barata Garcia.²²

Concerning Porto, a study by Maria João Silva on the episcopal chancery of Porto up to the fifteenth century,²³ and the dissertation by Adelaide Pereira Millán Costa on the political relationship between different population groups in the city in the Late Middle Ages²⁴ provide some additional insights into the study of the royal notaries, albeit not referring to it in a systematic way. There is only one article²⁵ concerning the notaries public of Porto in the 14th century, followed by a broader approach to the subject.²⁶ The relevance of these officials and their relations with Porto's society in the Late Middle Ages, is though still unknown.

2. Notaries public were first introduced in Portugal during the reign of Afonso II of Portugal (1211-1222),²⁷ although more recently, Gomes suggested that the Portuguese medieval notaries appeared before. In fact, in the first quarter of the thirteenth century some notaries were identified through an ordinal number immediately after the designation (e.g. "primus tabellio"), that, according to this author, is not indicative of precedence in office, but rather of how the service was organised, the geographic distribution of notaries, and the number of scribes dependent to them in hierarchy, relating to the responsibility of authorised and legal notary services.²⁸ Nevertheless the fact is that the reign of Afonso II marked the beginning of the Crown's active role in social and institutional life, which had to be regulated and organised. Moreover, it is generally accepted that, after the death of the king, the notaries public entered a period referred by Sá Nogueira as "eclipse".²⁹ The notary public reappeared during the reign of Afonso III (1248-

²¹ Luís António Mata, "Alguns profissionais da escrita na Santarém de quatrocentos," *Revista Portuguesa de História* 32 (1) (1997): 149-182.

²² Maria Leonor Antunes Barata Garcia, "O Tabelionado escalabatino na transição do século XIV para o século XV: estudo diplomático" (Master diss., University of Lisbon, 2011).

²³ Maria João Oliveira e Silva, "A escrita na Catedral: A Chancelaria Episcopal do Porto na Idade Média (Estudo Diplomático e Paleográfico)" (PhD diss., University of Porto, 2010).

²⁴ Adelaide Pereira Millán Costa, "Projeção espacial de domínios das relações de poder ao burgo portuense (1385-1502)". (PhD diss., University Aberta of Lisbon, 1999).

²⁵ Joaquim Lopes and Ricardo Seabra, "Documentação Notarial e Tabeliães Públicos no Porto na centúria de Trezentos," *CEM/cultura, espaço & memória* 3 (2012): 209-226.

²⁶ Ricardo Seabra, "Publicis tabellio in civitatis portugalensis: estudo sobre o tabelionado no Porto medieval (1242-1383)," (Master diss., University of Porto, 2012).

²⁷ Nunes, "Martim Martins," 25.

²⁸ Saúl António Gomes, "Percepções em torno da história do tabelionado medieval português," *Revista de História da Sociedade e da Cultura* 5, (2005): 85-86

²⁹ Nogueira, *Tabelionado e instrumento público em Portugal*, 231-311.

1279), when a certain organisation and its final implementation is evident,³⁰ although the first document drawn up by a notary public in Porto, Martim Eanes, is dated 1242.³¹ There is some evidence that notaries public also (re)appear in other Portuguese towns by that time (e.g. Trancoso, 1238, Bragança, 1242, and Leiria, 1246), being Braga the only one where the public notary actually kept their function in the period of “eclipse”.³²

Notary-specific legislation would only be implemented by King Dinis (1279-1325), namely the “*Regimento de 1305*”. Throughout the fourteenth century legislation with the same purpose appeared in Portugal: the Regiment of 1340³³ and the Regiment of 1379. Other regulations and royal provisions define the evolution of notaries public, serving as regulatory instruments issued by the crown.³⁴

Conditions were set for a process of centralisation during the reign of Afonso III (1248-1279): only then the Crown had again political strength to take a leading role in the political, legal and institutional aspects, both within and outside the kingdom. Accordingly, notaries public began to be officials belonging to the local and regional administrative structures of the Crown, doing essential work as administration staff and effectively contributing to the king’s political strategy.

3. Porto, had an inland and sea port, navigable over a stretch of more than one hundred kilometres, enabling the transportation of people and goods, and the communication with other rivers in the north region of Portugal, from the Minho River to the Vouga River. Porto was, thus, a natural inlet/outlet for national and foreign surplus goods, concentrating trade potential for fishing, shipbuilding and crafts.³⁵ In the thirteenth century, the city clearly needed to “exit” its old walls. In the first quarter of the following century, the necessity of building a new wall became clear, allowing the enlargement of the city twelve or thirteen fold.³⁶

Concerning the appearance of *publicus tabellio* at Porto, in 1242, it is not yet known whether it was an episcopal initiative, or a royal one, created *ex novo* by the

³⁰ *Ibidem*, 507-513.

³¹ Seabra, *Publicus tabellio*, 28 and 85.

³² Nogueira, *Tabelionado e instrumento público em Portugal*, 235-263.

³³ Barros, *História da Administração Pública*, 733; COELHO, “Os Tabeliães em Portugal,” 12, and Pereira, “O tabelionado em Portugal,” 615-701.

³⁴ Duarte Gonçalves, “O Tabelionado no Portugal Moderno: uma Perspectiva sobre o Tabelionado através das Ordenações Filipinas e outras Considerações,” *Sapiens: Património, História e Arqueologia* 3/4 (2010): 28.

³⁵ Iria Gonçalves, *Um olhar sobre a cidade medieval* (Cascais: Patrimonia Historica, 1996), 145.

³⁶ From 3.5 to 44.5 hectares. Armindo Sousa. “Os tempos medievais,” in *História do Porto*, dir. Luís A. De Oliveira Ramos (Porto: Porto Editora, 2000), 136, 154.

king, although the bishop was responsible for the civil jurisdiction of the city.³⁷ In fact, as in 1120 countess Teresa, mother of Afonso Henriques, first king of Portugal, granted the bishop the *cautum* of Porto, it was this one who could nominate all the town's officials, notaries included. Being so, it is possible that Martim Eanes, first notary public of Porto, had been nominated by the bishop to draw notarial *instrumenta* of the town.

Until the 15th century the documents of Porto were drawn up by different officials that entitle themselves as *episcopus tabellio*, *notarius*, *scriptor iurati episcopi* and *publicus tabellio*.

During D. Vicente Mendes episcopate (1260-96) one can find a greater concentration of *notarii publicii*, both at the curia and at the city. This is related to the purpose of the above mentioned bishop to reaffirm the ecclesiastical and civil lordship of the city. The entitlement of his scribes also served this objective.³⁸ Between 1300 and 1320, only at the Episcopal Curia of Porto, the terminology used by the scribes of the chancery gradually loses the adjective “*publicus*”, and “*iuratus*” becomes more and more usual.

Listing these notaries public was very difficult due to homonym and unclear references between those who write, appear as witnesses or are only mentioned. We observed the same name for more than one individual, or even different spellings that may indicate the same person. For example, there are at least three men who shared the name of João Domingues, two that of Estêvão Eanes, Fernão Peres, Nicolau Esteves, etc... We also listed scribes, although they do not possess *fides publica*. Nevertheless, it is quite relevant that they appear in a chronological sequence, and that they use permanently the *signum tabelionis* from the notary that they were bound to.

We compared the frequency of these notaries' working timelines, as well as the number of officials per year, with the history of the city. The result is a shifting number which can be related with the city's political and economic life since the king tried gradually to enlarge his influence in the episcopal city by all means possible, and to this purpose the notaries public played an important role in the Crown's pretensions. In the fourth decade of the thirteenth century there were only two notaries public in the city of Porto – precisely during the period that these officials were implemented locally – and in the second half of the fourteenth century that number increased coinciding with the souring of political relations between the See and the City Council, and subsequently the Bishop and the King.

³⁷ Nogueira, *Tabelionado e instrumento público em Portugal*, 312-313.

³⁸ Silva, “A escrita na Catedral,” 101-102.

For the typological study of the 560 notarial documents that constitute the *corpus* of this research we classified them according to a specific criterion, which reflects the distinction of contractual formulas, depending on the judicial type of each document. The results were that juridical *negotia*, such as “emprazamentos” (tenancy / emphyteusis contracts), and *publicae formae*, were the most common documents drawn up by Porto’s notaries public. We cannot clearly point to a specialization of a certain type of act for each notary. It seems, however, that for the cases that we have a larger number of documents, the acts presented are of a very diverse typology.

The vast majority of these documents were drawn up in the city of Porto. Nevertheless, there is an undoubtful mobility of the notaries public: until the first half of the 14th century the documents were written mainly inside or near the Cathedral See. Since the Regiment of 1305 clearly forbid clergymen to draw documents, and since the notary public surfaced as a social and professional group, the cathedral canons all over the Portuguese dioceses turned at these public officials in order to produce several types of documentation.³⁹ Thereafter, the notarial acts are drawn up primarily in the city council, but also in the most important streets of the city: the notaries visit the houses of clergymen and laics, including city council’s officials. The intersection of these people with the various actors of the economic and social life of the city is clear.

In the fifteenth century the tendency to draw up documents in the town council persisted, but there are more references to acts drawn at the houses of the notaries themselves. Pedro Fernandes, notary public and Queen’s squire, lived in *Rua Nova*, which was by then one of the most important streets of Porto.⁴⁰ Fernão Pires and Rui Gonçalves Barbosinho, also draw up documents at their houses, although it is not clear where they were located. On the other hand, *Rua Chã das Eiras* seems to be a particularly interesting place as it was where some notaries chose to live: at least three of them, Afonso Domingues, João do Porto, and Martim Gonçalves, lived in this same street.

³⁹ In Lisbon, the connection between the cathedral chapter and notaires public such as Lourenço Eanes and Domingos Martins is evident, and has already been demonstrated by Mário Farelo in Mário Farelo “O Cabido da Sé de Lisboa e os seus cónegos (1277-1377)” (Master diss., University of Lisbon, 2003), 42-43. Specifically on Lourenço Eanes, Bernardo Sá Nogueira, “Lourenço Eanes, tabelião de Lisboa (1301-1332): reconstituição e análise do seu cartório” (Master diss., University of Lisbon, 1988).

⁴⁰ Luís Carlos Amaral and Luís Miguel Duarte, “Os homens que pagaram a Rua Nova: Fiscalização, Sociedade e Ordenamento territorial no Porto Quatrocentista,” *Revista de História da Faculdade de Letras da Universidade do Porto* 6 (1985): 7-96.

The activity of the notarial practice is also demonstrated in the monasteries, and references of this continuous exercise from one notary in several monastic institutions might indicate a wider client network. Indeed, since juridical negotia began to be drawn up, almost exclusively, by notaries public, monastic institutions were forced to address these public officials in order to draw up their deeds. In fact, at this period, monasteries start simply to file documentation: monastic writing is confined to private documents and literary texts.

The organization, hierarchy and succession of these notaries can be observed in the “oficinas” to which they seemed to belong. There are several examples that testify to a relationship of generational succession (*magister / discipulus*) embodied in the use of the similar *signum tabellioni*. The bonds that we observed between these individuals, mainly through the study of references and testimony subscription, allowed us to demonstrate possible notarial networks. In some cases there is a sequence of activity: the last reference of each notary corresponds to the first of each scribe, which allowed us to proceed with the assumption that these can be examples of direct succession in the notarial craft. In others cases there is a chronological continuum of notarial functions, combined with the continuity of affixing a similar *signum* by different notaries. We also observed the functioning of these “oficinas” simultaneously or in very close periods. Thus, it seems likely that some officials were in a learning stage and would later seek the notarial office simultaneously or in replacement of their “master”.

Little can we know about the careers of these individuals, as the longevity of their activity is not proportional to the documentation raised for each notary. Notwithstanding, the most typical course of these men seems to be the beginning of their practice as scribes, then as notaries public, and in some cases *tabelião geral* or *tabelião do bispado*.

The participation of notaries public in the maritime commercial life of several European port cities is evident. Vicente Eanes was involved with chartering of ships from Flanders and Normandy, traded wine, olive oil and bread, as well as being involved in building construction and debt collection. He also had a wider jurisdiction than other notaries, because he was also a bishopric notary, which would enlarge considerably his income. Amândio Barros has illustrated a fiscal fraud that involved notaries public of Porto and a Portuguese commercial company that used the port of Tenerife as a trampoline to commercialize Spanish

colonial goods in Amsterdam, using its resources to exchange dyer's, shipbuilding materials, pepper and salt via Porto.⁴¹

Nevertheless we also took note of the participation of notaries in the commercial and economic life of the city: the king granted land to Martim Quaresma, notary public of the city of Porto, in Francos and Ramalde, alongside with Domingos do Freixo, merchant from Porto. Therefore, this particular notary held property rights, from which he could probably extract some income, and a relationship with a city's merchant. Thus we can assume that he would be linked to the business world from which he certainly took profit.

Sancho Pires, bishop of Porto, donated 50 pounds to João Colaço, notary public, who drew up his will. Although he did not specify the reason for the donation, it might be a reward for his services.

We also took note of their social arise in the 15th century: the connections that notaries public had established with Porto's merchants contributed greatly to their social advancement. In 1453 the sailors of the *Confraria* of S. Pedro de Miragaia started an aggressive confrontation with notaries public about the position that each of them should occupy in the *Corpus Christi* celebration.⁴²

4. In this article we briefly demonstrate some results of an ongoing study about a very specific social and professional group. It was our intention to display a general idea of how these men seemed to work, to organize, to articulate, and to succeed each other in their craft, in a specific town of Portugal. By the end of this research we hope to be able to elaborate even more on this subject: to analyze the role of the notary public in the Portuguese urban world, to relate their activity and respective impact in the administrative, economic and social structures of the city and of the kingdom. The research will go beyond the documents drawn up by the public notaries; it will also focus on family and professional connections, training, language, social environment, clientele, "oficinas", as well as legal and technical jurisdiction.

⁴¹ Amândio Jorge Morais Barros, *Em busca de um mercado integrado: redes comerciais portuenses e trato internacional* (Santiago de Compostela: Universidade de Santiago de Compostela, 2005), 14.

⁴² Amândio Jorge Morais Barros, "A Confraria de S. Pedro de Miragaia do Porto no século XV" (Master diss., University of Porto 1991), 28.

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