

# The Portuguese Medieval Parliament: Are We Asking the Right Questions?

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## Abstract:

It had traditionally been thought that the history of the Portuguese mediaeval parliament was exhausted from the point of view of available information; almost all approaches had studied the *Cortes* from a legal angle. In 1990, Armindo de Sousa published *As Cortes Mediaevais Portuguesas (1385-1490)*; this work was to radically renew everything that was known about the theme, proving that, even from the strictly factual point of view, there continued to be a large number of errors and gaps and, above all, suggesting a sociological and political approach to the mediaeval parliament, treating the texts that were produced at the *Cortes* as *discourses*, rejecting biologicistic theories and concepts such as *nature* and *decadence*, lingering in particular over the study of the *primary* and *secondary functions* of parliament. But this book, which represented a complete break with everything that had previously been written on the theme, did not provoke any significant reaction either in Portugal or in other countries, being received in virtual silence. Thirteen years after its publication, this article seeks to rekindle discussion about the more controversial and innovative aspects of Armindo de Sousa's thesis, as well as updating it in regard to a number of aspects and putting forward a new agenda for research into the Portuguese mediaeval parliament.

## Key words

Parliament; *Cortes*; discourse; burgesses; commons; representativeness; institutions; powers; duties; functions; chapters; king

## 1. Difficulties in Relation to the Theme and its Historiography

Each theme and chronology presents its own specific difficulties and challenges. As far as the Portuguese mediaeval parliament is concerned, I would like to highlight four of these:

1. The propensity, particularly if this is unconscious, for establishing a *continuum* up to the present moment, interpreting the mediaeval *Cortes* in the light of the present-day Portuguese parliament.

2. The excessive importance given to juridical history, which has led to legalistic interpretations of an institution that was above all political<sup>1</sup>.

3. Consequently, there is a theoretical weakness which is particularly noted in this field with the constant use of biological analogies (regarding the "origin", "apogee", "decadence" and "death" of the *Cortes*); such analogies make it difficult to gain a correct understanding of the subject-matter. The application of semiology and linguistics has been almost completely absent. It is not possible to see how an institution that lives mainly from the production of *discourses* can be studied in depth without, for example, turning to the theory of rhetoric and argumentation.

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<sup>1</sup> Some examples are Caetano, 1963; Merêa, 1923; Santarém, 1828; Soares, 1943.

4. Like many other areas of Portuguese history, the mediaeval parliament has suffered from the lack of a sizeable, sustained and lasting positivist school that has worked on it<sup>2</sup>. Until recently, there was no good institutional study of the *Cortes*, no reasonably safe knowledge of the respective documentation; there wasn't even a reliable catalogue of the meetings of the *Cortes* in Portugal in the mediaeval period<sup>3</sup>. Even worse: it was falsely announced in university circles that everything had already been done "on the *Cortes*".

## 2. The Contribution of Armindo de Sousa

It was in such a context that, towards the end of the 1970s, Armindo de Sousa, a lecturer at the Faculdade de Letras do Porto, began working on his doctorate entitled "The Portuguese Mediaeval *Cortes*". The project was received with some scepticism, precisely because it was generally agreed that everything that there was to write had been written, so that this historian, in following his inclination, decided to investigate what he termed "The mentality of the representatives of the commons through the general chapters of the *Cortes*".

As he continued to publish methodological essays (the most important of which was *As Cortes de Leiria/Santarém de 1433*; Sousa: 1982) in which he refined the traditional way of approaching parliamentary documentation, especially the general chapters, Armindo de Sousa realised that not only was the work not "all done", but that there were numerous factual errors, gaps and ambiguities; furthermore, the overall understanding of the parliamentary institution seemed to him to be inadequate. So, he began to direct his efforts towards two main areas:

1. A documentary survey that was as exhaustive as possible and a detailed criticism of the sources collected, in order to arrive at a catalogue of those *Cortes* that really did take place and their respective features;

2. A renewal of theoretical problems, not only concerning political history and institutional history (to arrive at a different interpretation of what the mediaeval parliament actually was), but also as regards the hermeneutics of the *general chapters*, which he very soon chose to be the quintessential source for his work.

In fact, the convergence of these two avenues of research quickly convinced Sousa that the reality was quite different from the one that he had been told about: the documentation of the *Cortes* was insufficiently known and had frequently been poorly analysed; the inventory of the Portuguese *Cortes* had been badly compiled; the traditional understanding of the institution was wrong. So that Armindo de Sousa had to concentrate his attentions on clearing the terrain, checking every source, every date, every statement made about the *Cortes*, in order to reconstruct the *lied* – who, when, where, how and why – of the mediaeval parliament. And he did not complete his initial project: the study of the collective attitudes of the representatives of the commons through the general chapters. He was only to enter upon this terrain in subsequent works<sup>4</sup>.

The book which came of his research was entitled *As Cortes Medievais Portuguesas (1385-1490)*, Porto, I.N.I.C./C.H.U.P., 1990, 2 vols. It left us with an extremely large number of novelties and controversial interpretations, as well as further paths to explore. Because the author is no longer with us, because it is a very rare event for stimulating theoretical proposals to appear in Portuguese mediaeval history, and, finally, because I believe that Armindo de Sousa's thesis never received the attention that it deserved (even if only by virtue of its being disputed), except as a simple inventory of the *Cortes* and

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<sup>2</sup> The *História de Portugal* of Alexandre Herculano went no further than Afonso III (1279); and the *História da Administração Pública em Portugal nos séculos XII a XV*, of Henrique da Gama Barros, paid little attention to the *Cortes* (Barros, 1946, 3, 125-195).

<sup>3</sup> A recent one is in Caetano, 1981 (316-320, 476-480); the more reliable, Ribeiro, 1792, 2, 46-170.

<sup>4</sup> Mainly the chapter "A socialidade (estruturas, grupos e motivações)" (Mattoso, 1993, 391-473), but also his contribution "Os Homens" (Ramos, 1995, 118-245). Or his study of social conflict (Sousa, 1983).

their chapters, I should like to highlight the most innovative aspects of this work and to concentrate on the new questions that should be asked on the basis of this.

### 3. How Should the Mediaeval Parliament be Approached?

The medieval parliament should not have been approached exclusively by legal historians, searching for its respective “nature”, “disposition”, “character”, “appearance”, “make-up” or “essence”; they should have avoided all biological and psychological analogies that direct our attention to the “vitality”, “apogee”, “decadence” and “death” of parliament. Instead, its *powers* and *duties* should be defined, since the specificities of this – or indeed of any – institution are rooted in its social function and in the collective awareness of such a function. Taking care over the use of concepts and resisting the careless use of common sense notions were always matters of honour in all of Armindo de Sousa’s research – a rare attitude amongst Portuguese mediaevalists.

Parliament came to be classified as a “sub-structure or partial structure” of the overall political system, just like the king, the royal Council, the jurisdictional domains, the borough councils and the Episcopal curias. Yet, in this overall political system, the different roles were unclear and overlapped with one another, whilst powers and duties were confused; whilst, in the 14th and 15th centuries, there was a tendency to produce finished structures, with the granting of regiments or regulations, such a movement did in fact begin at the bottom and did not reach the *Cortes*, which never had any regulations or even achieved a complete structure. For this reason, the *Cortes* would always be an entity that was *in fieri*, and, as Armindo de Sousa suggests, one whose *fortitudo* would vary in inverse proportion to the royal *imbecilitas*: in other words, a weak king would lead to the *Cortes* becoming bold and insolent; whereas a strong king would lead to the *Cortes* becoming almost decorative.

As they never had any fixed periods for their assembly, the *Cortes* would be summoned (and juridically created) by *convocational letters*, stating the venue, starting date and the aims of the meeting. The author underlines this aspect: though the *Cortes* represented the common people’s quintessential opportunity to be heard, the respective convocation always depended on the king (duly advised).

#### 3.1. Municipal Representatives: an Honour or a Punishment?

The municipal representatives belonged to the municipal elites, the same which dominated local government (Coelho; Magalhães: 1986; Barata, 2001; Duarte: 2001). These, in turn, elected from amongst themselves judges and councillors and, at related meetings, appointed the delegates to the *Cortes*. Was it worth the trouble becoming a municipal representative? This is not an easy question to answer and I believe that it must remain open: in favour of a person accepting the position was the reinforcement that it lent to his prestige and local political capital, the privilege of belonging to a restricted club that had close dealings with the finest nobility in the land, members of the high clergy, the king and his courtiers, the possibility of establishing fruitful, human and even professional contacts with his counterparts in the main cities, the fact of being fully informed about all the kingdom’s business, the fact of “being on the inside”. Of the factors ruling against accepting the position were the travel involved, the fact of sometimes being away from one’s home and business for too long a time, attending working sessions that could become painful and uncomfortable. Apparently there was no hard and fast rule: some wanted to be representatives, others didn’t – just as was the case in relation to positions on the local council.

What is more interesting is the issue of the price of participation. Travelling to the *Cortes* was extremely expensive: there was the cost of travel and accommodation for the representatives and their companions, food, the cost of paying for the animals needed to transport them, new clothes and, finally, the cost of buying from the chancery a copy of the decisions that were of interest to the borough. This is a theme that deserves greater research, because the financing of this attendance at the *Cortes* was a constant concern and a delicate problem to solve, requiring the sort of imagination that was common in municipal finances, because the “price of dialogue”, as Denis Menjot has called it (Menjot, 1981), could be so high that it forced some boroughs, those in greater difficulties, to opt for missing the *Cortes* altogether. In 1481-82, Dom João II decided to subsidise the townships’ expenses in

travelling to the *Cortes*, but this was a doubly serious precedent, firstly because it placed an excessive burden on the public purse, and secondly because, to some extent, it turned the representative of the commons into the king's hostages. It is certainly a delicate matter asking a king to pay for one's accommodation, food and travel.

### 3.2. *Primi inter pares* the Seat on the Benches

In mediaeval society, the seat that one occupied at the official opening ceremony was meant to mirror one's position in society or, in the case of delegations from the boroughs, in the hierarchy of cities and towns. The only seating plan that we know of, at the *Cortes* of 1481-82, shows us the 80 boroughs distributed over 16 benches; on each of them, we can find the customary order: the most important in the middle, the second most important on the right, the third on the left, the fourth further to the right, and the fifth on the left at the end (Sousa: 1990, 1, 132-135). Does this mean that the seating plan for the room in 1481 provides us with an accurate 'municipal picture' of the country? No: firstly, because, at best, what we have is a picture of political prestige, which depended not only on economic and social vitality but also on antiquity and military services; secondly, because these seats might have been gained one or even two centuries earlier; and lastly because it was almost impossible to dislodge a borough from its position, even though it may have become a shadow of its former self. Only the battles fought over the front bench, with Lisbon's leadership being uncontested and where Porto was desperately seeking to rise above fifth place, would be worth a closer study.

After the official opening ceremony, at which one of the king's representatives would make the opening speech, and beginning with the *Cortes* of 1331, the members of parliament were separated and each estate met separately; at these same *Cortes*, the commons were granted the parliamentary status of a "class", "order" or "rank" for the first time, just like the nobility or the clergy.

But this is one of the aspects that Armindo de Sousa explains less clearly, and which could be usefully studied in greater detail, as soon as we obtain suitable information. In this same year of 1331, the practice of holding plenary meetings by estate was established. This may have happened for the clergy sometimes (on few occasions, as it happens, because the real plenaries of the clergy were held outside the *Cortes*, quite possibly before, but not during, the parliamentary sessions) and it happened even less frequently (if in fact there was ever such a meeting) for the nobility. We are touching upon one of the central and potentially most innovative themes of de Sousa's reflection upon the mediaeval parliaments: it is suggested to us that the traditional corporative and consensualist idea that we have of the three estates meeting in an assembly to discuss what was best for the country, under the paternalistic and watchful eye of the sovereign, should be superseded by another idea: an opening session conducted with the greatest possible pomp and circumstance, and attended by the high nobility, the high clergy, the burgesses, the king and the main officers of the court, for the reading of the initial arguments ("the scenario of the first *Cortes* summoned by Dom João II was, in itself, nothing more than an ideological discourse", remarked Armindo de Sousa; 1990,1, 172). Once this was finished, another type of *Cortes* was held that was completely different: the king would leave, although he remained close at hand; the nobles and the clergy, knowing that they were more than likely to be the "main target", would return home, sometimes leaving behind proctors to act on their behalf (and then it would be necessary to know who these were and what powers they had). It was then that the real work would begin, with the people's delegates dividing themselves amongst committees and sessions of different types: plenary sessions, closed sessions, inter or intra-estate committee meetings, meetings with the king or his delegates. The great spectacle of luxury, the strictly marked hieratic and hierarchical positions and the order of the inaugural session, were replaced by the noise, disagreement and confusion that normally reigned at town council meetings, law courts, even in churches.

We do not know a great deal about other forms of municipal association at the *Cortes*, especially *regional sessions*. In a recent debate that greatly enlivened Portuguese public life, some historians mentioned the lack of any trace of *regions* in our past, or even of any municipal coordination. Armindo de Sousa proves that this idea is wrong: in at least 8 *Cortes*, there were meetings between burgesses from Entre Douro e Minho, which led to the presentation of general chapters from this region; the same thing happened, in at least three *Cortes*, with the Algarve boroughs (the *minutes of the*

*council sessions* in Loulé contain frequent references to meetings of regional coordination; Duarte, ed. 1999). There are also traces of chapters common to various regions and possibly refined at multilateral meetings. The hypothesis raised by the author of there having been exclusive meetings between the cities (the nine sees) seems to me to be rather poorly demonstrated, however.

In 1477, Prince João (the future king Dom João II) made a revolutionary proposal: he suggested the creation of a *committee of determinators*: an inter-estate delegation, with equal representation (five members per estate, plus two representing the king, making a total of 17 people), which would represent the plenary meeting to the prince. The reform, which would have represented a huge step in the restructuring of the *Cortes*, was never implemented. And, as far as the question of plenary sessions of the three estates occurring between the official opening and closing sessions is concerned, we only know of five such meetings (always attended by the king or by somebody representing him).

### 3.3. The Buying of Chapters, (Or “The act of buying chapters”)

This is another of the novelties to be found in this book, and one that has largely been ignored: only the general chapters of which each borough requested a copy were valid for that same borough (except when a coherent group of chapters with the respective answers was transformed into an ordinance of the realm). I have not seen this question commented upon; and yet it is a transcendent one. We need to know if it was always like this; and then to extract the consequences therefrom: could a borough be intensely involved in the negotiation of certain claims and then not ask for the corresponding certificates? Moreover, one borough could adopt a resolution – judicial, fiscal, military or economic – and the neighbouring boroughs might not do so. What implications did this have? The more we think about the problem, the more doubts occur to us: the many hundreds of general chapters could be converted into a similar number of sources of particularisms; the practice, which is common in our historiography, of considering the chapters and the respective answers to be a reflection of the situation of the country and the policies of the crown, already based on a hermeneutic equivocation (that of thinking that the situations were exactly as the representatives said they were), also ignores this rule.

Once the *Cortes* were formally closed, it could happen that the burgesses were forced to wander about after the king and his chancery, in order to carefully analyse each general chapter with its respective answer, so that they could then ask for a copy of those chapters that might be of interest to their borough. There are various implications here: this phase of the work required burgesses to have already enjoyed enormous political and administrative experience, and to have a specific sensitivity to matters that were of interest to the borough (or, to be more precise, to the social group that they represented); on the other hand, whilst going to the *Cortes* was already expensive in itself, consulting the final decision and waiting for an over-occupied chancery to issue certificates case by case led to an exponential increase in expenditure. The chapters were expensive, so that it was possible to arrive at this extraordinary situation: the burgesses were forced to choose, from amongst the numerous chapters that might be useful to the government of their region, those that they could afford to pay for.

### 3.4. Sedentary Court, Sedentary *Cortes*

This is another good idea for discussion: today, in Portugal, we enjoy the visits of a president or a prime-minister to our region, to be dazzled by the proximity of power. We have projected this feeling into the past and imagined the regions rejoicing as soon as they heard that they were going to host the *Cortes*. This may be anachronistic: receiving a parliamentary meeting would be an honour, it would bring the king and the court to the region, together with great liveliness and festivities, as well as political and social advantages (which Armindo de Sousa sums up as follows: “administration of the courts, correction of the abuses and arrogance of the powerful, supervision of the royal officers and presentation of complaints against the municipal elites”; Sousa: 1990, 1, 178). This was the good news; the bad news included “lodgings, abuses by the courtiers and nobles, theft, rape, rising prices,

disturbances". All in all, weighing up the costs, on the one hand, and the festivities and prestige, on the other hand, was it true, as the author says, that the honour of hosting the court and the *Cortes* did not outweigh the sacrifices? I think that this question still remains very much open.

Whether it was a reward or a punishment, this presence was not evenly distributed throughout the country, as was so often said; the *Cortes* followed after the king, met wherever it was most convenient for him that they should meet; and whenever the court remained around Lisbon, Santarém and Évora, the parliament would follow it. After 1401, parliament never again crossed the Mondego to go to the whole northern half of Portugal; and it kept as far from the periphery, so the saying goes, as the devil keeps from a cross.

### 3.5. The Commons at Ease, the Nobility Much Less So

The corporatist and juristic view that has been formed of the *Cortes* has overlooked a number of obvious facts: that the clergy and the nobility had many opportunities to talk to the king individually or collectively, something that was not possible for the common people; that the boroughs presented themselves as a collective voice, whilst each nobleman and each clergyman (except for the cathedral chapters) spoke on his own behalf; that the overwhelming majority of the *Cortes* were summoned to ask the commons for money, which meant that certain concessions had to be negotiated in return. And because this was overlooked, it was not understood just how clearly parliament was seen as the "people's tribunal", that it was in fact the common people who were the most enthusiastic supporters of parliamentary meetings and that the other two estates of the realm would prefer to return home as soon as possible after the official opening ceremony; however, the nobles insisted on the compulsory nature of their summons to appear, which led Armindo de Sousa to presume that they always were, with the possible exception of some meetings called to deal with matters that were exclusively of interest to the commons (an idea that seems to me to require greater validation). The nobility attended 23 of the 44 *Cortes* summoned between 1385 and 1490, and we know only a few general chapters thereof (special chapters obviously made no sense). The clergy are documented as attending 24 *Cortes* but, being aware that they were one of the favourite targets for the complaints of the people, they showed clear disinterest, were late in their participation or boycotted decisions.

If, as Armindo de Sousa suspects, the nobles would go to the opening ceremony and then leave representatives in their place, there are several questions that remain to be answered: who were these representatives? Why do we not know even one of their names? What was the extent of their powers as attorneys of the nobles? Were they simple informants, or did they have any decision-making capacity? At the *Cortes* of 1477, the nobles' representatives threatened that, if they left, it would not be possible to take any decisions about matters involving the nobility; this stance implied both experience and great political courage. The whole question has important political implications, as well as other implications relating to the institutional functioning of parliament. I should like to discuss deeper Armindo de Sousa's belief that the difference between nobles and the representatives of the commons, at the *Cortes*, was the difference "between aristocracy and democracy, the individual and the community, the right of exception and equality in the eyes of the law, the primacy of the clan and the primacy of the nation", with the nobles calling for the "privileges of lineage" and the commons arguing in favour of "the good of the realm and common law" (Sousa: 1990, 1, 188).

### 3.6. Who was Who on the People's Benches?

After guaranteeing its admission to the *Cortes* of 1254 (Caetano, 1954), the third estate gradually improved its representation; 123 delegations passed through parliament (including ones from the University of Coimbra, six judgeships and "the farmers of Alcobaça", a big Portuguese monastery); I believe that the seating plan for the *Cortes* of 1481-82 gives us a stabilised picture of the 80 delegations that had a right to their own private seat. There were some *Cortes* that were exceptionally open and well attended, while there were other more routine sessions with restricted access. The map of the boroughs is impressive: the most highly populated judicial district, Entre Douro e Minho, did not even receive as

many as 9% of the seats; it was worth as much as the Algarve. The sparsely populated Alentejo enjoyed almost half of the seats (45%); and, together with Estremadura and Beira, it occupied 76% of the seats. The strength of the feudal regime, allied to the highly scattered nature of the population living in Entre Douro e Minho, may help us to understand this picture: the representation of the boroughs had nothing to do with the number of townships and even less to do with the density of the population (Sousa:1990, 1, 189-205). I have yet to hear an answer to Armindo de Sousa's question: did the "regional" chapters of Entre Douro e Minho correspond to an awareness on the part of the respective burgesses that the district was under-represented? I rather tend to think that they corresponded to an awareness of claims and common interests, on the one hand, and to the reduced negotiating power of these delegations that did not amount to as much as 9%. Although somewhat crude and hypothetical, the figures that Armindo de Sousa puts forward provide us with food for thought: a delegation from the north-west of Portugal represented roughly 13,400 inhabitants, whereas another delegation from the Alto Alentejo spoke on behalf of 840 people (16 times less). Half of the "parliamentary" boroughs were on the border; 30 % in the Alentejo heartland. But it was the "heavyweights" from the coastal area (Lisbon, Porto, Coimbra, Santarém), together with Évora, who dictated the agenda. It is worth following the author's exercise and trying to discover an "economic representativeness", in other words, a representation that was based on the socio-economic interests of the regions. This leads us to conclude, for example, that the elites of the 17 boroughs in Trás-os-Montes and the Beiras that attended the *Cortes* had similar economic interests; and that intensive farming did not have the chance to speak in parliament, their voice being stifled by that of the great landowners from the Alentejo and Ribatejo. The sea, however, – trade, fishing, the extraction of salt – seems to have been widely represented in parliament.

The burgesses insisted – an essential rhetorical trope – on their genuine representativeness. They were not representative "geographically", as we have seen, nor even socially, since they only spoke on behalf of the few people that had chosen them ("landowner-farmers, cattle breeders, traders and merchants – the municipal elites"). Who represented the humble countryfolk and those who were dependent on the manorial estates? The respective landlords? The burgesses from the neighbouring boroughs? No-one? It is for this reason that Armindo de Sousa is able to state that "it is a fallacious proposition to postulate that the discourse of the common people's representatives reflected the interests, motivations and political strategies of the commons *tout court*, and it is much less true to suggest that the vision of the country and its problems as conveyed by this discourse can be taken as an objective diagnosis of the social reality" (Sousa:1990, 1, 206). However, this self-evident fact continues to be ignored and the situation of the country is uncritically deduced from the general chapters.

Having said this, it is not acceptable to make a poor interpretation of the representation of interests: there were people's chapters that defended the nobles; there were common desires that were jointly shared. And in the very representation of the common people themselves, it is possible to see the tensions existing between town and country, the seat of the borough and its outlying area, the local aristocracy and the artisans.

### 3.7. Delegates' Powers

This question has been discussed at some length, although nowadays it is difficult to understand why. It has always been maintained that the mandate of the burgesses was imperative; they could only vote in keeping with prior instructions that they had brought with them from their boroughs. The analysis of sources undertaken by Armindo de Sousa finally clears up the problem once and for all. Immediately addressing the problem of the summoning of the *Cortes* whenever these convocations explicitly and unequivocally stated the primary aims of the parliamentary meeting (for example, to vote on a subsidy), delegates could be instructed to vote in a certain way; but when these convocations concealed the primary aims, only revealing other objectives or restricting themselves to making empty generalities, imperative mandates made no sense. Delegates couldn't be instructed to vote in one particular way on matters that were not even known about. Furthermore, as we have seen, in each region, only the chapters that the respective burgesses decided to purchase were worth anything; and, in these cases too, they had almost complete freedom of action. And then again: the burgesses

ended up having real legislative power, since, by choosing certain general chapters in detriment to others, they were deciding upon rights and obligations that would affect the whole borough. This power, which was established in decisions taken by the *Cortes* of 1439 and 1459, may have had contradictory effects: demeaning for parliament (an institution whose decisions have little binding power is weaker) but prestigious for the representatives of the commons, whose powers increased significantly. In the actual wording of the general chapters, the burgesses enjoyed a wide-ranging freedom. A parliament whose delegates were mere conveyors of others' wishes would not be worth anything – neither for the crown nor for the realm.

The less imperative the mandates, the stronger the parliament. And there was no shortage of other possible causes for its weakness: the three estates were joined by a fourth group: the king's men. Everything about the Portuguese *Cortes* – its *modus operandi*, the almost complete lack of working plenaries or effective inter-estate committees – served to reinforce parliament's combative aspect, the dispute over complaints, and did nothing to unite all the participants in a primary group, clear in its social and affective relationships, one that showed itself to be an "us". The mechanisms of the Portuguese parliament favoured the continuation of divisions and social antagonisms, rarely promoting any kind of coming together over common objectives, whether "national" or otherwise. The official opening sessions were exceptional propaganda occasions for the king, but they did not serve to consolidate the institution of the *Cortes*; this was what the plenary working sessions were basically for; but such sessions, as we have seen, were practically non-existent. Antagonism was encouraged, together with disinterest and the fruitless waste of energies.

The *committee of determiners* conceived by Prince Dom João in 1477 could have solved some of these sticking points. But it never went ahead. Perhaps because, as Armindo de Sousa suggests, the clergy and the nobility enjoyed an *innate* parliamentary status, and were not prepared to exchange it for the status of elected representatives, operating on an equal footing with the municipal delegates. Basically, the first two estates managed perfectly well without the *Cortes*, the institution that should represent the three estates only represented one of them – and badly. For this reason, according to the author, the *Cortes* would never become an inclusive, fleshed-out institution. This is another key idea that we would do well to discuss.

### 3.8. The Spoken and Unspoken Functions of the Parliament

The *Cortes* were summoned to debate and decide upon certain matters: those of a political, monetary and fiscal nature. In 40% of cases, they concentrated their energies upon the presentation of complaints and petitions to the king; and a roughly similar percentage of their time was taken up with deciding upon finance requests and loans. The sovereign, for his part, would only consult them to decide upon taxes and legal tender; the commons, for their part, only attended them to discuss petitions and grievances, or, in other words, to *legislate*. The prestige of the general chapters granted by the king was extremely high; according to A.M. Hespanha, it was at least equal to the prestige enjoyed by the ordinances and greater than that of the laws promulgated by the king alone (Hespanha: 1982, 367-384).

But it was the taking of decisions upon taxes and legal tender that gave the *Cortes* their real strength; and it was this that made them essential for the king, and which therefore gave the people's delegates great bargaining power. As we must surely remember, when the king didn't need any money, the *Cortes* lost a great deal of their importance.

Paradoxically, it was on those occasions when the *Cortes* were politically more spectacular – 1385 and 1439 – because there was no king, that they had less importance as *Cortes*. They became an instrument of social change, placing their vocation as a normal structure of government between parentheses. As far as the classical functions that we were taught about are concerned – swearing in monarchs or heirs to the throne, confirming royal marriages, declaring war and peace, ratifying international treaties – the *Cortes* almost never performed these. The commons might well have wished this; but the kings did not allow it.

One should take note of this extremely important aspect: it was always popularly believed that the decisions taken at the *Cortes* could only be revoked by this same body. This seems to us to be a



reasonable 'constitutional' principle. The fact is that this rule was never established; which reveals a great deal about this institution's structural vulnerability.

But the *Cortes* also served for what was not said (and, in some cases, was not even known): to enhance the king's prestige, to efficiently disseminate information and, only with regard to the third estate, to create a class *ethos*. In other words, performing functions that Armindo de Sousa refers to as pedagogical and political, endowing the benches where the commons sat with ties of solidarity, integration, affectivity, a common capital of political experience, plans and utopias for the country (Sousa: 1990, 1, 266).

Always dependent upon the king and never completely structured, the Portuguese parliament, rather than having a "juridical nature", had a political status and the most essential part of its prestige at the time was based on its legislative function (drawing up and proposing general chapters to the king). For this reason, the *Cortes*, which only met if the king so wished, were never dependent upon him at a political and moral level; their strength and legitimacy were therefore based on a solid *political authority*, and not on any juridical status.

### 3.9. The Controversial Question of the Chapters

I should like to stress just three points. Firstly: at the *Cortes* and in relation to them *thirteen* different types of documents were produced. The chapters are just some of them.

Secondly: the special chapters reproduce very specific claims from each borough; these were *ad hoc* petitions that were better suited to *ad hoc* judgements and not to turbulent negotiatory processes; they preferred the discretion of a private audience to the publicity of the plenary sessions. They were only presented at the *Cortes* for a question of sparing expenses: if the borough were to spend so much money on sending a delegation to parliament, then at least a return should be made on the investment by dealing with the borough's own private matters. For this reason, Armindo de Sousa stated quite vehemently that the special chapters, which were produced in great numbers at almost all the *Cortes*, *were not characteristic of*, nor did they characterise, the institution. I still believe that this argument has not yet been refuted in any convincing fashion.

Thirdly: as far as the general chapters were concerned, the vast majority of which have been lost, their wording presupposed a profound political experience and a great deal of technical competence, as well as intuition; the king's personality had to be taken into account, and the arguments had to be based on law and justice; the help of learned scholars was sought constantly, whilst recourse was also regularly had to the archives of the boroughs. As a source, the chapters present problems, for they represent "a special literary genre", with highly narrative overtones, dramatic touches and oratory devices. They are structured in three parts: the facts which motivated them (the matter that led the commons to raise the problem), the justifications and, finally, the petition(s), or, in other words, what was in fact being asked for. As can easily be seen, the first two parts are merely rhetorical devices used to promote the third part, the one that really matters. Therefore, in order to make history, we cannot innocently make use of these first two parts, and in particular the facts lying behind the case: as the author reminds us, these facts were presented as a "supposedly objective report", but it was also one that was full of "exaggerations", "social stereotypes" and "improper generalisations" (Sousa: 1990, 1, 513; Sousa: 1982).

The rest belongs to rhetorical theory and game theory in their explanation of conflicts: one asks for *a* in order to obtain *b*, one asks for a great deal in order to obtain just a part of this; a smokescreen is put up, concentrating arguments around a claim, in order to deflect the attention of the royal officers from what one really wishes to obtain; one systematically asks for something that may never be granted in order to mark out one's ground, or so that this utopia will start building its own path. There were *Cortes* that were well conducted strategically by the commons, others that were disastrous; there are lists of well structured chapters, others that reveal ineptitude (the king himself confirmed this). There were high percentages of success, as well as other percentages that were acceptable or insufficient. The burgesses' job was to exaggerate in their requests, the king's mission was to refuse just as much as was necessary. Armindo de Sousa shows himself convinced that when the commons saw half of their requests granted they would return home satisfied.

The king had available to him nine types of possible answers, which could be basically reduced to two: to grant or reject the petition. For political reasons, it might be convenient to disguise rejection: and so the answer was delayed, other consultations were called for, it was decided that things should remain as they were, a part of what was asked for was granted, or else it was granted under certain conditions, or an evasive or inconclusive reply was given.

And so the author arrives at his *thesis*: 'The *Cortes* held between 1383 and 1490 must be seen as a substructure of the overall political structure, endowed not with power or powers, but with public, and universally recognised, authority, to advise monarchs and regents, to supervise the behaviour of political and administrative agents, to propose laws, to suggest reforms and to grant extraordinary taxes. All in the name of the nation – especially on behalf of the third estate – through members of parliament who were seen and accepted as the political representatives of the common people'. (Sousa: 1990, 1, 556-557).

This conclusion was formulated in this way in October 1987, that is 16 years ago. I can see no better programme for a good discussion. And yet nobody considered that such a discussion was worthwhile.

#### 4. And So, What Directions Should we Continue in Today?

From the reading that I have made of Armindo de Sousa's thesis, I believe that there are various avenues that can be explored.

1. In the light of his work and his total reinterpretation of the Portuguese parliament, now is a good time to re-read what has been written about the Parliament in France, England, Spain and Italy; for example, an Italian researcher summed up the mediaeval parliament to me in somewhat colloquial terms, in the various territories that made up the Italian peninsula, as a trade-off. Here the political authorities needed to ask for extraordinary financial contributions, so that they could negotiate a deal with the representatives of the "common people" (basically, then, they bought the subsidy). The same thing happened in Castile, during the 15th century. We have seen how this issue was dealt with in our own case and how essential it was.

2. The fact-gathering enterprise is far from being exhausted. The catalogue of the *Cortes* that were held can be constantly improved, whether to confirm the meetings that Armindo de Sousa states took place, or whether to clarify what happened both at those that were "insufficiently documented" and at those that were "erroneously acknowledged" (Sousa: 1990, vol. 2). There is a great deal that needs to be discovered about the dates when the *Cortes* began and ended, the matters stated in the convocation, the lists of those attending, the opening speeches, the chapters and other documentation that was produced. This same researcher's catalogue of the documentation produced at the *Cortes* contains some lapses and a fairly large number of gaps.

3. The participation of the clergy was not very deeply researched by Armindo de Sousa, although other scholars (Marques: 1988 and Ventura: 1997) have studied this question. The presence of the nobility at the *Cortes* (who they were, who represented what, how the participation of this estate came about) is practically still uncharted territory, although, as we have seen, that estate probably invested little or nothing in these meetings and would not have been missed over greatly. This is one of the avenues that it is most worth pursuing, in particular because the thesis that we have been following paid little attention to the matter.

4. Along the same lines, it would be worthwhile discussing the existence of different levels of representativeness amongst the three estates summoned to the *Cortes*, on the one hand, and within each of them. Here, the delegations of the front bench of the commons clearly commanded the others (and, amongst all the rest, the existence of some delegations that were more "equal" than others), with the clergy presumably behaving as if they were a single block (but a block in the midst of which there were also different factions and leaders) and with the nobility letting their respective participation slip to some extent. In relation to the third estate, when their representatives requested the dwellers in the regions without a seat at the *Cortes* to help pay the expenses of the towns and cities that were "of their responsibility and stewardship", they were postulating an unequivocal form of representativeness; was the royal refusal not objectively a denial thereof?

5. It is not understood why no-one seems at any time to have thought about the royal delegation. We know that the king was present – *et pour cause* – at the official opening ceremony; and we calculate that he later absented himself, although in principle he must have remained in the region where the parliament was meeting. The answers to the chapters came either from his own mouth or were made on his behalf, granting, rejecting, postponing; but the negotiations with the boroughs and the maintenance of the royal decisions were, as they had to be, the responsibility of the highest-placed royal officers: a team that included (was coordinated by?) the head chancellor, and which would certainly include the *corregedor* (chief magistrate) of the court and perhaps those of the judicial districts, the men from the Exchequer (inspectors and accountants), the occasional high court judge, judges from the Civil Court or the Court of Petition... (Homem: 1990). In short, a team with a variable geometry depending on the complexity of the matters being dealt with, the relationship between the forces involved, as well as the actual duration and location of the *Cortes*. And it would be curious to know the part played by the king and the part played by his advisers in the final response given to the chapters.

6. One safe way of approaching the Portuguese mediaeval Parliament would always be to carry out a monographic study of each meeting of the *Cortes* (there are already some good examples of this), which may include the set of special chapters that were negotiated thereat. The systematic publication of the documentation, which is being undertaken by the Centre of Historical Studies of the Universidade Nova de Lisboa, goes some of the way towards achieving these objectives<sup>5</sup>. Examples of such would be studying the history of the participation of each borough at the *Cortes* when it was there, which burgesses it sent, which chapters they understood it to be advantageous to purchase for their government, which seats the borough occupied and on which bench, how long it had done so and why. Barcelos, for example, was sometimes represented by the Count, sometimes by the burgesses from Porto, until it earned the right to its own seat in 1490; these were totally diverse, if not in fact opposite, situations.

7. Armindo de Sousa proposed a new and rigorous hermeneutics for the study of the documentation produced at the *Cortes* and, in particular, for the general chapters. This proposal continues to be generally ignored at present, and the texts of the chapters continue to be reproduced and commented upon uncritically, as if they were good “reports” of the state of the country. They both boil down to the same thing: either this historian’s interpretation is challenged with well-grounded justifications or more care needs to be taken in using these texts.

8. Finally, Armindo de Sousa brought considerable theoretical enrichment to the study of the mediaeval parliament. As is frequently the case, this made it possible to shed light on countless aspects of the way in which the institution operated, which were being wrongly interpreted. It would be a pity if this legacy were lost and we returned to the simple uncritical transcription of documents.

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<sup>5</sup> The Cortes of Afonso IV (1325-1357), Pedro I (1357-1367), Fernando I (1367-1383) have already been published; those of Manuel I (1495-1521) are currently being published.

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