

regime to the liberal society. However, these questions are not directly related to my main concern, the preparation for death, and as such they will have to wait for further consideration in the future.

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TESTAMENTARY PRACTICES IN VENADE (MINHO), 1755-1815

I

It is probably not necessary to recall the importance of death as a subject of investigation in the context of recent historiography, and the countless works published in the last 40 years. Death as a demographic factor; the behaviour of men before death; the preparation to die and the ambiance in which death occurs - these are only a few of the themes which have aroused the curiosity of historians, and led to major contributions by Ariès, Vovelle, Chaunu, Lebrun, Goubert.¹

The sources used in those works are quite varied. But inasmuch as this theme has been regarded in the perspective of *longue durée*, what has assumed a central place in the course of the last decade is the subject of wills.² It is difficult today to deny the importance of wills to the history of *mentalités*, and to

¹ Philippe Ariès, *Essais sur l'histoire de la mort en Occident, du Moyen Age à nos jours*, Paris: Editions du Seuil 1975; Michel Vovelle, *Piété baroque et déchristianisation en Provence au XVIII. siècle*, Paris: Plon 1973; Pierre Chaunu, *La mort à Paris (XVI., XVII., XVIII. siècles)*, Paris: Fayard 1978; François Lebrun, *Les Hommes et la Mort en Anjou aux XVII. et XVIII. siècles*, Paris and The Hague: Mouton 1971; Pierre Goubert, *Cent Mille Provinciaux au XVII. siècle*, Paris: Flammarion 1968.

² See Michel Vovelle, 'Un préalable à toute histoire serielle: la représentativité sociale du testament (XIV.-XIX. siècles)', in *Les Actes Notariés*, Strasbourg: Istra 1979.

social history in general.

Piété Baroque et Dechristianisation was the book which prompted my interest in the study of this kind of source, which has thus far received scant attention in Portugal. Relying on Vovelle for the method and on Ariès for the theory, the task was to test their applicability to the Portuguese case, and to check any deviations from the model. The first set of questions was, thus, to find out which type of will had been made in Portugal, and where they could be found.

II

According to *Apontamentos de Teologia Sacramental*,³ a theological handbook of the 18th century, there were two ways of making a will: 'an open one, and a closed one; the closed one is written and then closed so that the witnesses which must be present will not know the bequeather's will; the open one is that made before the witnesses'. In order to be valid, a testament had to obey certain 'solemnities'. If written, the bequeather had to sign it or have it signed on his or her behalf if he or she could not write, and then it had to be brought in the presence of five witnesses to a public notary, who would register it in legal form. The 'open will' - also called nuncupative - could be made by the notary, or by the bequeather or his representative, or it could be made merely by word of mouth, when the bequeather was on his deathbed. In any case, it had to bear the signature of several witnesses.

The first step of my research thus consisted of an analysis of the notarial books. Surprisingly, there were almost no wills registered in them during the 18th century - this statement, however, is not based on any statistics. The rarity of wills in notarial books, in turn, led me to other sources. Moreover, the few testaments found in the notarial records refer to very specific situations, like the bequeathing of one's own property before entering a monastery. According to some medievalists, testamentary practices were known in Portugal and were common mainly among the privileged social strata. This encouraged my pursuit of 18th-century wills, and finally I found a great deal of them in parish registers.

Making wills was a widespread practice by the end of the 18th century and early 19th - only social practice differed some-

³ *Apontamentos de Teologia Sacramental* (18th century), Arquivo Distrital de Braga (A.D.B.) MS. 613.

how from the strict legal rules. The notary played a very small role; he could write wills (only 6 out of a total of the 227 I am concerned with here were actually written by notaries), but he was mainly called in to approve them. This approval would be registered in the will itself which would then be kept by the bequeather until his death. This applied to both closed and open wills, although the notary's approval was more common in the former case (84 wills were of the closed kind and were judicially opened). The nuncupative wills would generally bear the witnesses' signatures only; there are 143 wills of this kind.⁴

The same cannot be said with respect to the clergyman's role. On the contrary, we can say that wills depended upon their actions. They would disseminate amongst the population the need to make a will as a requisite for a 'good death', through sermons⁵ and prayers,⁶ and during their attendance on a dying person in order to give the last sacraments.⁷ The priests were often called upon by those who could not write, and this must have been more strongly felt in the rural areas with higher illiteracy rates. Out of the 227 wills, 35 were written by priests, 11 by 'surgeons', 52 by rural notaries; the others do not mention who wrote them. The priests would also demand from the heirs, after the bequeather's death, the presentation of the wills in order for them to be transcribed - either in full or just the 'pious vows' - a practice strictly controlled each year through the visitations.⁸ The priests' commitment to their

⁴ *Livros de Testamentos da Freguesia de Venade, Concelho de Caminha*, A.D.B.

⁵ *Sermão sobre a Morte e como nos devemos preparar para ella*, A.D.B. MS. 492 (11); *Breve discurso sobre a Morte do pecador como apenso a outro qualquer Sermão*, A.D.B. MS. 492 (6).

⁶ *Exercício muito útil para a consideração da Morte* (19th century), A.D.B. Mss 61; *Exercícios quotidianos com que se justifica a Alma para obter Boa Morte* (18th century), A.D.B. MS. 244.

⁷ *Livros de Obito da Freguesia de Venade, Concelho de Caminha*, A.D.B. These also contain several notes written by the priests referring to fines imposed on those who had not called him in time to administer the Last Sacraments. The fines could reach 4,000 *reis*.

⁸ *Livro de Testamentos*, fol.157v reads: 'Read in Visitation. The Priest is hereby ordered to copy into this book the pious legacy of all testaments. The heirs of those who died testate must present the wills to the Priest, who will return them after having copied them. If the heirs refuse they shall be fined up to 500 *reis*, and the fact must be reported to the next Visitation.'

parishioners' bequeathing practices was so zealous that in the beginning of the 18th century the King intervened and sent a letter to all ecclesiastical authorities in which he ordered that their excessive demands should cease.⁹

It is, however, thanks to the zeal of the priests that we are able today to use a large quantity of wills, registered in the parish books. We are all aware of the criticisms raised against such sources, although their merits have long since been established thanks to historical demography. The problems relating to the late beginnings of the parish registers, to the existing gaps, and to the loss of many books are equally relevant to the registers of wills. In the Province of Minho, only 292 out of 804 parishes have thus far shown their registers, and they do not go back further than the early 18th century.¹⁰ To these difficulties one must add the different procedures employed by the priests. Some of them transcribed the whole document, others recorded the 'pious vows' leaving the 'material' aspects out, and sometimes only the number of masses and other religious services required by the bequeather were kept. The quality and quantity of the wills are, thus, quite variable.

Apart from these documents - mainly from rural parishes - wills are also to be found in the archives of the municipalities. These date principally from the 19th century, are of the closed type, and come from urban parishes, which do not generally possess registers of wills, or have them in significant numbers. The wills kept in these archives are also legal transcriptions made after the bequeather's death, and were made in order to allow the authorities to control the execution of the arrangements.

I hope to be able to conciliate the three different sources in the course of my regional research. But since my main interest relates to the rural society of Minho, and my research is linked with other research currently being pursued in the Centre for Regional Development of the University of Minho, I decided to study a well-documented parish of this area - Venade, in the Municipality of Caminha, where I found wills registers covering roughly one century from the 1750s. This paper presents

⁹ A.D.B. MS. 788 (1) reads: 'I, the King, salute you... Having received complaints from many clergymen of the Bishopric of Oporto regarding the excessive zeal of some priests... I decided that the heirs of those who died intestate and the executors of wills must not be compelled to make more pious legacies than those mentioned in the testaments.'

¹⁰ See the catalogue of Parish Registers kept in the A.D.B. Many of these books are still in parish archives, others (mainly from the 19th century) are in the Conservatorias do Registo Civil (Civil Registration Offices).

the first results of my analysis; it does not aim to present an overall picture of attitudes towards death in the Minho, not to mention in Portugal. This parish is only representative of itself although it may produce an image which must later be compared with other case studies.

III

Analysing the death registers of Venade between 1755 and 1815, I realized that only 290 of a total of 638 dead persons had not made a will. This means that in the second half of the 18th century and early 19th, 54.8% of the population made wills. The percentage of the population dying intestate, although in line with the findings of Vovelle, could well decrease if more closely observed. The 265 intestate can be divided into three groups: 144 single persons, 97 married persons and 49 widowers. Why did they not make a will? Was it because many single persons were minors? Out of the 144 single persons, 20 were undoubtedly minor, and did not have the legal capacity to bequeath,¹¹ whereas 6 had died suddenly, 34 'were very poor and had nothing', 29 had died in Lisbon, Viana, Lamego and other parts of the country, 2 were mentally handicapped, and 34 offer no reason at all. It is possible that the last group included some youths, but there can be no certainty about that. From the group of those who had ever been married, 36 did not make their will due to poverty, 9 died suddenly, 4 were out of the parish, and 97 offer no justification. In all, 50% of those who died intestate did so for a good reason. Thanks to the care of the priests, who made complementary notes, it is also known that those included in the category intestate were generally awarded a *bem de alma* (literally, a good thing to the soul) paid by the heirs, most certainly under pressure from the clergymen when they had the means to pay.¹²

Among the death entries referring to a will some cases must be specified. As we have seen, there were 348 such entries, but

¹¹ Other demographic history studies suggest that this is far too small a number of minors. The 36 deaths of intestate persons which carry no explanation for that fact may be added to the numbers of minors' deaths.

¹² The ceremonies are usually noted on the margins, and are generally three - the mass on the day of the funeral, and the celebrations of the first month and first year after death.

only 112 wills have been found. What sort of testament would the others have made? A testament by word of mouth? Several references suggest that testamentary practices among rural populations began through this form of testament; on the other hand, the gap between 112 and 348 seems to be too large to be true at a time when written wills had expanded considerably. Does this not rather reflect one of the basic problems raised by parish records? As if to confirm my suspicions, there are also 115 testaments without a corresponding death entry. We can therefore assume that both death and testaments are under-recorded in the registers. This is the point where the crucial problems arise, because the confrontation of different sources - in this case, the records of deaths and wills - show gaps, and one wonders whether the results can be validated. In the circumstances, I decided to consider a) death entries which indicate that a will had been made despite its not having been transcribed (236 cases); b) wills with a corresponding death entry (112 cases); and c) wills without a corresponding death entry (115 cases). If we exclude those who died before reaching the age at which they could make a testament, the majority of the population (about 60%) made their testament - a finding in line with what has been found for the south of France. We can therefore say that the act of making a formal testament was 'almost unanimous' in Venade in the period under consideration, assuming that the standard measure for its representativeness is the number of deaths.¹³

As the research progressed I noticed that there were particular years when almost everyone seems to have made a will, mainly on their deathbed. From the 1780s the proportion of those who died after making a will tends to go up, and continued to be high in the early part of the 19th century. What was the cause of this rise?

Amongst the various elements which must have played a role, the following hypotheses ought to be considered before a conclusive study is attempted:

- (i) Did it derive from a greater awareness of testaments or from an acceptance of formal bequeathing practices?
- (ii) Could it mean that parish religious life intensified? If so, was it on the personal initiative of the priest or was it in accordance with orders from the Archbishop?
- (iii) Could it be that we are in the presence of a period of crisis affecting the population both in terms of demographic behaviour and in their *mentalités*? Oliveira's study on agrarian

¹³ Vovelle, 'Un préalable', p.262, fn 2.

history¹⁴ has made it clear that the economic systems prevailing in rural Minho underwent a process of rupture at this time, and Vovelle has suggested that in a time of crisis, testaments exert greater appeal.¹⁵

The questions raised here require the study of a significant sample of parishes before any conclusions can be reached. But apart from this problem, as well as that of the frequency of bequeathing practices when compared to fluctuations in mortality, others deserve some attention. The testament is an important document. But who does bequeath? Men or women? Which social group do they come from? Do testaments mean wealth? Or social prestige? How can social status be revealed through testaments?

It is probably true to say that in earlier times, bequeathing was mainly a male practice, but by the 18th century things had significantly changed - women became equal to men, and in certain cases there even was a reversal of their former positions. In the case of Venade, about 70% of the testaments were made by women, although they were able neither to write nor to sign them; men could not write them either (except in a few cases), but they often signed them. Why do women have this supremacy? There is no easy answer, and it would be extremely interesting to start by determining when the change occurred. In this parish, it is worth mentioning the large number of widows (69) and single women (79). There were also 28 married women. The fact that when married couples made their testament both spouses made one, and the diffusion of this form of bequeathing, may account for the high proportion of women to the total number of bequeathers. The social status problem is somewhat more difficult. The bequeathers seldom state their occupation, although we know they all belonged to a rural society. But within each rural society differences in wealth and in the relationships between individuals can be substantial, and when no direct means are available, it is still possible to try an approach to social differentiation through indirect indices. One such index may be obtained from the testaments which comprehend a 'material' section, i.e. references to the possessions to be shared by the heirs. This method presents some problems, since donations might have been made and not referred to in the testament, for example when the bequeather had a married son. The major problem, however, derives from the priests' lack of interest in this aspect of the testaments, which must be held

¹⁴ Aurelio de Oliveira, *A Abadia de Tibães 1630/80-1813: Propriedade, Exploração e Produção Agrícolas no Vale do Cávado Durante o Antigo Regime*, Doctoral Thesis: Porto 1979.

¹⁵ Vovelle, 'Un préalable', p.267.

responsible for the overwhelming registration of 'moral testaments' only, the exceptions being those cases which involved large amounts of money.

The second index can be derived from the 'moral testament' itself. The *bem de alma* should be paid for by the heir entitled to the *terça do terço* (literally, the third of the third, the third being the freely disposable part of one's own property), and only when the 'pious legacy' had been fulfilled could the heir benefit from his inheritance.¹⁶ An evaluation of the 'pious legacy' may therefore suggest the social status of the bequeather, and it comprises several indications of the number of priests to be present at the funeral, the number of masses, the alimonies to the poor, the donations to institutions, the death shroud, and even the place of burial. The last act one accomplished in this world ought to be in accordance with 'the uses and customs of those of his rank', and both the bequeather and the heir wished to profit from the occasion to make clear their position in the parish hierarchy. It must also be stated that some bequeathers made the task easy for us by declaring that they ask for no more because they are poor, or by ordering all their valuables to be sold in order to pay for the *bem de alma* or, on the other hand, when they prefix their names by *Dom* or *Dona* - a sign of social prestige. This could lead us to think that testaments were the last thing to be made in a person's life, and in which a significant part of the disposable goods was in fact registered. It would nevertheless be an exaggeration to suggest that testaments were some sort of commercial transaction with the representatives of the Afterlife (God, the Virgin, the Saints and the Angels) aimed at acquiring the salvation of the soul. The practice was undoubtedly well within the spirit of the Catholic Reformation, and assumed a dramatic character through which the bequeather hoped to obtain a 'good death'. The first feature can be proved by recalling the expressions found in testaments: the Holy Trinity, God, the Eternal Father, the Most Precious Blood of the Only Begotten Son Spilt on the Tree of the True Cross, the merits and sufferings of Jesus Christ - all these are invoked as testimony of 'an absolute faith in all the mysteries and doctrines taught by the Holy Roman Catholic Church'. The Virgin Mary, Mother of God and of all sinners, is asked to plead for the dead person's soul before the Son, and the Angels, the Saints, and the Souls in Purgatory are urged to use their influence in the Holy Tribunal. These expressions can be found all together, or in simplified

¹⁶ This fact was always mentioned when the material dispositions were copied and when one heir benefitted from the *terço*. This heir was generally appointed executor of the will and had to pay the *bem de alma*. Dowries also show the *terço* being kept associated with the payment of the *bem de alma*.

versions, depending mostly on who wrote the document. In the case of Venade, wills were seldom written by the bequeathers themselves, and this suggests that the formulae used in the 'commendation of the souls' were largely the clerk's responsibility, who used current expressions from the liturgy. There is, however, a peculiarity I wish to underline: 99% of the testaments contain a statement of belief in 'all the mysteries and doctrines taught by the Holy Roman Catholic Church', and in the 'hope that such faith will save the soul'. Is this an expression of the influence the Council of Trent had in Portugal? On the other hand, does not the expression 'hope that such faith will save the soul' reveal the knowledge of other sets of beliefs? The word 'hope', I believe, can be read as allowing a feeling of doubt or even of anguish at a crucial moment.

IV

The scope of my analysis does not yet allow sound conclusions, but I think it provides sufficient ground for some considerations - problematic and theoretical - bearing on my research.

First, I think that the influence of the Catholic Church and the priests on a dying person was very important, leading to uniformity in bequeathing practices during the 18th and 19th centuries.

Second, I attribute the reduction of 'pious legacies' (number of priests, services, alimonies, etc.) in the same period not so much to a 'dechristianisation' or a 'laicisation' of the act of writing a will as to the diffusion of this practice amongst the poorer groups of the population which were not used to doing so. Testaments were no longer the privilege of some well-off people but became common practice. Was it that the Kingdom of Heaven was no longer the province of the poor and unhappy, who now also had to guarantee their salvation?

Third, the extent to which the testament represents a mode of personal assertion and prestige within the parish community is still unclear.

Finally, the effect of economic and demographic crisis on the *mentalités* and behaviour of the Minhotos remains to be ascertained.

Religious sentiments at the moment preceding death strongly influenced the behaviour of these people, and even in the 19th century testaments throw light on hidden aspects of their mental and psychological lives. The fact that no other source reveals more directly these phenomena places the study of wills in a privileged situation for all those who care about these questions.