

## ***Municipal and Local Power in Portuguese Classical Literature***

### **Município e Poder Local na Literatura Clássica Portuguesa**

### ***Municipio y Poder Local en la Literatura Clásica Portuguesa***

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**ABSTRACT:** *In Portugal, the municipality and its administrative control scales and territory are the product of a process consolidated and built over centuries. However, it is controversial still in legislative terms, as reframed by recent Law 11-A, which in 2013 established the aggregation of 'freguesias', resizing their functions. This paper seeks to discuss the terms municipality and municipalism as concepts and the political-administrative practices established in a given territory, in this case Portugal, to allow its redevelopment as a product of social cohesion or conflict of interest. The theoretical framework is limited to classical Portuguese literature and its main scholars: Henriques Nogueira, Alexandre Herculano and Marcelo Caetano. For these, the history of Portugal, from its origins, is directly linked to the institution of the municipality, the subject addressed in this article.*

**KEYWORDS:** *Municipality. Local power. Classical portuguese literature.*

**RESUMO:** Em Portugal, o município e suas escalas de controle administrativo e territorial são o produto de um processo consolidado ao longo dos séculos. No entanto, a formação do mesmo ainda é controversa em termos legislativos, como apontado na reformulação da Lei 11-A, de 2013, que estabeleceu a agregação de freguesias, redimensionando suas funções. Este artigo aborda os termos município e municipalidade como conceitos, bem como suas práticas político-administrativas estabelecidas em um determinado território e que permitem sua reconstituição como produto de coesão social ou conflito de interesses. O referencial teórico fundamenta-se na literatura clássica portuguesa e seus principais estudiosos: Henriques Nogueira, Alexandre Herculano e Marcelo Caetano. Para esses, a história de Portugal, desde suas origens, está diretamente ligada à instituição do município, como contemplado neste artigo.

**PALAVRAS-CHAVES:** Município. Poder local. Literatura clássica portuguesa.

**RESUMEN:** *El municipio y sus escalas de control administrativas y del territorio, en Portugal, son producto de un proceso consolidado a lo largo de siglos. Aun así, la formación dese sigue siendo objeto de controversias en términos legislativos, como apuntado en la Ley 11-A, de 2013, que estableció la agregación de 'freguesias', redimensionando sus funciones. Este artigo aborda los términos municipio e municipalidad como conceptos, bien como prácticas político-administrativas establecidas en determinado territorio y que permiten su reordenación como producto de cohesión o del conflicto de intereses. El marco teórico se basa en la literatura clásica portuguesa y sus principales eruditos: Henriques Nogueira, Alexandre Herculano e Marcelo Caetano. Para ellos, la historia de Portugal está directamente vinculada a la institución del municipio, como contempla ese artículo.*

**PALABRAS-CLAVE:** *Municipio. Poder local. Literatura clásica portuguesa.*

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## INTRODUCTION

An examination of the literature on the municipality concept approach in Portugal shows that the subject has great and consistent scientific production, but as done, it is impossible to recapture it here without adding new elements or without assigning it other ranges of power, as the local power.

New to understand the local and the power relations associated with it, it is not enough to identify the political power associated with it. It is necessary to conceptualize it as the power exerted economically, socially, culturally and symbolically.

In agreement with Fischer (1992) the notion of location contains two complementary ideas in one sense and antagonistic in another. If 'local' refers to a delimited spatial scope and can be identified as base, territory, micro-region and other things that suggest constancy, it also contains a sense of abstract space of social relationships that one wishes to privilege and therefore indicates movement and interaction of social groups that are articulated and opposed in relation to common interests.

And, therefore, invariably the analysis of local refers to the study of power as a relation of forces, through which alliances and confrontations between social actors are processed as well as to the concept of delimited space and the formation of identities and the practice of specific policies. However, if the local space has an undeniable territorial foundation, it is not limited to this; as the geographers tell us about the many ways of constructing spaces, refuting institutional boundaries and rebuilding them according to problems adopted.

It is also agreed with Fischer (1992) that local power refers to the set of social networks that articulate and overlap, with relations of cooperation and conflict, around interests, resources and values, in a space whose outline is defined by the configuration of this set.

In addition, it is noted that despite the defense of the city by classical authors, as discussed in this text, more recent works argue that the city has obstacles to greater socioeconomic development. This bias has also been researched, and the results have recently been disseminated. For this article, we chose as a primary basis, not only as theoretical subsidy, three classic authors: Henriques Nogueira<sup>i</sup>, Alexandre Herculano<sup>ii</sup> and Marcelo Caetano<sup>iii</sup>, among many who have dedicated themselves to the topic. We chose these authors because, at different times, but not mutually exclusive in Portuguese history, they intermediated the political and public life in their study of the subject of municipality and, thus, became respected for mutually combining theory with practice. For these and other researchers, from its origins, Portuguese history is directly linked to the municipal institution, a topic that will be approached in this paper.

## GENERATION DISCUSSION: THE MUNICIPALITY AND MUNICIPALISM IN PORTUGAL

Municipality<sup>iv</sup> is the traditional term for the 308 Portuguese local powers, the most consistent territorial subdivision in the country's 900-year history. Originating in leasehold letters that kings attributed to certain lands and neighbouring territories to subject them to the Crown, Portugal's form of administration has undergone changes over time in terms of their division, agglomeration and expertise. In this sense, the municipalities remained subject to special laws in obedience to local customs and to the royal will, but they were also subject to general national laws.

Following the military coup of 25 April of 1974, the new democratic regime established the Constitution of 1976, ended corporate municipalism and created the conditions for a new type of local power in which the local authorities were safeguarded by the administration's autonomous status. Thus, municipalities were managed by the City Council, its executive body and a Municipal Assembly, which was its deliberative body.

The City Council may have between five and 17 councillors (Lisbon has 17) elected by universal direct suffrage either on or off party lists depending on the number of county residents. São João da Pesqueira, Coimbra and Santarém, founded in 1055, 1085 and 1095, respectively, are among Portugal's oldest cities that were founded before the country's own independence.

This strong municipality concept gave rise to the study of municipalism dating back to the first half of the 19th century by scholars such as Henriques Nogueira, Alexandre Herculano, Marcelo Caetano and others, culminating in 'municipalist ideals':

With A. Herculano, and largely as a reaction to the excesses of centralization promoted by the dynamics of the new liberal institutions - the Division of Powers and the 1842 Code - is the municipalist solution that presents itself as a global alternative that will emerge in great strength in historiographical myth of the medieval city. But it is with Felix Nogueira, H. Lopes de Mendonça Rodrigues Sampaio, when the city is entering more realistically in the game and in the political and social action of balance and harmony needed between centralization and decentralization, the city of history make new advances, surpassing the time the 'enclosure' and romantic medieval setting more developmentally its study in its action and adaptation to Modern Times, the Centralism and Monarchist Absolutism (CAPELA, 2005, p. 50).

Through Jose Felix Henriques Nogueira and his followers and with the history of the modern city studied from its own sources in a systematic way, back to the times of absolute monarchy, the studies on the municipality gain consistency when analyzing the development of municipal life because their research is on events subsequent to the 15th century.

Thus, in the municipality of the 19th century, Nogueira (1856, p. 13) demonstrates his desire by pointing out several possibilities throughout the text, such as “[...] the government of the State must be made by the people and for the people, in the noble, philosophical and prestigious form of Republic” that is decentralized, by strengthening the power municipal organization and federation.

In the work’s preface, Nogueira (1856, p. 17), “[...] asked the centralization its strength, unity and harmony - and will decentralize its independence, individualism and virtue”. He went on to say that the organization of municipalities, based on reasonable size and autonomy, is the first among the most urgent needs of Portugal. Nogueira then pointed out that already in 1851, in ‘Studies on the reformation in Portugal’, Nogueira the combined paths of municipalism and federalism form the establishment of a republican democracy, against the ‘absurd centralization’ and ‘monstrous’ inherited from absolutism.

In his ‘Studies on the Reform in Portugal’, Nogueira (1851) had pointed out at the conjugated ways of the municipalism and federalism in the establishment of a republican democracy, against the ‘absurd centralization’ and ‘monstrous’ inheritance of absolutism. In this sense, he uses municipal defense arguments to reflect on the municipality concept:

The municipality is intended to produce, in the century we live in, two distinctos phenomena. As administrative unit should reconcile, promote and address the interests of all the citizens who inhabit its territory. As a political piece, it must follow the progressive movement around the country; implement the common law; give and receive assistance in their relations with the State; and finally inspire and enhance, for the love to own things, the high love the things of his country, under whose influence the first were produced. The municipality does not legislate but contributes for the making laws through their representatives. It does do the regulations adapted to the place act fearless within the limits of its attributions. Has free arms, completely free for well-being; but finds obstacles, if attempts rise against the harmony of general interests. Considered in its internal administration, the municipality looks for, maintain fair balance in the protection of various branches of work, distribution of works of common use, the spread of education for all places and providing facilities of all genre, both to inhabitants of the city or town, as well as the most remote villagers (NOGUEIRA, 1856, p. 6).

It is observed that, at that time, Nogueira believed that the territorial element was critical to the development of the municipality and that without joining others, small towns had no direct possibilities for improvement:

Earn more in joining the other, than to preserve an existence independence gentlewoman, that do not provide the necessary facilities [...]. It is interested evidently in decreasing its number by the extension of its jurisdiction. It should also, be other than the specialty of its knowledge assist the industry of the inhabitants or the education of the people. Should surely discuss the number of them and contribute them well which is only possible by the

growth of resources resulting from the junction of the villages. The experience confirms this truth (NOGUEIRA, 1856, p. 110).

In reference to Herculano, Nogueira reinforces the fact that three aspects contribute to the city's decay: the exclusive judiciary, the separation from the noble classes and the inequality between neighbors and strangers. Thus,

The unique and particular magistracy of each county, legitimate when it was about issues between neighbor and neighbor, since by all then had been elected, since it was not so when the issue was between one neighbor and a stranger. In this case it became necessary to call upon to the mixed courts and consequence barbaric evidence that were there. The material separation of the noble classes of convenience with citizens was powerless to prevent the harmful influence of the powerful ending not infrequently the councils by admit them in popular unions and distribute them vast estates. Inequality in political and Court guarantees and tax system between entrenched and strange, create hateful distinctions, weakening county to county, morally and materially the municipal institution (NOGUEIRA, 1856, p. 117).

In the so-called revolutionary era from 1820 to the time of Nogueira's work in the 1850s, municipality destinations went through several phases, but unfortunately his condition improved slightly. Moreover, for the author, from the period following the so-called revolutionary era, from 1820 to the present date of this work (1850), the destinies of the municipality underwent several changes, but its condition did not improve much.

Among the other public benefits, the September revolution led the council to 'become autonomous,' improved and the recipient of a wide range of powers; however, nothing was added about the criteria for autonomy from the central power.

In this sense, Henriques Nogueira may have presumed, even in different territorial and administrative contextualization (keeping due proportions), the changes imposed for municipalities and freguesia with Law 11-A / 2013 as follows:

The smallness of the most current municipalities contributes much to its decline. With a limited territory and sparse population our microscopic municipalities has not enough resources for their costing or idoneos men to manage. The little of their income is all for employees; and hardly could contribute to other objects, people overloaded in taxes (NOGUEIRA, 1856, p. 115).

Following is an excerpt of the arguments presented by the author about how the municipality could become an important power, with its own functions and competences to assist its people. Many of these issues seem to be modern complaints, although, from the municipality of the nineteenth century to the county of the twenty-first century, very little has changed.

The municipality needs to be large in size because their resources discuss in proportion to the territorial greatness, and in this case allow the administration to be more perfect, without thereby becoming heavy to people. What it was impossible for a county, when separated and poor becomes very easy thing for three or four municipalities together [...]. It is still an admirable result of the strength of association, that the more you generalize more useful it is. The municipality also needs to be rich to coast the number of personnel in his administration to build the buildings of their establishments and undertake the work of your traffic and culture, because without means and sufficient means is not possible to cope with such great expenses (NOGUEIRA, 1856, p. 132).

To justify the role of the municipality throughout the history of Portugal, the author traces the various phases of local administration from the Roman municipality to the Middle Ages and examines how the modern municipality is preserved. As the author tries to explain in this article, no attempt was made to investigate each of the phases presented, apart from Portugal, representing the municipal organization in Spain, France, Switzerland, Germany, the Netherlands, England and the United States.

However, it can be argued that the wealth of details obtained through field work is impressive for its time. Nogueira clarifies the similarities and specificities of the municipality as power scale as well as the difficulties it has sustaining itself economically and organizationally, due to limited skills. Nogueira clarifies the similarities and specificities of the municipality as a scale of power and the difficulties that they have to economically and organizationally sustain due to its limited functionalities.

From the beginning, Nogueira asserts that the municipality was born in Portugal, was influenced by Roman traditions, developed the instinct for the freedom of the French and languished for compressive action of absolutism. "The municipality, so, can resist, despite many setbacks, the struggle of centuries and protest in their minimum existence against the attacks of real power" (NOGUEIRA, 1856, p. 4). It is in this sense that the author himself reaffirms that:

And the municipality should make these expenses because they are the seeds of its future. Could make them, because besides the own income, have the fight to collect in your safe a share of taxes that are charged. Is it not fair that those who work and pay contributions, see, at least some benefit their sacrifice? It will be very, irrational will complain to the municipality that is the social base and productive one-third, for example, yield the two sides are consuming and may be wasted on treasure? It is believed that only can consider our request (NOGUEIRA, 1856, p.133).

Importantly, Nogueira shows that in addition to the above, via property, the municipality is a place of 'a precious heritage', and for the present generation, a few characteristics of the principle of popular sovereignty and the spirit of its institutions remain. In this sense, to be the

place of experience, living and claim is that the municipality is also taken in our design, in observation of what the population has closer, administratively and offer some services that is the cut of the freguesia, perhaps the most appropriate for 'popular sovereignty' noted by the author.

In this sense, the municipality is understood as being the place of experience, coexistence and demands. In the conception of what the population has nearest in terms of administration and the provision of some services, that is, the 'hamlet,' 'perhaps the most appropriate for the' popular sovereignty pointed out by the author.

With the belief that the municipality should be given autonomy, financial resources and institutions that allow it to progress and be the people's locus of sovereignty, Nogueira ends his work by saying, "If current courts give the independence that is necessary and the importance it deserves to use in public administration, will be seated one of the most important foundations of national prosperity" (NOGUEIRA, 1856, p. 240).

Similar to Nogueira, Herculano maintains also that, in the local emphasis of its administrative structure, the Portuguese municipality resembles the Roman institutions. In the 'Opusculos', Herculano (1873) uses the municipality, the municipalism and the local power beyond the theory, when it demonstrates its preoccupation in defense of this power scale.

And yet he just, in most cases, to properly establish the municipal administration, and give the people which do not have where to walk or who teach them, and which of them care, roads, schools, banks and asylums to work and doom. The government is, in this way, under no obligation large expenses, and skillful to take on the first improvements and more general importance, of interest to all or a certain number of municipalities. Main lines of railways, lines and conduits of rivers and works in bars, are in this business, the unique, but not little arduous companies that the government should occupy by themselves. The rest of it is very, very difficult, belongs to the municipalities (NOGUEIRA, 1856, p. 133).

In 1853, disillusioned with the government emerging from regeneration and choosing to participate in the opposition to the reign of King Pedro V, Herculano ran for the municipal elections for the House of Bethlehem and was elected president in the biennium 1854–1856.

Thus, it is as a defense of this municipality, recently separated from the city of Lisbon, that Herculano wrote two 'representations', linked to the Municipality of Belem, one to the central government and the other to Parliament, in 1854. Then, these are the letters, along with other writings that were published under the title 'Opusculos'. The excerpt below reveals his concerns with the separated municipalities, because they do not have an a priori structure that allows their economic growth and social development:

Such is the Lord, the facts and the reasons that the city hall of Belem submit the consideration of V. M., about the extraordinary taxes were weighing on the new municipalities. The abolition Delles is morally necessary, and certain the government will not leave, from the view of the above, to take part before Parliament, the initiative of a necessary amendment to the law, whose spirit and whose beneficial intention cannot ignore (HERCULANO, 1873, p. 17).

It is from his direct participation in public life that Herculano can defend the institution of municipalism and local government, represented at the time by the average rural bourgeoisie (and by the urban bourgeoisie) that supplied Portugal with its products, not only in Belem, but also in the country as a whole.

Herculano claimed that municipalism complied with the guidelines under which the new municipalities were created in terms of resources to enable the free administration and maintenance of its independence:

The advertising of municipalism by example, since in 1851 it escaped the opportunity to reinvigorate across the country, the great institution that he so becoming more expensive and, according to its deep historical research was the basis in other eras our prosperity and political strength (HERCULANO, 1873, p. 169).

In addition, according to the historian:

Municipal taxes for the public expenditure exclusively locals, are the ones who rightly vary from locality to locality, because the municipality is a small civil society within the larger society, and its members have duties and rights, benefits and own charges and exclusive from public municipal life (HERCULANO, 1873, p. 198-199).

Even with his contributions to the city in ways that combined theory and experience, Herculano was challenged by scholars such as Marcelo Caetano, who disagreed with some aspects of his work, saying, "Herculano gave us a disservice to persuade us that the modern municipal institutions would be even more perfect as closer to the Middle Ages. Each century has its spirit and its requirements" (CAETANO, 1940, p. 4).

One wonders what made Caetano a defender of the city in Portugal in his studies and in his public experience. The author takes issue with the assertions by Nogueira and Herculano that the Portuguese municipality is similar to the Roman ones, citing proof of the continuity of forms of local organization and arguing that if these features indeed existed, they were lost over time, especially during the Visigoth and Moorish periods.

Caetano explains his concept in two parts. The first indicates that both the Roman and Portuguese municipality, having the same needs, have implemented in equivalent circumstances similar solutions to their problems. In addition, the author states as a second

possibility the fact that the Catholic clergy, present in these territories, kept ancient texts of Roman municipal organization in their custody and that by using those, created approximate solutions to the obstacles facing the council in Portugal, rendering the organization somewhat similar to the Roman one.

The differentiated analysis criteria may explain the discrepancy between the authors, who also have common approaches, such as the view that the population settlements were leveling up and ensuring that, with the retreat of the Moors and the strong royal presence or lordly authority, the territories were fixed. Thus, at the same time, these populations started to ensure their customs, values and local identity. Municipal charters were elaborated to guarantee these new 'rights': "Letters governing the relations between all the inhabitants or the inhabitants of a certain area, whose lands will be considered from then on full ownership of the members of the community, and the Crown or lord that these lands belonged before" (CAETANO, 1940, p. 3).

However, the charters were little more than the municipality's obligations to the Crown or the Lords who had issued them, and although organized by the people for the establishment of 'rights,' to comply with government rules and regulations, the bonds gave up a great deal and in fact the bonds varied from municipality to municipality. In this sense, Caetano reinforces Nogueira's thought that, in times of violence, the charter, provided protection to the people. The charter gave them the right and the power to:

[...] resist the humiliation of the nobles, single resource at a time when the course of justice publishes no more of municipal land; protected them in the payment of 'jugadas,' tolls and other taxes, as private tenants or the crown in 'allodios, reguengos,' hunting grounds and honor, were inordinately burdened; He assured them the perpetuity in possession of the land, that for any lack risked losing in the particular field; gave them ultimately be judged by their peers, by actual judges, while in other lands were the landlord by the judge and thus the arbitrariness of this. These advantages, even limited as now seem, explain the effort with the popular classes, they sought to organize municipally in the thirteenth and fourteenth centuries (NOGUEIRA, 1856, p. 26-27).

The municipality in Portugal continued without major changes until the reign of King Manuel I, when the country reformed the charters and unified the rights in the charters through the Afonsinas Ordinances and the Manuelinas Ordinances. Herculano (1873) furthers the idea that the autonomy of the municipalities increased when the reign of King Diniz was progressively limited, but that even when the municipalities were integrated into the State structure, they maintained statutory responsibility and the power to solve local conflicts, 'rights' that lasted until the nineteenth century and monarchical constitutionalism.

For Caetano, as with the Romans, the Lusitanian cities were autonomous political units with their own government that at the same time recognized the supremacy and jurisdiction

of the governor (sent by the King) as well as the taxes and duties imposed upon them. According to the author, because he was extremely loyal to the rulers in Lisbon, he won the privilege of having municipal forums, where each municipality could be administered as if it were part of Rome itself, choosing their rulers. Thus, "Roman municipality is therefore an autonomy within the state, an independent member but employee and dependent on the sovereign political community, a practical form of local exercise of the powers that are in all the republic, and only it" (CAETANO, 1940, p. 5).

Earls, bishops, or conquerors were also in place, but they ruled by the King's received authority. To Caetano, only 'new cities' that originated from the fairs or periodic markets offered conditions conducive to the formation of small communal republics empowered to conduct business activities and elected magistrates to coordinate them.

[...] appear in the High Middle Ages and multiply fine in full bustle of the Reconquest, when kings and barons consume all the time in the fight against the infidels - or in hard-fought private issues - the spontaneous associations of neighboring farmers and markets stabilized that true 'communes without a license' as their customary laws, their deliberative assemblies and their elected magistrates, represent the first form of the new municipality that is announced (CAETANO, 1940, p. 5).

The city, ceasing to be a centralizing unit, emerges outside the State and becomes 'a subject of fidelity bond for the lord,' seemingly addressing the shortcomings of the lords and their real authority, often absent and effective in the collection of taxes only. For these reasons, in their origins and functions, Portuguese municipalities cannot be compared to early Roman cities.

The centralization is deepened because in many cases, the forais were simply letters to recognize and correct existing situations or even to indicate where their rights and duties began and where they ended. New features of municipal power were the certainty of law and autonomy in its application because of the existence of a fundamental text. However, Caetano points out that the charters declined in importance with the creation of new municipalities throughout the Middle Ages. Here he discusses how centralization increases:

The charters contained the peculiarist legislation of each county and recognized and authorized the continuation of local customs: the kings began early to claim the right to legislate uniformly throughout the kingdom, breaking with its sovereign authority of individual rights. Thus, succeeding the general laws and the great compilations of Ordinances until D. Manuel, in the first quarter of the sixteenth century, it operates the 'reform of the charters' and deflates the municipal constitutions of their most important legal content, leaving them just tax indicators was consummated the 'legislative centralization' (CAETANO, 1940, p. 6).

As municipalities gained legitimacy, they appointed magistrates and elected their own local judges, causing the kings to argue that this practice was a usurpation of royal prerogatives, passed to send inspectors on behalf of supreme jurisdiction.

The next development was to send designated judges out to all the major districts and then from there, with judicial centralization, who 'administers justice and presides over the House is a delegate of the King'.

It was since then until the nineteenth century in the municipalities a simple administrative decentralization, made necessary by the distances and possible by slumber patronizing with that of Court officials ruled without major inconvenience or oppression, the Father also wishful that would not take too much after him (CAETANO, 1940, p. 5).

The next step was to carry the favor of the privileged class or cause political exclusion, closing the courts and with them, the political role of municipalities. This completes the political centralization, with administrative control over territories.

#### **SPECIFIC DISCUSSIONS: THE MUNICIPALITY AND THE SCALES OF ADMINISTRATIVE AND TERRITORIAL CONTROL IN PORTUGAL**

With the liberal reforms, the Administrative Codes of the 18th century were dissolved under the undeclared justification that the municipality would have priority in the conception of place of party politics. Thus, there ceased to be a point for the collective interest to gain political influence and exchange favors, then, considered more important than the administrative programs. "That is why 'there were no principles, there were votes. There were no Portuguese, there were coreligionists. There was no national or local interest, but eccentricity of pernicious play of party combinations'" (CAETANO, 1940, p. 6).

It is toward the organization of autonomous local administration that Caetano points out in 1840 that the Liberal Revolution formed the foundation for the same in the first half of the nineteenth century and, as occurred in other European countries, formed a link to the formation and consolidation of the liberal State after the French Revolution.

Appeared in 1820, liberalism was characterized by an initial period of great instability with constant advances and retreats. Summoned the Court in 1820, begins the new regime with the constitution of 1822, but then in 1823 a counterrevolution brings new absolutism. In 1826, the Constitutional Charter opens new liberal period with new Court election, but in 1828 they are dissolved. Shortly afterwards begins a civil war between absolutists and liberals (1832) that ended in 1834 with the victory of the liberals and the restoration of the Constitutional Charter of 1826. Only this time it will be possible to try to put in place an organization of local administration according to the principles of liberalism, serving to effect a Decree prepared in the Azores (bastion of liberals), still in full civil war (1832), the Mouzinho da Silveira of responsibility (OLIVEIRA, 1993, p. 12).

The 1836 Code is an example of the above codes governing administrative programs, because it gives all municipalities the right to organize and intervene in the administration. “Instead of almost rivalry of the Government and the Municipality, expressed in the county administrator’s competition with the House, operated the synthesis of the two powers, representative of two complementary forms of the same general interest” (CAETANO, 1940, p. 6).

Caetano states that there are new opportunities available to Portuguese municipalities and that, therefore, what the legislation proposed is not a loss in theory although in practice, it has no benefit. His own title poses the question, “What is expected of the City?” These new opportunities are 1) put the law into practice as a conduit between central and local government; 2) use the law to serve the common benefits; 3) understand the institutions as servants to the legislature, provided that it values them as an important component to the act of legislating; and 4) “[m]ake the city an appropriate institution to modern times, as the new public and social evolution in motion is a seductive work that depends only on the will of the good men of the municipalities. And this is the mission of our time”. (CAETANO, 1940, p. 6)

It is the Administrative Code of 1836 that established the territorial and administrative scale of the *freguesia*, one of the territorial organizational changes established therein. In addition to the ‘*freguesias*’, Marcelo Caetano advertised that from the modern State concept, municipalities have a vast role, different from the one they previously had. Several laws and codes of different dimensions were developed throughout the nineteenth and twentieth centuries, showing many solutions for governance of the territory.

The New State political regime that lasted nearly fifty years, beginning with the military uprising of May 1926, produced changes that reinforced the centralization of power that was emptying the power of municipal structures. From there the division of the national territory has expanded to four levels of administrative areas: the province, the district, the municipality and the *freguesia*. In this division, neither the province nor the *freguesia* had any management body in its configuration.

The mayors and parish aldermen began to be appointed by the central government. The authorities were subject to tight administrative supervision and did not have own revenues. Local authorities were financed by subsidies and assistance granted by the central government without strict obedience to any distribution criteria, the Chamber president took a subject role in the policy imposed by the government. Thus, that municipal executives were limited, so just exercise the control function, overseeing compliance with centrally defined standards. The greater or lesser effectiveness of its action depended on the ability to break through personal influences, the paralysis of the state bureaucracy. The municipality was then the crossing site of the Municipal Administration with peripheral administration of the State, embodied in the Chamber president, in the

center, seeking to control the periphery, imposed on him his views (BILHIN, 2007, p. 1).

On the other hand, the lack of their own revenue led municipalities to adhere to the financing schemes of local power for local improvements, which led to a greater dependence on the central power. The currently there are three types of local authorities,

[...] a local authority which traditionally is known as the Council, but that the 1976 Constitution established himself as City; a supra-municipal authority, the district, which still exists today, although it is expected to brief its abolition and replacement by a broader supra-municipal authority, designated by administrative region; and an infra-municipal, call Parish (BILHIM, 2004, p. 1).

It should be affirmed that even when there was some decentralization, it was because the central government decided that there should be decentralization because the government sought greater control of the territory (BILHIN, 2007). In practice, the problem is tied to the centralization/decentralization debate and the problems of local administration itself, as well as with the intervention and coordination of technical and administrative services of the State and the development of municipal services.

This is due to the relevance of local power in the revolutionary political-administrative order of the 1970s, which is consolidated in the social and political mobilizations of this decade, breaking from the concept of autarchic local administration. In this context, there are three new elements that represent this administrative–territorial clipping: the law of autonomy, the law of local finances and the law of separation of sectors.

Thus, re-democratization imposed the culture that promotes decentralization and municipal autonomy. Hence, the first municipal elections took place on 12 December 1976, after the promulgation of the Portuguese Constitution in the same year. Since then, the principles recognized in Article 237 of the Law have defined the legal status of the municipalities and their financial and administrative autonomy. Two objectives for the reform of the financial system of local authorities were constitutionally enshrined: the “[f]air allocation of public resources by the state and by local authorities and the correction of inequalities between local authorities at the same level” (BILHIN, 2004, p. 11).

However, the recognition of the financial autonomy of local power did not remove the condition on this local power to continue to function as a subordinate organ of the central government. It is only with the promulgation in 1979 (Law No. 1/79, of January 2<sup>nd</sup>) of the common law that established the system of local finance that municipalities got some autonomy because they got to know in advance how much of the total revenue they would have to cover their business plans.

Between 1980 and 1984, the funds cutting situation according to the legally stipulated continued to occur, the State Budget Law continued to not comply with the provisions expressed in the Local Finance Law. The first change of the Local Finance Law came to be held in 1984, by Decree-Law No. 98/84 of 24 March. With this legislation comes to the abolition of the minimum of 18% participation of local authorities in public expenditure (stipulated in the previous law), and transfers are now stipulated (fixed) year on year by the State Budget Law, leaving the authorities each year subject to the Government decides to grant them (BILHIN, 2004, p. 11).

Over the last two decades, decentralization has been an emerging system in European countries, with Britain as the exception. This is a sign of change in territorial organization and planning.

In Portugal, to reach a broader conception of local power, it is necessary to analyze municipal decentralization. For this, it is necessary to examine the history of the city, the establishment of the difference between county and State government and the comprehension of its financial and legal aspects.

In January of 1980 the Assembly of the Republic of Portugal approved Law No. 1/87, which created the National Association of Municipalities to represent the interests of local power. Despite this, it can be observed that the lack of a municipality's own resources and the consequent need for central funding does not allow it the autonomy it seeks, a concern that has remained to this day. In financial terms the resources of the municipalities come mainly from its own tax revenues, complemented by some funds from the central government.

The Portuguese municipalities in the New State lived the tension between the center and the periphery, today, experience the tension between a wide range of skills and a certain financial help. You can also look at this reality in perspective previous center / periphery, with a central (government) that has even extended the sources of funding but reserves for itself a range of skills coveted by municipalities (BILHIN, 2004, p. 12).

Thus, decentralization of powers (what to do) seems to be more controversial than the financial (how to pay). However, in terms of investments, "It is clear that the process of adaptation to crisis and change in Portuguese society, the local government has played a leading role, with obvious fruits in land management. This role has been especially salient in the planning of infrastructure and equipment" (BILHIN, 2004, p. 12).

Apparently, the current main concern of municipalities is the construction of infrastructure, strongly recommended by the general plan of the European Community and, therefore, issues related to employment, health, education and social development receive less emphasis. In the tough economic times of the late 2000s up to now, the territorial and administrative organization of municipalities has encountered many issues, new and old.

Territorial organization may be the cause of most of the issues because it involves historical aspects that are linked to the people's wishes, along with political questions, because the municipality is concerned with maintaining its territorial importance in the context of reform, refusing a priori any argument that leads the city to be either divided or aggregated.

Another element in the overall process is the citizens' so-called daily interests or the benefit they receive from the system, leading to the establishment of singularities in the duties of the municipalities and the powers and constitution of its organs.

The 'conflict' historically situated between the central government and local power is one of the autonomy of administrative and legal resources, as well as the question of the nature of administrative supervision. However, there is a constant trend toward the deepening of municipal autonomy not only in Portugal, but also in other European countries despite these premises and some setbacks.

It is currently being questioned whether the legal structure lead to laws and legal regulations can that do not always comply with the Constitution of the Portuguese Republic. Does the incompatibility of the spirit of the law applied in the municipalities lead to power being concentrated in an unrecognized body such as that of Mayor? (SALEIRO, 2017). This article, with look in the past, can complement or help answer these questions.

## **CONCLUSION**

Having received little attention in the sixteenth and seventeenth centuries, studies of the Portuguese municipality occurred in greater numbers in the eighteenth century. José Félix Henriques Nogueira, Alexandre Herculano de Carvalho and Araújo and Marcelo José das Neves Alves Caetano left rich and detailed accounts derived from their involvement in public life.

It is also observed that the studies on the municipality and the local power have a productive link with the formation of elites and oligarchies in their multiple characterizations and strategies of power. In addition, a study on the relationship between local power and central power or the participation of municipalities in the Cortes (up to 1697) is possible.

In this sense, the study of local power and the municipality in Portugal is too much for the recurrence of the norms and laws that structured them and established the rules of action.

As institutions are made by men and for real people, it seems that the three authors and works selected here worked with more than the history and the geography of the institutions to also include the institutions' social geography. Furthermore, it seems that perhaps, indeed we are in pursuit of the social analysis of the administration of the

municipality and, as a result, delighted in and encouraged to write a short note on the counties and local power in Portugal, using not only classical but also contemporary literature as a reference.

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<sup>i</sup> José Felix Henriques Nogueira, who was born in Dois Portos in 1823 and died in Lisbon in 1858, is considered a precursor of republicanism and socialism in Portugal and was a theoretical advocate of federalism and municipalism as a form of administrative decentralization. He was a journalist, writer, and politician. His main work used here is *'The municipality in the Nineteenth Century'*, of 1856.

<sup>ii</sup> Alexandre Herculano was born in Lisbon in 1810 and died in Santarém in 1877. Although he did not graduate from college, he was an author interested in the medieval era and the etymological character of Portugal. He wrote about Portuguese reforms and even had some conflicts with the clergy in his search for donations for the Portuguese society at the time. The predominant themes in his works are linked to the origins of the

Portuguese nation, explaining society through its historical character. He is considered a great intellectual and wrote poetry, novels, short stories, and historical works. His main work used here is '*Ópúsculos*', of 1873.

<sup>iii</sup> Marcello José das Neves Alves Caetano was born in Lisbon in 1906 and died in Rio de Janeiro in 1980. In 1922 he entered in the Law College of Lisbon and at age 23 began collaborating with Oliveira Salazar as legal auditor of the Ministry of Finance. In 1931 he received a doctorate degree in law from the University of Lisbon. In 1936 his authorship of the reform of the Portuguese administrative law was organized in the new Administrative Code. In 1946, while a leader of a critical and reformist regime, he was invited to the Minister of the Presidency, which he refused and instead accepted a position of rector of the University of Lisbon. He then resigned in 1962 due to police violation of university autonomy during the student unrest. In 1968, he was appointed to succeed Oliveira Salazar, becoming the last leader of the new state government later overthrown in a military coup. He was exiled to Brazil on 25 May 1974. His main work used here is '*The Municipality in Portugal*', 1940.

<sup>iv</sup> Marcello Caetano uses the words city and county synonymously, stating that the term 'county' in the sense of 'made vicinal community appears in Portugal since the eighteenth century in very variable length, whose residents, the county's neighbours - are endowed with greater or lesser administrative autonomy'. Machado, in the *Etymological Dictionary of the English Language* (2015, p. 182) indicates that the term 'county' appears in Portugal since the thirteenth century and derives from the Latin word meaning Concilium as the assembly constituted by the freemen of a territory. 'Already the city has several leaders, but the most accepted is that it was a city, among the ancient Romans, who had the right to govern themselves by their own laws' and asserts that the term municipality is derived from two Latin words: munus, which means city with honor, and capio, which means taking or receiving.