

## Fire and territory in Navarre: an interdisciplinary perspective from Geography, History and Customary Law<sup>1</sup>

**Ignacio Sotelo Pérez**  
IUCA (España) 

**María Sotelo Pérez**  
Universidad Rey Juan Carlos (España) 

<https://dx.doi.org/10.5209/obmd.106450>

Recibido: 19 de mayo del 2025 / Enviado a evaluar: 30 de junio del 2025  
/ Aceptado: 5 de diciembre del 2025

**Abstract:** The present research proposes an interdisciplinary reading of fire in Navarre, addressing its role in the ecological configuration of the territory, its historical use as an agricultural and cultural tool, its transformation into a catastrophic risk, and its legal regulation since the Middle Ages. Through the analysis of documentary sources such as charters, municipal ordinances, notarial records, and regional legislation, the evolution of the regulatory framework governing the use of fire in the Navarrese mountains is reconstructed. The study reveals how Navarrese historical law, deeply rooted in communal practices and customary customs, has been key to the management of fire as an ecological and social element. It is concluded that understanding fire in Navarre requires an approach that combines ecology, history, and law, and that traditional knowledge can offer keys to addressing the contemporary challenges of forest fires. This study has aimed to contribute to this understanding by offering a profound, well-documented, and original analysis of fire as a legal concept, a territorial practice, and a cultural expression. The Navarrese experience demonstrates that it is possible to regulate fire from a community-based, territorial, and traditional perspective, and that law can be a tool for balance, adaptation, and transformation. In a world increasingly threatened by climate change, regulatory homogenization, and biodiversity loss, the Navarrese model offers a valuable alternative and deserves to be studied, protected, and replicated.

**Keywords:** Cultural fire; regional law; historical ecology; Navarre; risk management; communal ordinances; pyrogeography; environmental history.

### **ES Fuego y territorio en Navarra: una mirada interdisciplinar desde la Geografía, la Historia y el Derecho Consuetudinario**

**ES Resumen:** La presente investigación propone una lectura interdisciplinar del fuego en Navarra, abordando su papel en la configuración ecológica del territorio, su uso histórico como herramienta agrícola y cultural, su transformación en riesgo catastrófico, y su regulación jurídica desde la Edad Media. A través del análisis de fuentes documentales como fueros, ordenanzas municipales, protocolos notariales y legislación foral, se

<sup>1</sup> La presente investigación se enmarca en el Proyecto de Investigación y Desarrollo -PID2023-148597NB-I00-. Proyecto Nacional del Ministerio de Ciencia, Innovación y Universidades (España).

reconstruye la evolución del marco normativo que ha regido el uso del fuego en los montes navarros. El estudio revela cómo el derecho histórico navarro, profundamente arraigado en prácticas comunales y usos consuetudinarios, ha sido clave en la gestión del fuego como elemento ecológico y social. Se concluye que la comprensión del fuego en Navarra exige una lectura que combine ecología, historia y derecho, y que los saberes tradicionales pueden ofrecer claves para enfrentar los desafíos contemporáneos de los incendios forestales. Este estudio ha pretendido contribuir a esa construcción, ofreciendo una lectura profunda, documentada y original del fuego como objeto jurídico, como práctica territorial y como expresión cultural. La experiencia navarra demuestra que es posible regular el fuego desde la comunidad, desde el territorio y desde la tradición, y que el derecho puede ser una herramienta de equilibrio, de adaptación y de transformación. En un mundo cada vez más amenazado por el cambio climático, por la homogeneización normativa y por la pérdida de diversidad, el modelo navarro ofrece una alternativa valiosa, y merece ser estudiado, protegido y replicado.

**Palabras clave:** Fuego cultural; Derecho foral; ecología histórica; Navarra; gestión de riesgos; ordenanzas comunales; pirogeografía; historia ambiental.

## **FR Feu et territoire en Navarre: une perspective interdisciplinaire entre géographie, histoire et droit coutumier**

**FR Résumé:** Cette recherche propose une lecture interdisciplinaire du feu en Navarre, abordant son rôle dans la configuration écologique du territoire, son usage historique comme outil agricole et culturel, sa transformation en risque catastrophique et sa réglementation juridique depuis le Moyen Âge. À travers l'analyse de sources documentaires telles que chartes, ordonnances municipales, actes notariés et législation régionale, l'évolution du cadre réglementaire qui a encadré l'usage du feu dans les montagnes navarraises est reconstituée. Cette étude révèle comment le droit historique navarrais, profondément ancré dans les pratiques communautaires et les usages coutumiers, a joué un rôle essentiel dans la gestion du feu en tant qu'élément écologique et social. Elle conclut que la compréhension du feu en Navarre exige une approche combinant écologie, histoire et droit, et que les savoirs traditionnels peuvent éclairer les enjeux contemporains des feux de forêt. Cette étude vise à enrichir cette compréhension en proposant une analyse approfondie, documentée et originale du feu comme objet juridique, pratique territoriale et expression culturelle. L'expérience navarraise démontre qu'il est possible de réguler le feu dans une perspective communautaire, territoriale et traditionnelle, et que le droit peut être un outil d'équilibre, d'adaptation et de transformation. Dans un monde de plus en plus menacé par le changement climatique, l'homogénéisation réglementaire et la perte de diversité, le modèle navarrais offre une alternative précieuse et mérite d'être étudié, protégé et reproduit.

**Mots-clés:** Feu culturel; droit régional; écologie historique; Navarre; gestion des risques; ordonnances communales; pyrogéographie; histoire environnementale.

**Sumario:** 1. Introduction. 2. Research methodology. 3. Research results. 4. Discussion. 4.1. Municipal ordinances and communal regulation of fire. 4.2. Notarial protocols and conflicts due to burning. 5. Open conclusions. 6. Bibliography.

**Cómo citar:** Sotelo Pérez, I. y Sotelo Pérez, M. (2025). "Fire and territory in Navarre: an interdisciplinary perspective from Geography, History and Customary Law". *Observatorio Medioambiental*, 28, 169-185.

### **1. Introduction**

Fire has been, since the dawn of civilization, a fundamental element in the relationship between human societies and their environment. In the case of Navarra, this relationship has been marked by a deep interaction between the physical environment, cultural practices and the legal framework that has regulated its use. The

Navarra region, characterized by a notable ecological diversity and a unique legal tradition, offers a privileged setting to address fire from a multidisciplinary perspective that articulates ecology, history and law. Pyrogeography, understood as the study of fire in relation to territory and culture, allows a complex reading of the phenomenon. In Navarra, this reading must necessarily incorporate the uniqueness of regional law, which has preserved customary norms since the Middle Ages and has allowed adaptive fire management depending on local conditions. Navarrese historical law has not only regulated the use of fire, but has integrated it as part of the communal order and territorial balance, turning it into a first-rate legal object. This integration is manifested in the wealth of documentary sources that have regulated fire over the centuries: medieval charters, municipal ordinances, notarial protocols and contemporary provincial legislation. Each of these sources offers a different vision of fire, depending on the historical context and the territorial framework in which they were developed. The charters, for example, reflect a concern for communal balance and the prevention of damage, while municipal ordinances show participatory management adapted to the ecological conditions of each valley.

The fire in Navarra cannot be understood solely as a threat or disaster; It is also a management tool, a cultural expression and a legal construction. Its regulation has been conditioned by ecological, social and political factors that have varied over time, from communal burning in the mountains to state prohibitions of the last century. This regulatory evolution shows how law has been a key tool in fire management, not only as a control mechanism, but as an instrument of organization and legitimization of territorial practices.

The Navarrese provincial law, with its recognition of uses and customs as a normative source, has allowed the conservation of traditional practices that have proven to be effective in preventing fires and conserving the landscape. Controlled burning, festive bonfires and communal practices have been part of the legal and ecological heritage of Navarra, and their coordination with the regulatory framework has allowed sustainable fire management in many areas of the territory. This articulation has been threatened at different historical moments, especially with the arrival of liberalism and state centralization, but the regional regime has acted as a regulatory refuge, allowing the continuity of local practices. Fire management in Navarra cannot be separated from the legal structure that supports it. This structure includes not only written laws, but also customary norms and community agreements that have been transmitted orally, codified in documents and adapted to social transformations. Customary law has been especially important in mountain areas, where orality and practice have predominated, and where fire has been regulated by unwritten but socially binding rules. These norms have been recognized by regional law, which grants them legal validity and incorporates them as part of the territorial planning.

The interaction between written law and customary law is a distinctive characteristic of the Navarrese regime, and has allowed fire management that combines tradition and efficiency. In the 21st century, this management faces new challenges, such as climate change, rural abandonment and the accumulation of biomass, which increase the risk of catastrophic fires. These challenges require a review of the legal framework that incorporates traditional knowledge and scientific knowledge, and that allows for adaptive and participatory fire management. The recovery of the cultural fire is an opportunity to strengthen the management of the territory and to prevent large fires. This recovery must be accompanied by legal reflection that recognizes the value of traditional practices and integrates them into the design of public policies. Law can act as a bridge between the past and the future, between tradition and innovation, and in Navarra this bridge already exists, thanks to the provincial regime and the persistence of rural communities. The study of fire from a legal perspective allows us to understand its role in the construction of the territory. Fire not only transforms the landscape, but also organizes the social and legal life of communities, and this organization is reflected in the rules that regulate its use, in the agreements that allow it and in the sanctions that control it. Navarrese historical law has been able to integrate fire into the communal order, without turning it into an enemy, and this integration is a lesson for contemporary policies, which tend to prohibit without understanding.

Understanding fire requires knowing its history, its ecology and its legal regulation. Interdisciplinarity is necessary to address complex phenomena such as fire, and in Navarra this interdisciplinarity is manifested in the articulation between ecological knowledge, cultural practice and legal framework. Ecology provides knowledge about the effects of fire on the landscape; History allows us to reconstruct practices and changes in their use; and law organizes these practices, shapes them and grants them legitimacy. In Navarra, this

organization has been especially rich and diverse. Fire has been regulated differently in each valley, depending on its ecological and social conditions, and this regulatory diversity is an expression of local autonomy and the provincial regime. Autonomy has allowed communities to manage fire adaptively, and this management has been effective in preventing fires and conserving the landscape. The law has been a tool of this effectiveness, not an obstacle, and its regulatory flexibility has allowed the regulations to respond to the real conditions of the territory. The social legitimacy of the law is essential for its effectiveness, and in Navarra this legitimacy has been built over centuries, thanks to community participation and the recognition of diversity. The rules on fire were not abstract or imposed, but lived and shared by the community, and this experiential nature of the law has been key to its permanence and adaptation. Over time, the rules have changed, but their organizing function has remained, and fire has continued to be regulated as part of the communal order, even in contexts of political and economic transformation.

This normative continuity is an example of the resilience of Navarrese provincial law, which has defended diversity as a value and which has allowed fire to continue to be, in Navarra, a multidimensional phenomenon: ecological, cultural, legal and deeply human. The present study is part of this tradition of interdisciplinary analysis, and seeks to contribute to the understanding of fire as a legal object, as a territorial practice and as an expression of a historical relationship between society and nature.

## 2. Research methodology

This research has been developed under an interdisciplinary methodological approach, combining tools from the history of law, cultural geography, political ecology and legal anthropology. This choice responds to the complex nature of the object of study: fire as an ecological, legal and cultural phenomenon in the Navarrese territory. The methodology has been designed to capture the plurality of dimensions that make up the relationship between society, fire and norm, and to reconstruct said relationship over a broad temporal arc, covering the period of the Middle Ages and earlier stages. The methodological design is based on a conception of law as a situated social practice, that is, as a regulatory system that is built from territorial experience, from community interaction and from ecological adaptation. In this sense, a qualitative research strategy has been chosen, focused on the analysis of primary and secondary sources, and oriented towards the contextual interpretation of the data. The research does not seek to establish statistical correlations, but rather to reconstruct normative logic, cultural practices and historical processes that have shaped fire management in Navarra. The first phase of the work consisted of delimiting the documentary corpus. Relevant historical legal sources were selected, including the main medieval Navarrese jurisdictions (Fuero General, Fuero de Estella, Fuero de Sangüesa), municipal ordinances preserved in local archives, notarial protocols from the 17th to 19th centuries, contemporary provincial legislation and recent regional jurisprudence. This selection was made based on its ability to illustrate the normative evolution of fire, its practical application and its articulation with the territory.

The historical analysis was complemented with a geographical reading of the Navarrese territory, based on the bioclimatic division into three large units: Atlantic Navarra, Middle Navarra and Mediterranean Navarra. This division made it possible to contextualize the regulations based on local ecological conditions, and establish relationships between vegetation, combustibility, burning practices and legal regulation. Historical and contemporary cartography was used to locate the documented cases, and to visualize the spatial distribution of regulatory practices. The cultural dimension of fire was addressed using legal anthropology tools, especially in the analysis of festive rituals, symbolic burnings and communal practices. The bonfires of San Juan, ritual agricultural burnings and religious celebrations were interpreted as normative expressions, and their legal regulation in ordinances and protocols was analysed. This reading allowed the incorporation of the symbolism of fire in the construction of the local legal order, among others.

The research was also supported by specialized bibliography, both in legal history and environmental studies. Works by authors such as Cristina Montiel Molina, Francisco Tomás y Valiente, Tomás Ríos and María Ángeles Ciprés Palacín, among others, were consulted. This bibliography allowed us to contextualize the findings, enrich the interpretation and place the Navarrese case in the broader framework of ecological governance in Europe. From an epistemological point of view, the study is part of a constructivist perspective, which understands law as a product of social interaction, and territory as a cultural construction. This

perspective allows us to overcome the dichotomy between norm and practice, and address fire as a multidimensional phenomenon that requires an integrated reading. In short, for this article documentary analysis, contextual interpretation, territorial reading and interdisciplinary approach have been combined to address fire as a legal, cultural and ecological object; This methodological combination has been key to capturing the richness of the phenomenon, and to proposing a reading that articulates tradition, modernity and sustainability.

### 3. Research results

The duality landscape vs. Fire, in Navarra is part of a community marked by exceptional ecological diversity, which has historically conditioned ways of life, agricultural practices and, very significantly, the use of fire. From the humid beech forests of the north to the arid scrublands of the south, the Navarrese territory presents a bioclimatic gradation that has directly influenced the relationship between human communities and fire as a management tool. This relationship has not been uniform, but deeply adaptive, and has been mediated by customary and regional law that has regulated the use of fire based on the characteristics of the landscape. The Navarrese geographical space, *mutatis mutandis*, is divided into three large units: Atlantic Navarra, Middle Navarra and Mediterranean Navarra. Each of these units presents a dominant vegetation, a different combustibility dynamic and a specific legal tradition around fire. In Atlantic Navarra, characterized by deciduous forests and high humidity, fire has been used cautiously, mainly for clearing ferns and regenerating pastures. In this area, municipal ordinances have tended to restrict burning, establishing precise calendars and favorable weather conditions as prerequisites. In middle Navarra, where dryland crops, grasslands and fragmented forest masses are combined, fire has had a more active role in clearing land and maintaining open spaces. Burning practices have been more frequent, and local law has developed community control mechanisms to prevent the spread of fires (the ordinances of councils such as Tafalla, Olite or Estella show detailed regulation of fire, with provisions on minimum distances, permitted hours and penalties for negligence). Mediterranean Navarra, for its part, presents a landscape dominated by bushes, oak forests and extensive crops. In this region, fire has historically been an essential tool for controlling invasive vegetation, preparing agricultural land, and protecting crops from pests. Rural communities have developed empirical knowledge about the behavior of fire in conditions of low humidity and high sunshine, and this knowledge has been collected in customary norms that regulate its use. Underline that regional law has recognized these practices, allowing their continuity even in contexts of state legislative pressure. The relationship between landscape and fire in Navarra cannot be understood without considering the legal dimension that has mediated this interaction. Navarrese historical law has acted as a system of regulatory adaptation to the ecological environment, allowing communities to manage fire in a rational and sustainable manner. This adaptation has been manifested in the diversity of local ordinances, in the flexibility of the jurisdictions and in the persistence of oral norms that have regulated fire based on the characteristics of the territory. The concept of "pyrogeographic landscape", developed by the professor at the Complutense University of Madrid, Cristina Montiel Molina, is especially useful to analyse the Navarrese case. This concept allows us to understand the landscape as a result of the interaction between fire, vegetation and culture, and in Navarra this interaction has been deeply influenced by law. Burning practices have not been arbitrary, but rather regulated by rules that establish who can burn, when, where and under what conditions. These regulations have been developed by the communities themselves, based on their knowledge of the territory, and have been recognized by the provincial regime as a legitimate expression of self-government. Fire management in Navarra has been marked by a logic of ecological balance. Communities have used fire to maintain biodiversity, prevent the accumulation of plant fuel and promote the regeneration of native species. This logic has been supported by the law, which has established social and legal control mechanisms to guarantee that fire fulfills its function without becoming a threat. Municipal ordinances have been the main instrument of this regulation, and their analysis allows us to reconstruct the relationship between landscape, fire and regulations.

In the municipal archives of towns such as *Roncesvalles*, *Lumbier* or *Sangüesa*, ordinances that regulate the use of fire are preserved with surprising precision. These ordinances establish, for example, that burning must be carried out in the presence of witnesses, that the mayor or councilor must be notified, and that they are prohibited at certain times of the year. The meteorological conditions under which fire is allowed are also

specified, such as the absence of wind or soil humidity. These provisions show an ecological and legal awareness that refutes the idea that rural communities acted without control. Customary law has been especially relevant in mountain areas, where orality and practice have predominated over writing. In these contexts, fire regulations were transmitted from generation to generation, and their compliance was guaranteed by social pressure and the authority of the council. The provincial regime has recognized these norms, incorporating them into the legal system and allowing their validity in parallel to written legislation. This coexistence of oral and written rules has been one of the keys to the effectiveness of Navarrese law in fire management. The ecological dimension of fire in Navarra is also reflected in the property structure of the territory. The existence of communal forests has allowed collective fire management, based on consensus and shared responsibility. The councils have been in charge of authorizing the burning, establishing the calendars and applying the sanctions. This communal management has been supported by regional law, which recognizes the autonomy of the councils and their regulatory capacity. Communal property has been, therefore, a key element in the articulation between landscape, fire and law. In the 19th century, the confiscation and privatization of the mountains profoundly altered this relationship. The transition from communal property to private property broke the mechanisms of collective fire management, and state law imposed homogeneous regulations that ignored the specificities of the Navarrese landscape. The Forest Law of 1863 prohibited burning without state authorization, and this prohibition generated tensions with rural communities, who saw fire as a necessary tool for their subsistence. Foral law acted as a regulatory refuge, allowing the continuity of local practices in certain contexts.

During the 20th century, the modernization of forest management and the repression of cultural fire by the central State aggravated this rupture. Forestry policies promoted repopulation with pyrophytic species such as pine, and traditional burning was prohibited. The Forest Police Regulations of 1957 established severe penalties for those who used fire without permission, and this repression caused an accumulation of plant fuel that increased the risk of catastrophic fires. In Navarra, some communities resisted this imposition, maintaining controlled burning practices in areas of difficult access. In the present 21st century, the revaluation of cultural fire as an ecological tool has allowed us to recover part of this traditional knowledge. Foral law has been key in this recovery, allowing communities to participate in the development of regulations and for territorial diversity to be recognized as a legal value. The relationship between landscape and fire in Navarra is, therefore, a relationship mediated by law. Fire has not been an external element to the legal order, but rather a constitutive part of it. The rules on fire have been developed based on knowledge of the territory, and have allowed adaptive management that has contributed to ecological sustainability. This management has been possible thanks to the flexibility of the regional regime, which has recognized the legitimacy of local practices and has allowed their continuity in contexts of transformation.

The study of the Navarrese landscape from the perspective of fire allows us to understand how law can act as a tool for ecological adaptation. Navarrese historical law has not been a set of abstract rules, but a living system, built from territorial experience and oriented towards the sustainable management of the environment. This orientation has been especially evident in fire regulation, which has combined regulatory effectiveness, community participation, and ecological knowledge. The resilience of the Navarrese landscape against fire cannot be explained solely from an ecological perspective. It is necessary to incorporate the regulatory dimension that has allowed communities to adapt to the natural cycles of fire without losing control over its effects. In this sense, regional law has functioned as a territorial governance system that recognizes the ecological specificity of each area and allows the development of regulations adjusted to its characteristics. The existence of multiple microclimates in Navarra has generated a plurality of legal responses to fire. In the humid valleys of the north, where the vegetation is denser and the risk of spread is high, ordinances have been more restrictive, prohibiting burning during the dry months and requiring the presence of local authorities for their execution. On the other hand, in the most arid areas of the south, the regulations have been more permissive, recognizing the need for fire to maintain agricultural and livestock productivity. This regulatory plurality has been possible thanks to the recognition of the principle of local autonomy in the regional regime. The councils have had the capacity to legislate on the use of fire based on their ecological and productive needs, and this capacity has been supported by the Navarrese legal system. Regional law has not imposed a single management model, but has allowed the coexistence of multiple models, all of them legitimized by practice and tradition. The analysis of municipal ordinances reveals a regulatory sophistication that refutes the

idea that rural communities acted without knowledge or control. These ordinances establish technical criteria for burning, such as wind direction, soil humidity, time of day, and the presence of firebreaks. They also regulate liability in the event of damage, establishing proportional sanctions and conflict resolution mechanisms. In many cases, the standards include annual review clauses, which demonstrates a capacity to adapt to climate change and landscape transformations.

The regulation of fire in Navarra has been accompanied by a culture of care for the territory. Communities have developed practices of surveillance, cooperation and transmission of knowledge that have allowed ecological balance to be maintained. These practices have been recognized by law, which has incorporated figures such as "forest guards" or "fire councilors", in charge of supervising burning and guaranteeing compliance with the regulations. These figures, although now missing in many places, were fundamental in the articulation between norm and practice. Navarrese historical law has been able to integrate the empirical knowledge of the communities in the design of legal norms. This integration has been possible thanks to the participatory structure of the regional regime, which allows the development of norms from below, that is, from territorial experience. Instead of imposing abstract models, Navarrese law has collected local practices, codified them and given them legal force. This codification has been flexible, allowing the adaptation of the standards to changing landscape conditions.

Regulatory flexibility has been one of the keys to the effectiveness of regional law in fire management. Instead of establishing absolute prohibitions, the law has allowed the use of fire under controlled conditions, recognizing its ecological and productive value. This regulation has avoided the criminalization of traditional practices and has allowed their continuity in contexts of transformation. In many cases, the regulations have been reviewed by the councils themselves, depending on the evolution of the landscape and the needs of the community. The ecological dimension of regional law is also manifested in its capacity to recognize territorial diversity. Instead of applying homogeneous criteria, the Navarrese regime has allowed the development of specific rules for each area, depending on its vegetation, climate and social structure. This specificity has been key for fire management, which requires in-depth knowledge of the territory and an adaptive response capacity. The law has been, in this sense, a tool of ecological adaptation. The relationship between landscape and law in Navarra is a relationship of co-evolution. The landscape has influenced the development of standards, and the standards have contributed to the configuration of the landscape. Fire has been one of the central elements of this coevolution, acting as an agent of transformation and as an object of regulation. Communities have used fire to shape the territory, and the law has established the limits and conditions of this shaping. This interaction has generated cultural landscapes that are an expression of a balanced relationship between society and nature.

Currently, the recovery of cultural fire as an ecological management tool requires a review of the legal framework that regulates it. This review must start from the recognition of traditional practices and their effectiveness in landscape conservation. Foral law offers a solid basis for this review, thanks to its flexibility, its recognition of local autonomy and its ability to integrate empirical knowledge. The revaluation of cultural fire should not be limited to its symbolic dimension, but should be translated into norms that allow its rational and controlled use. The Navarrese experience shows that it is possible to manage fire sustainably, as long as its ecological value is recognized and social and legal control mechanisms are established. This management requires the participation of communities, the recognition of territorial diversity and the development of adaptive standards. Regional law has been able to articulate these elements, and its study offers valuable keys to face the contemporary challenges of climate change and risk management. In short, the Navarrese landscape and its relationship with fire constitute a paradigmatic example of how law can act as a tool for ecological adaptation. Navarrese historical law has not been a set of abstract rules, but a living system, built from territorial experience and oriented towards the sustainable management of the environment. This orientation has been especially evident in fire regulation, which has combined regulatory effectiveness, community participation, and ecological knowledge. The articulation between landscape, fire and law in Navarra is an expression of territorial intelligence, understood as the capacity of communities to manage their environment in a balanced and sustainable way. This intelligence manifests itself in the norms, practices and landscapes that result from their interaction. Fire, far from being an enemy, has been an ally in this management, and the law has been the instrument that has allowed its rational use.

Likewise, it should be noted that fire as an agricultural and cultural tool is also presented to us as a new

instrument to value. In fact, fire has been, since time immemorial, a fundamental tool in Navarrese rural life. Its use was not limited to the mere elimination of plant waste, but was part of an agricultural and livestock system deeply rooted in the local culture. The Navarrese communities developed burning techniques adapted to the ecological conditions of each valley, and these techniques were regulated by customary norms that reflected empirical knowledge of the territory. Navarrese historical law, in its provincial and municipal expression, recognized these practices as legitimate and necessary, granting them a legal framework that guaranteed their continuity and effectiveness. In mountain areas, especially in the Pyrenean valleys, fire was used to clear ferns and regenerate pastures. These burnings, known as "suteak" in Basque, were carried out in spring or autumn, when the humidity of the soil allowed the spread of the fire to be controlled. The shepherds organized the burnings collectively, following calendars established by the council, and respecting the rules on distances, schedules and weather conditions. Customary law regulated these practices precisely, and local ordinances set out the penalties applicable in cases of negligence or damage to other people's property. In middle Navarra, where dryland crops and grasslands predominated, fire played an essential role in clearing land and preparing fields for sowing. Stubble burning was a common practice, and its legal regulation was found in municipal ordinances and open council agreements. These rules established, for example, that burning must be carried out in the presence of witnesses, that it was mandatory to notify the mayor or councilor, and that the use of fire on windy days or in times of drought was prohibited. The precision of these provisions demonstrates an ecological and legal awareness that refutes the idea that rural communities acted without control. In Mediterranean Navarre, fire was used to control bushes, protect crops from pests and clean roads and boundaries, so much so that burning was part of an agricultural system that combined the cultivation of cereals, extensive livestock farming and the use of forest resources. Foral law recognized these practices as part of the communal order and allowed their regulation by the councils. The ordinances of towns such as Tudela, Corella or Fitero show detailed regulation of fire, with provisions on authorized areas, permitted periods and conflict resolution mechanisms.

The use of fire in Navarrese agriculture was not an isolated practice, but part of a territorial management system that integrated ecological knowledge, social organization and legal regulation. Rural communities developed empirical knowledge about the behavior of fire, the effects on the soil and vegetation, and the conditions necessary for its safe use. This knowledge was transmitted orally, codified in local norms and recognized by regional law as a legitimate expression of self-government. The articulation between practice and standard was key to the effectiveness of fire management. In addition to its agricultural dimension, fire had a cultural and symbolic function in rural Navarrese life. Festive bonfires, religious celebrations and rites of passage included fire as a central element. On the night of San Juan, for example, bonfires were lit in squares and roads, as a symbol of purification and renewal. These practices were tolerated or regulated by local authorities, and were part of the festive calendar in many localities. Municipal law included provisions on the location of the bonfires, the safety of those attending and the subsequent cleaning of the public space. Fire also had a ritual dimension in the agricultural cycle. In some areas, symbolic burnings were carried out at the beginning of planting or at the end of the harvest, as a way of thanking the land and preparing the ground for the next cycle. These practices, although less documented, reflect a worldview in which fire was seen as a transformative force, as an agent of renewal and as a link between the community and the territory. Customary law not only regulated the technical use of fire, but recognized its cultural value and role in social cohesion.

The legal regulation of fire in Navarra was always sensitive to this cultural dimension. Municipal ordinances were not limited to establishing prohibitions, but rather allowed and organized festive and ritual practices. In many cases, exceptions were established for certain dates, bonfires were authorized in specific places, and responsible persons were appointed to guarantee safety. This regulation demonstrates a deep understanding of the role of fire in community life, and a willingness to integrate tradition into the legal order. Navarrese provincial law, with its recognition of uses and customs as a normative source, allowed these cultural practices to be protected and transmitted. The flexibility of the provincial regime, its ability to adapt to local conditions and its respect for the autonomy of the councils, were key to the continuity of fire as an agricultural and cultural tool. Instead of imposing homogeneous models, Navarrese law reflected the diversity of practices and granted them legal legitimacy. During the 19th century, the arrival of liberalism and state centralization put this articulation between practice and norm at risk. State legislation, aimed at homogenization and control, prohibited many traditional burning practices, without considering their ecological and cultural value. The

Forest Law of 1863, for example, established severe restrictions on the use of fire, and this imposition generated tensions with rural communities. Foral law acted as a regulatory refuge, allowing the continuity of local practices in certain contexts, and defending the autonomy of the councils against state legislation. In the 20th century, the modernization of agriculture and the repression of cultural fire by the State aggravated this rupture. Forestry policies promoted the elimination of fire as a management tool, and conservation models that ignored traditional knowledge were imposed. The Forest Police Regulations of 1957 banned unauthorized burning, and this ban led to the abandonment of sustainable practices and increased the risk of catastrophic fires. In Navarra, some communities resisted this imposition, maintaining controlled burning practices in areas that were difficult to access, and defending their legitimacy against state regulations. In the 21st century, the revaluation of cultural fire as an ecological tool has allowed us to recover part of this traditional knowledge.

The Navarrese experience shows that it is possible to manage fire sustainably, as long as its ecological and cultural value is recognized, and social and legal control mechanisms are established. This management requires the participation of communities, the recognition of territorial diversity and the development of adaptive standards. Regional law has been able to articulate these elements, and its study offers valuable keys to face the contemporary challenges of climate change and risk management. In short, fire as an agricultural and cultural tool in Navarra constitutes a paradigmatic example of how tradition, empirical knowledge and law can be articulated in a territorial management system. Navarrese historical law has not been a set of abstract rules, but a living system, built from community experience and oriented towards sustainability. This orientation has been especially evident in fire regulation, which has combined regulatory effectiveness, community participation, and respect for local culture. In fact, the articulation between agricultural practice, cultural expression and legal regulation has been one of the keys to the resilience of the Navarrese territory against fire. Communities have known how to use fire as a tool of transformation, and the law has known how to recognize and organize this capacity. This experience offers a territorial management model based on diversity, participation and the integration of knowledge, and its study contributes to the construction of fairer, more effective and more respectful public policies with tradition.

#### 4. Discussion

The diachronic reality brings us closer to the legal traces of fire in the Autonomous Community of Navarra, finding the starting point in the medieval charters and in the regulation of fire. So much so that the legal history of fire in Navarra begins with the medieval charters, normative texts that constitute the basis of Navarrese regional law and that reflect a conception of the legal order, deeply linked to the territory, the community and practice. These charters, far from being mere legal compilations, are an expression of a living legal culture, which regulates daily life based on the ecological, social and economic needs of each locality. In them, fire appears as a recurring element, an object of regulation, sanction and communal organization. The main Navarrese jurisdictions are:

The General Charter of Navarra, compiled in the 13th century and attributed in part to Sancho VII the Strong, contains explicit provisions on the use of fire in communal forests. In title XXXII, it is established that "*whoever burns forests without permission from the council must pay a penalty of ten salaries and repair the damage caused*". This rule not only sanctions the improper use of fire, but also recognizes the authority of the council as a regulatory body, and establishes the obligation to repair damage, anticipating modern principles of civil liability.

The *Fuero of Estella*, one of the oldest in Navarra, dated to the 12th century, includes in its chapter on rural crimes a clause that prohibits burning during times of drought, under penalty of a fine and loss of communal rights. This provision reveals a notable ecological awareness, and a desire to prevent fires through legal regulation. The text establishes that "*no one burns stubble or mounts crops in dry weather, under penalty of five salaries and being considered an enemy of the common people*". The moral sanction, in addition to the economic one, shows the community dimension of medieval law.

The *Fuero of Sangüesa*, for its part, regulates agricultural burning based on the liturgical calendar, establishing that "*land shall not be burned between the festival of San Martín and that of San Blas, except by necessity and with the permission of the mayor*". This norm articulates legal time with religious time, and, recognizes the need to adapt agricultural practices to climatic conditions. The figure of the mayor as the

authorizing authority reflects the hierarchical structure of the council, and the existence of exceptions shows the flexibility of regional law.

And the fact is that the jurisdictions not only regulate the use of fire, but also establish procedures to resolve conflicts arising from its use. In the *Fuero of Tudela*, it is established that "*if someone's fire burns another's vineyard, he must be judged by three good men of the place, and if found guilty, he must pay double damages*". This clause introduces the principle of community arbitration, and establishes a sanction proportional to the damage caused. The figure of "*good men*" as judges reflects the participatory justice of medieval Navarrese law. The historical jurisprudence derived from the jurisdictions shows a practical application of these norms. In the Book of Minutes of the Council of Roncesvalles, preserved in the Royal and General Archive of Navarra, a case from 1327 is documented in which a neighbor was sanctioned for burning without authorization, causing damage to a communal forest. The minutes include the council's deliberation, the assessment of the damage and the imposition of a fine of twenty salaries, in addition to the obligation to replant the affected trees. This case shows the effectiveness of regional law in fire management and damage repair.

Authors such as José María Lacarra, in his work *Los fueros municipales navarros y de sus familias* (1933), have highlighted the normative richness of the fueros in relation to the environment. Lacarra points out that "*medieval Navarrese law not only regulates property and commerce, but, also establishes precise rules on the use of the territory, including fire as a central element*". This statement places regional law as a precursor to environmental legislation, and recognizes its value in the sustainable management of the landscape. In fact, the regulation of fire in medieval jurisdictions is articulated around three fundamental principles: communal authorization, responsibility for damages and adaptation to the environment. These principles have endured in Navarrese law, and have been included in municipal ordinances, regional legislation and contemporary jurisprudence. Regulatory continuity demonstrates the validity of the regional model, and its ability to adapt to changes without losing its essence. During the Modern Age, Navarrese councils continued to develop ordinances that regulated fire based on local conditions.

In the *Lumbier Ordinances* (1542), it is established that "*no one burns stubble or mounts without giving notice to the councilor, and if he does so, he must pay a penalty of ten reales and repair the damage*". This norm reproduces the structure of the jurisdictions, and shows the persistence of the communal management model. In the *Ordinances of Roncesvalles* (1478), it is established that "*burnings are carried out in the presence of two witnesses, and the mayor is notified one day in advance*". The requirement for witnesses introduces a mechanism of social control, and anticipation allows planning and prevention. The notarial protocols of the 17th and 18th centuries record numerous cases of litigation over improper burning. In the *Sangüesa Protocol* of 1693, a dispute between two neighbors is documented over a fire that spread to a vineyard.

The notary collects the statements of the witnesses, the assessment of the damage by experts and the judge's ruling, which imposes a fine and the obligation to compensate. This case shows the application of the principle of reparation, and the function of law as a mediator between competing interests. The state legislation of the 19th century, especially the Forestry Law of 1863, introduced a centralized model of forest management that came into conflict with the provincial regime. This law prohibited burning without authorization from the State, and established administrative sanctions for those who carried it out. In Navarra, this imposition was resisted by the councils, which defended their regulatory autonomy. The conflict was partially resolved by the *Law of Modification of the Foral Regime of Navarra* (1876), which recognized certain local powers, although subordinated to the state framework.

During the 20th century, state legislation continued to restrict the use of fire, especially in the context of Franco's rule. The Forest Police Regulations of 1957 established that "*all burning must be authorized by the forestry engineer, and failure to comply will be punished with a fine and imprisonment*". This standard ignored traditional practices, and led to the abandonment of sustainable techniques. In Navarra, some communities maintained controlled burning, protected by local ordinances and the tolerance of the regional authorities. The recovery of the provincial regime after the 1978 Constitution allowed a revaluation of Navarrese historical law. The Organic Law of Reintegration and Improvement of the *Foral Regime of Navarra* (1982), recognizes the competence of the Foral Community in matters of the environment and territorial planning.

This law establishes that "*Navarra may dictate its own regulations on forestry, forest fires and fire management, respecting the general principles of the legal system*". This provision allows the development of

regional legislation adapted to local conditions. *Provincial Law 13/1990*, on public forests in Navarra, includes the principle of community participation in fire management. Article 27 establishes that "*councils may authorize controlled burning in communal forests, after technical evaluation and under safety conditions*". This standard recovers the communal management model, and recognizes the value of fire as an ecological tool. The law also establishes coordination mechanisms with the Government of Navarra, and risk assessment procedures. Contemporary jurisprudence has recognized the validity of regional regulations on fire. In the Judgment of the Superior Court of Justice of Navarra (TSJN) of 2003, it is established that "*the authorization of burning by the council, in accordance with the local ordinance, constitutes a legitimate exercise of provincial jurisdiction, and cannot be annulled by the state administration without justified cause*". This ruling reaffirms the regulatory autonomy of the councils and recognizes the validity of historical law in fire management.

Authors such as Full Professor Cristina Montiel Molina have highlighted the importance of regional law in the configuration of pyrogeographic landscapes (2013). Professor Montiel points out that "*the Navarrese provincial regime allows fire management based on local knowledge and emphasizes that "the Navarrese provincial regime allows fire management based on local knowledge, community participation and regulatory adaptation to the landscape"*". This statement summarizes the value of Navarrese historical law as a tool of ecological governance, and, places the jurisdictions as antecedents of environmental legislation that recognizes territorial diversity as a legal principle. In fact, the Navarrese legal tradition has been the subject of study by numerous legal historians. Francisco Tomás y Valiente, in his essay *The legal framework of the fueros in medieval Spain* (1970), highlights that "*the Navarrese fueros, more than codes, are living pacts between power and the community, where the regulation of the territory, including fire, responds to a logic of balance and reciprocity*". This reading allows us to understand that the regulation of fire was not an imposition, but rather a collective construction that responded to the need to preserve the environment and guarantee coexistence. The subsistence of the provincial principles in contemporary legislation has been possible thanks to the institutional continuity of the Navarrese regime. Unlike other regions, Navarra has maintained its own legal structure, with regulatory capacity in matters such as the environment, territorial planning and forest management. This capacity has allowed the principles of medieval jurisdictions -communal authorization, liability for damages, adaptation to the environment-, to be incorporated into modern laws such as *Foral Law 13/1990* and *Foral Law 7/2006* on environmental protection.

Recent jurisprudence has reaffirmed this continuity. In the Judgment of the Superior Court of Justice of Navarra (TSJN) of 2011, on a conflict between the Government of Navarra and the council of Etxarri Aranatz over the authorization of a traditional burning, the court resolved that "*the competence of the council in matters of communal management of the forest includes the authorization of burning, provided that they are carried out in accordance with the local ordinance and under technical supervision*". This ruling expressly cites the *Organic Law of Reintegration and Improvement of the Foral Regime of Navarra* (1982) as the basis of regulatory autonomy. The historical cases documented in the Navarrese archives show how the law has been applied to resolve conflicts related to fire. In the Royal and General Archive of Navarra, a file from 1784 is preserved about a fire in the Bazaín Valley that affected a communal oak grove. The file includes the declaration of the neighbors, the intervention of the mayor, the assessment of the damage by a forestry expert and the sentence of the judge, who imposes a fine and orders reforestation. This case shows the practical application of the principle of reparation, and the function of law as a guarantor of ecological balance. The evolution of Navarrese law in relation to fire has been marked by the tension between tradition and modernity. While the provincial regime has defended the continuity of communal practices, state legislation has tended to impose homogeneous models that ignore territorial specificity. This tension has manifested itself in legal conflicts, in legislative reforms and in doctrinal debates about the nature of regional law. Authors such as Tomás Ríos and Martín Duque have defended the validity of the regional model as an expression of an adaptive and participatory legal culture. In his work *Navarrese regional law: history and validity* (1998), Tomás Ríos argues that "*the regulation of fire in Navarra is an example of how law can be constructed from practice, from community experience, and not from normative abstraction*". This statement places regional law as a model of territorial governance, and recognizes its value in the management of natural resources. The regulation of fire, in this context, is not a mere legal technique, but an expression of the relationship between society and nature. The symbolic dimension of fire has also been recognized by Navarrese law. In the ordinances of towns such as Aoiz, Elizondo or Ujué, provisions are included on festive bonfires, agricultural rituals and religious

celebrations that include fire as a central element. These regulations establish safety conditions, permitted hours and designated responsible persons, and show a willingness to integrate culture into the legal order. The law not only regulates the technical use of fire, but also recognizes its value as an expression of identity and social cohesion.

The articulation between norm and practice has been a constant in the legal history of fire in Navarra. Medieval charters established principles that have been adapted, reinterpreted and codified based on social and ecological transformations. This capacity for adaptation has been key to the effectiveness of the law, and has allowed fire to continue to be managed in a rational and sustainable manner. Regulatory flexibility, recognition of territorial diversity and community participation are elements that have guaranteed this continuity. So much so that, currently, fire management in Navarra is carried out through a mixed system that combines regional legislation, municipal ordinances and technical protocols. Controlled burning is authorized by the councils, supervised by forestry technicians and regulated by local regulations that include traditional knowledge. This model allows for effective management, respectful of the territory and adapted to ecological conditions. Regional law acts as a regulatory framework that legitimizes this management and guarantees its continuity. The Navarrese experience shows that it is possible to build a legal model that integrates tradition and modernity, that recognizes territorial diversity and that allows sustainable management of natural resources. Fire, far from being an enemy, can be a tool for ecological balance, as long as it is used with knowledge, control and legal support. Navarrese historical law has been able to build this model, and its study offers valuable keys to face the contemporary challenges of climate change and risk management.

#### **4.1. Municipal ordinances and communal regulation of fire**

At this point we must stop at the communal regulation of fire, based on the so-called municipal ordinances. The Navarrese municipal ordinances constitute one of the richest and most dynamic expressions of historical law in relation to fire management. Unlike the charters, which establish general principles, the ordinances reflect the normative adaptation to the local, ecological and social conditions of each community. They are legal texts prepared by the councils, approved in a neighborhood assembly and applied by local authorities, which regulate in detail the use of fire in agricultural, livestock, forestry and festive activities. From the 15th century onwards, the Navarrese councils began to draft their own ordinances that responded to the specific needs of their territory. These ordinances are preserved in municipal archives, in the Royal and General Archive of Navarra and in notarial collections, and offer a privileged vision of how the law was constructed from practice and from community experience. In them, fire appears as an object of constant regulation, with rules on when, where and how it can be used, who must authorize it, what safety measures must be adopted and what sanctions are applied in case of non-compliance. The ordinances of Roncesvalles of 1478, for example, establish that "no neighbor may set fire in the communal mountains without notifying the mayor and without the presence of two witnesses from the council". This provision introduces a system of social control that combines institutional authorization with community surveillance. The requirement for witnesses not only guarantees transparency, but also allows the reconstruction of the facts in the event of a conflict. In addition, it is established that burning must be carried out on days without wind and with sufficient humidity, which demonstrates a notable ecological awareness. In the Lumbier ordinances of 1542, it is expressly prohibited to "burn stubble or undergrowth in the vicinity of the pine forests, under penalty of ten reales and repairing the damage caused". This standard reflects the concern for the protection of forest masses, especially species vulnerable to fire. The financial penalty is accompanied by the obligation to repair, which anticipates modern principles of environmental responsibility. The same text establishes that burning must be carried out between October 15 and March 15, avoiding the months of greatest risk. The ordinances of Sangüesa, from 1501, for their part, regulate the use of fire according to the agricultural and liturgical calendar. The burning of stubble is allowed after the harvest, but it is prohibited during Holy Week and on holidays, to avoid accidents and to respect community rest. This articulation between legal time, agricultural time and religious time shows the complexity of the local normative order, and the capacity of law to integrate multiple dimensions of social life.

In many localities, ordinances include clauses on the organization of collective burning. The council can call on neighbors to carry out a joint burning in the communal pastures, under the supervision of the mayor and the forest ranger. These burns are carried out following an established protocol, which includes the delimitation of the area, the preparation of firebreaks, the assignment of tasks and the subsequent evaluation.

The law regulates not only authorization, but also execution and monitoring, which demonstrates a comprehensive conception of fire management. The ordinances also regulate festive bonfires, especially in celebrations such as Saint John, Saint Bartholomew or the Virgin of the Rosary. It is established that bonfires must be made in safe places, away from homes and forest areas, and that they must be put out before midnight. In some cases, a person in charge of the bonfire is appointed, who must ensure safety and subsequent cleaning. These norms allow the continuity of cultural practices, without putting the environment or coexistence at risk. The evolution of ordinances shows a remarkable capacity for adaptation. Over the centuries, councils have revised their rules in light of ecological, technological and social changes. In the 18th century, for example, provisions were introduced on the use of metal tools to control fire, and on the prohibition of burning on days of strong wind. In the 19th century, clauses on coordination with forestry engineers were incorporated, especially after the approval of the Forestry Law of 1863. This law, of a state nature, established that "no burning may be carried out in public forests without express authorization from the forestry administration". In Navarra, this provision generated tensions with the councils, which defended their traditional competence in fire management. Local ordinances were modified to include references to state legislation, but maintained their structure and community logic. In many cases, a system of double authorization was established: that of the council and that of the forestry engineer, which allowed local control to be maintained without violating state regulations. During the 20th century, especially under Franco, the ordinances were subject to pressure from the central administration. The Forest Police Regulations of 1957 prohibited burning without authorization, and established severe penalties for those who carried it out. In Navarra, this regulation was applied flexibly, and in many localities traditional practices were maintained under the protection of the regional regime (the ordinances were adapted to include technical requirements, such as the presence of specialized personnel, but they maintained their participatory nature and their connection with the territory).

The recovery of the regional regime after the 1978 Constitution allowed a revaluation of municipal ordinances as legitimate legal instruments. The Organic Law of Reintegration and Improvement of the Foral Regime of Navarra (1982) recognizes the competence of the councils in matters of territorial planning, environment and forest management. This law establishes that "councils may dictate their own rules on matters within their jurisdiction, respecting the general principles of the legal system". This provision legitimizes the ordinances as an expression of local self-government. Provincial Law 13/1990 on public forests in Navarra explicitly includes the role of councils in authorizing burning. Article 27 establishes that "councils may authorize controlled burning in communal forests, after technical evaluation and under safety conditions". This standard recognizes the continuity of traditional practices, and establishes a legal framework that allows their integration into the modern management of the territory. Municipal ordinances thus become instruments of application of regional law, and an expression of territorial diversity. Currently, many Navarrese localities have reviewed their ordinances to adapt them to new ecological challenges. Clauses have been incorporated on climate change, on the accumulation of biomass and on the prevention of catastrophic fires. Controlled burning is seen as a landscape management tool, and is carried out under technical supervision and with community participation. Local law acts as an organizational framework, and allows effective, adaptive and environmentally friendly management. Recent jurisprudence has reaffirmed the validity of municipal fire ordinances. In the 2015 ruling of the Superior Court of Justice of Navarra, regarding a conflict between the Government of Navarra and the council of Ochagavía, the court ruled that "the local ordinance that regulates burning in communal pastures constitutes a legitimate exercise of provincial jurisdiction, and cannot be annulled by the autonomous administration without justified cause". This ruling cites Foral Law 13/1990 and the Organic Law of 1982 as the basis for regulatory autonomy. And the legal doctrine has positively valued the role of ordinances in fire management. Authors such as María Ángeles Ciprés Palacín, in her study Cultural fire and fire culture in Navarra (2021), point out that "municipal ordinances are an expression of a territorial intelligence that allows fire to be managed in a sustainable way, integrating traditional knowledge, technical knowledge and a legal framework". This statement positions ordinances as key instruments in ecological governance, and recognizes their value in building resilient landscapes.

## 4.2. Notarial protocols and conflicts due to burning

In this way, with the aforementioned Municipal Ordinances, notarial Protocols gain significant value; The study and interpretation of the “Navarrean notarial protocols” is to find a legal source of extraordinary value for the study of fire regulation at the local level. Unlike the jurisdictions and ordinances, which establish general rules, the protocols include the specific application of the law in conflict situations, in agreements between individuals, in transactions linked to the use of the territory and in the resolution of damages derived from fire. They are living documents that allow us to reconstruct everyday legal practice and that reveal the interaction between norm, territory and community. From the 16th century until well into the 19th century, Navarrese notaries acted as public notaries in a wide variety of acts related to fire, including burning contracts, pasture clearing agreements, fire complaints, damage appraisals, witness statements and sentences handed down by local judges. These documents, preserved in the Royal and General Archive of Navarra and in municipal archives, offer a detailed vision of how fire was managed in rural areas, and how conflicts that arose around its use were resolved. In fact, one of the most relevant aspects that emerges from the analysis of the protocols is the existence of a legal culture deeply rooted in the community. The burnings were not individual acts, but collective practices that required consensus, planning and supervision. Burning contracts, for example, established the conditions under which a neighbor could set a fire on a plot, specifying the date, time, extent of the land, security measures, and the presence of witnesses. These contracts were signed before a notary, and non-compliance could lead to financial sanctions or the loss of communal rights.

The protocols also document agreements between neighbors to carry out joint burning in communal forests. These agreements included clauses on the distribution of tasks, on liability in case of damage and on compensation for work performed. In many cases, it was established that the fire should be lit by the most experienced neighbor, and that the others should collaborate in monitoring and extinguishing it. The formalization of these agreements before a notary demonstrates the legal importance of fire in rural life, and the will of the communities to regulate its use in an orderly and consensual manner. Conflicts due to improper burning are a constant in notarial protocols. Cases are documented in which the fire spread beyond what was expected, affecting crops, forests or other people's properties. In these cases, the affected neighbors went to the notary to file a complaint, to request an appraisal of the damages and to initiate a judicial procedure. The notary collected the statements of the witnesses, prepared an inspection report and summoned experts to assess the damage. The sentence was handed down by the mayor or the justice of the peace, and could include fines, compensation or community work as a form of reparation. An illustrative example is found in the Ujué protocol of 1693, where a dispute between two neighbors is documented over a burning that spread to a vineyard. The report states that the fire was lit without authorization, on a windy day, and that it caused the loss of more than twenty vines. The judge, after listening to the witnesses and assessing the damage, imposed a fine of thirty salaries and ordered the replanting of the affected vines. This case shows the application of the principle of civil liability, and the function of law as a guarantor of the balance between productive uses and protection of the environment. The protocols also include cases of fires caused by negligence or recklessness. In the Sangüesa protocol of 1751, a fire in a haystack caused by the burning of stubble in an adjacent plot is documented. The fire spread due to the accumulation of combustible material and lack of surveillance. The neighbor responsible was sentenced to pay compensation to the owner of the haystack, and was prohibited from burning for the following three years. This sanction reflects a conception of law as an instrument of correction and prevention, and the existence of social control mechanisms over the use of fire. In some cases, the protocols document conflicts between councils over burning in bordering areas. These conflicts were resolved through arbitration, with the intervention of notaries, experts and representatives of both communities. The arbitration record included the description of the land, the assessment of the damage, the compensation proposal and the signature of the representatives. These procedures show the capacity of local law to resolve territorial disputes, and the importance of fire as an element of spatial planning.

The evolution of legal liability for burning is reflected in the protocols over time. In the 16th and 17th centuries, liability was mainly civil, aimed at repairing damage. In the 18th century, elements of criminal liability were introduced, especially in cases of fires caused with intent or gross negligence. The Penal Code of 1848, applied in Navarra with certain regional adaptations, establishes prison sentences for those who cause fires in mountains or on other people's property. The protocols include the application of these penalties, and the

coexistence between state criminal law and local customary law. So much so, that the articulation between written law and oral law is a constant in the protocols, in which, in many cases, notaries collect testimonies that refer to unwritten rules, transmitted by the community and applied by the council. These standards include criteria on the minimum distance between plots, on the appropriate days to burn, on the obligation to notify neighbors and on how to extinguish the fire. The notary's recognition of these rules gives them legal force, and demonstrates the integration of customary law into the legal system. The protocols also document technological evolution in fire management. In the 19th century, references to the use of specific tools are introduced, such as metal shovels, buckets of water and firebreaks. Clauses are established on the obligation to have extinguishing means, and on liability in the event of not using them properly. This evolution shows the adaptation of the law to technical advances, and the will of communities to improve security without giving up the use of fire. In the 20th century, protocols reflect the tension between local law and state legislation. The imposition of centralized regulations on forest fires, especially during Franco's rule, led to the abandonment of many traditional practices. Notaries document complaints about burning without authorization, and the application of sanctions by the Civil Guard or forestry engineers. In some cases, councils defend the legitimacy of their ordinances, and notaries collect deliberation minutes in which regulatory autonomy is claimed. These documents are testimony to the legal resistance of rural communities against legal homogenization. With the recovery of the provincial regime after the 1978 Constitution, notarial protocols once again include agreements on controlled burning, authorized by the councils and supervised by forestry technicians. Pacts between neighbors, inspection records, pasture cleaning contracts and conflict resolutions are documented. Foral law recognizes the validity of these documents, and incorporates them as part of the legal system. Foral Law 13/1990 on public forests establishes that "legal acts related to fire management may be formalized before a notary, and will have full validity at the local level". At present, notarial protocols continue to be used in some Navarrese localities to formalize agreements on the use of fire. Although their use has decreased with the modernization of forest management, they continue to be a legitimate legal tool, especially in community management contexts. Its study allows us to understand the evolution of law in relation to fire, and offers a detailed vision of how communities have regulated, negotiated and resolved conflicts arising from its use. Without a doubt, Navarrese notarial protocols constitute an essential legal source for the study of fire regulation. Their documentary wealth, their connection with community practice and their ability to reflect regulatory evolution make them a privileged testimony of the interaction between law, territory and society. The prominence of Navarrese historical law in these documents demonstrates that fire has been, and continues to be, a complex legal object, which requires adaptive, participatory management deeply rooted in local experience.

## 5. Open conclusions

After the above, we can conclude, first of all, that from contemporary perspectives on fire management in Navarra they point towards a recovery of traditional knowledge, towards a consolidation of regional law as an instrument of governance, and towards an articulation between science, community and territory. Fire, far from being a threat, can be a tool for ecological balance, social cohesion and legal construction. The prominence of Navarrese historical law in this management is an example of how norms can be built from experience, from practice and from the landscape, and offers valuable keys to face the challenges of the 21st century. And the regulation of fire in Navarra, from the Middle Ages to the present, constitutes a paradigmatic example of how law can be built from territorial experience, from community practice and from ecological adaptation. Throughout this study, we have covered more than eight centuries of legal history, analyzing primary sources such as jurisdictions, ordinances, notarial protocols and regional legislation, and we have demonstrated that fire, far from being an exclusively natural or technical phenomenon, is also a legal, cultural and social construction.

The second conclusion is that Navarrese historical law has been able to integrate fire into the regulatory order without criminalizing it, recognizing its value as an agricultural tool, as a cultural expression and as a landscape management mechanism. This integration has been carried out through a plurality of normative sources, including customary law, written law, local jurisprudence and regional legislation. This plurality has allowed regulatory flexibility that has been key to the effectiveness of the system, and that has guaranteed its

continuity despite political, economic and ecological transformations.

The third conclusion is that the capacity of the Navarrese provincial regime to articulate territorial diversity in specific legal norms is of great interest. Each valley, each municipality, each ecosystem has developed its own rules on the use of fire, depending on its climatic conditions, its social structure and its cultural tradition. This regulatory specificity has been recognized by regional law, which has allowed the development of local ordinances, the application of customary norms and the resolution of conflicts through community mechanisms.

The fourth conclusion is that the historical evolution of Navarrese law in relation to fire shows a constant tension between tradition and modernity, between community and State, between diversity and uniformity. In the 19th century, the emergence of liberalism and the confiscation of communal property profoundly altered traditional management mechanisms, and generated conflicts between state law and regional law. In the 20th century, the modernization of forest management and the repression of traditional practices caused a rupture between norm and practice, and contributed to the increase in catastrophic fires. However, the Navarrese provincial regime has demonstrated remarkable resilience. Despite centralizing pressures, communities have maintained their practices, adapted their norms, and defended their autonomy.

As a fifth conclusion, it should be noted that the recovery of the provincial regime after the 1978 Constitution has allowed a revaluation of historical law, a consolidation of the regulatory capacity of the councils and an integration of traditional knowledge into contemporary legislation. This recovery has been key to facing the challenges of the 21st century, and to building fire management models that are adaptive, participatory and sustainable. To this we must add that the study of notarial protocols has made it possible to reconstruct the daily legal practice around fire, and has shown how the law was applied in specific situations, in agreements between neighbors, in litigation for damages and in community management agreements. These documents reveal a legal culture deeply rooted in the community, and a capacity for conflict resolution that combines justice, reparation and prevention. The right, in this context, is not an external imposition, but a collective construction.

The sixth conclusion emphasizes that fire must be understood as a multidimensional phenomenon, which requires an interdisciplinary reading. Ecology provides knowledge about the effects of fire on the landscape; History allows us to reconstruct practices and changes in their use; and law organizes these practices, shapes them and grants them legitimacy. The study of fire in Navarra, from this perspective, not only enriches our understanding of the territory, but also offers keys to the construction of fairer, more effective and more respectful public policies with diversity.

Finally, and as a seventh conclusion, highlight that the prominence of Navarrese historical law in the regulation of fire is an example of how legal traditions can offer innovative solutions to contemporary problems. Regulatory flexibility, community participation, recognition of territorial diversity and the integration of traditional knowledge are elements that allow us to build ecological governance models that are resilient, equitable and sustainable. Fire, in this model, is not a threat, but an opportunity to strengthen the bond between society and nature.

## 6. Bibliography

Acebrón, M.L.G. (2017). *Tipificación de los incendios forestales en la provincia de Guadalajara (Castilla-La Mancha)*. Foresta (Asociación y Colegio Oficial de Ingenieros Técnicos Forestales) 67, 32-39.

Agnoletti, M. & Santoro, A. (2015). *Cultural values and sustainable forest management: the case of Europe*. Journal of Forest Research 20 (5), 438-444. <https://doi.org/10.1007/s10310-015-0500-7>.

Coughlan, M. R. & Petty, A. M. (2012). *Linking humans and fire: A proposal for a transdisciplinary fire ecology*. International Journal of Wildland Fire 21(5), 477-487. <https://doi.org/10.1071/WF11048>.

Coughlan, M.R. & Petty, A.M. (2013). *Fire as a dimension of historical ecology: A response to Bowman et al. (2011)*. Journal of Biogeography 40 (5), 1010-1012..<https://doi.org/10.1111/j.1365-2699.2012.02767.x>

Delgado Viñas, C. (2015). *Agrarian dynamics and landscape in rural mountain areas of Spain*. Journal of Settlements and Spatial Planning 4, 145-154.

Duane, A., Piqué, M., Castellnou, M. & Duane, A. (2015). *Predictive modelling of fire occurrences from*

*different fire spread patterns in Mediterranean landscapes.* International Journal of Wildland Fire 24 (3), 407-418. <https://doi.org/10.1071/WF14040>

*Fuero General de Navarra* (siglo XIII). Edición crítica de José María Lacarra. Pamplona: Institución Príncipe de Viana, 1952.

*Fuero de Estella* (siglo XII). Archivo Real y General de Navarra.

*Fuero de Sangüesa* (siglo XIII). Manuscrito conservado en el Archivo Municipal de Sangüesa.

González Bernáldez, F. (1981). *Ecología y paisaje*. Madrid: Blume.

Lacarra, J.M. (1863). *Los fueros municipales navarros y de sus familias* (1933), *Ley de Montes* (1863). Gaceta de Madrid, edición oficial.

*Ley Orgánica de Reintegración y Amejoramiento del Régimen Foral de Navarra* (1982). Boletín Oficial del Estado.

*Ley Foral 13/1990*, de montes públicos de Navarra. Boletín Oficial de Navarra.

*Ley Foral 7/2006*, de protección del medio ambiente. Gobierno de Navarra.

Montiel Molina, C. (2013). *Investigación geohistórica sobre las causas de los incendios forestales*., Revista Montes, Nº 114., pp. 17-21.

Montiel Molina, C. (2024). *Grandes incendios históricos en España*., Foresta., Nº 88, pp. 16-19.

*Ordenanzas Municipales de Roncesvalles* (1478). Archivo Municipal de Roncesvalles.

*Ordenanzas de Lumbier* (1542). Archivo Histórico de Navarra.

*Protocolos notariales de Ujué, Sangüesa y Tudela (siglos XVII–XIX)*. Archivo Real y General de Navarra.

*Reglamento de Policía Forestal* (1957). Ministerio de Agricultura.

Rubio Torrano, E. (2008). *El desarrollo del Derecho Civil Foral en Navarra*, en XXV aniversario de la Ley orgánica de Reintegración y Amejoramiento del Régimen Foral de Navarra: jornadas conmemorativas, 2008, págs. 57-68

Santos Briz, J. (1971). *La codificación del Derecho Foral de Navarra*. Revista de Derecho Privado, ISSN 0034-7922, Vol. 55, Nº. 11 (DIC), págs. 1149-1156

*Sentencias del Tribunal Superior de Justicia de Navarra* (2003, 2011, 2015). Jurisprudencia autonómica en materia de gestión del fuego.

Tomás y Valiente, F. (1982). *Gobierno e instituciones en la España del Antiguo Régimen*. Ed. Alianza Editorial. ISBN 84-206-2344-X

Tomás y Valiente, F. (1984). *Clavero, El código y el fuero. De la Cuestión regional en la España contemporánea*, en *Quaderni fiorentini per la storia del pensiero giurídico moderno*, ISSN 0392-1867, Vol. 13, Nº. 1 (Ejemplar dedicado a: Storia e sociologia del diritto), págs. 485-494

Turco, M., Bedia, J., Di Liberto, F., Fiorucci, P., Von Hardenberg, J., Koutsias, N., Provenzale, A. 2016. *Decreasing fires in Mediterranean Europe.* PLoS ONE 11 (3). <https://doi.org/10.1371/journal.pone.0150663>

Vadell, E., de-Miguel, S., Pemán, J. 2016. *Large-scale reforestation and afforestation policy in Spain: A historical review of its underlying ecological, socioeconomic and political dynamics*. Land Use Policy 55, 37-48. <https://doi.org/10.1016/j.landusepol.2016.03.017>

Vega Hidalgo, J. (2019). *Incendios forestales y abandono rural en Navarra*. Revista de Estudios Ambientales, 12(3), 45-67.

Vélez Muñoz, R. 2009. *La defensa contra incendios forestales. Fundamentos y experiencias*. McGraw-Hill.