

## 10.6. Institutional encounters: European property rights in colonial contexts. Part I: Asia and Latin America

**Panel organiser: Serrao, Jose Vicente, ISCTE-IUL Lisbon University Institute, Portugal**

Part of the European rural history has to be found elsewhere: In all those places around the world that came under the imperial and colonial rule of European powers between the 15th and the 20th century. This European colonial venture was not, of course, a single process, involving a variety of countries, chronologies, motivations and opportunities. The societies, institutions, economies and natural environments the Europeans found overseas, from North America to Australasia, were extremely varied too. But all the European empires were forced to face, at some point and to some degree, the need to regulate property rights over land resources. Very often, that issue arose at first as a mere response to pressing situations, like the need to take possession and re-allocate native lands to in-coming settlers, or the urgency to replace structures of power and tax-collecting left empty by the transfer of sovereignty to the European authorities. However, the rule over land and the regulation of property rights soon became a permanent and powerful tool of political and social control, of sovereignty claiming, of economic policy, of fiscal extraction, etc. On the other hand, seen 'from below', the reception and re-appropriation of these policies by the social actors on site generated very dynamic and complex processes of negotiation and conflict, for the colonial societies actually encompassed multiple interests, among them the pre-existing indigenous communities, with their own cultures, systems of social organization, institutions and property rights. The aim of this panel is to discuss the diversity of solutions adopted in dealing with property rights and the institutions regulating and enforcing them across the European overseas empires. How and what for were they conceived and how were they received and eventually re-arranged by the social players? To what degree did the European institutions change when transposed to colonial contexts? How did they shape the agrarian economies and the rural societies submitted to colonial rule? How did they survive the collapse of the European empires and to what extent did those processes influence the post-colonial economies and societies of these countries? These are some examples of questions addressed by the papers included in this panel, which is particularly concerned with the interaction between European and native institutions across time and space. It is a double panel, geographically organized, Part I devoted to Asia and Latin America, and Part II dealing with Africa.

**Chair: Serrao, Jose Vicente, ISCTE-IUL Lisbon University Institute, Portugal**

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### 10.6.1. European property rights in colonial contexts: overview and topics for debate

**Serrao, Jose Vicente, ISCTE-IUL Lisbon University Institute, Portugal**

An introduction to the panel, outlining the main issues at stake and pointing out some questions for the ensuing discussion.

### 10.6.2. Constructing a legal language: the Landraad and the thombo in Dutch Colonial Sri Lanka

**Seneviratne, Nadeera, University of Leiden, Netherlands**

During its administration of parts of Sri Lanka the Dutch East India Company (VOC) set up the Landraad, a court composed of European and native officials, in the eighteenth century. Its primary task was to hear civil cases and its primary tool the thombo or land register. The VOC wished to set down who could do what in which piece of land and what it could extract in return. This paper is a study of land rights in southern Sri Lanka, providing a quantitative and qualitative analysis of the types of possession recognised in the thombos. Local terms relating to land tenure such as paraveni, malapalu and nilapalu were adopted in the thombo, the Landraad and other official discussions. The thombo and the Landraad were in effect the legal mechanisms by which the conversion of land, whether collectively or individually held, into alienable title was sought to be consolidated. Dutch practices of surveying, indigenous land tenure, and existing and new practices of registering lands combined with a new institutional legal framework in which to settle disputes. Despite the complexities of the local land tenure system, the VOC attempted to enforce regulations that would create a neat, circumscribed system that followed specific legal procedures and written forms. The important role of the non-elite actors who appear in this study for the first time can also be seen. Their priorities and claims encountered those of foreign and local elites.

### 10.6.3. Property rights and land use in the Portuguese Empire of the East, 16th-18th centuries

**Münch Miranda, Susana, FCSH, Universidade Nova de Lisboa, Portugal**

In the 16th century, the Portuguese Estado da India was a commercial empire, which sought to control maritime trade routes in the Indian Ocean by a network of trading posts, seaports and fortresses scattered from East Africa to the South China Sea. During most of the sixteenth century, this system generated considerable revenues to the crown and land issues were not at the top of the Portuguese priorities, even if they became rulers of a few territories, such as Goa, Bassein and Daman (both in Gujarat), incorporated during the first half of the sixteenth century. Since these territories were already occupied and land use was regulated through a well-consolidated system of property rights, the Estado faced the challenge of adapting the preexisting system to the Portuguese legal tradition in order to achieve their own goals of colonization. The result was a system which kept features derived from Hindu and Muslim institutions merged with European institutions. This paper focuses more specifically on the case of Bassein, a territory ruled by the Portuguese from 1530s to the mid-1700s, as a case-study of this interaction between native and European institutions. It aims to outline an overview of the property rights system that evolved in Bassein during the Portuguese rule, which will highlight the role played by the emphyteusis and by the legal framework of the Crown's endowments. On another level, the paper also deals with changes this system underwent in the long run, due to its reception and re-appropriation by social actors.



#### Participants

##### Münch Miranda, Susana

Susana Münch Miranda is assistant professor at the Faculty of Social Sciences and Humanities, Universidade Nova de Lisboa. She holds a PhD degree in Portuguese Overseas History (2007). Her research focuses on the history of the Portuguese empire during the early modern period, mainly from an institutional and economic perspective. She recently published a book on the Economic History of Portugal 1143-2010 (Lisbon, Esfera dos Livros, 2011, with Pedro Lains and Leonor Freire Costa).

##### Seneviratne, Nadeera

Nadeera Seneviratne has an interest in colonial law and legal history, the Dutch East India Company and the history of early modern and modern South Asia. On a scholarship from the Netherlands Organisation for Scientific Research, she is a PhD candidate at the Institute for History at the University of Leiden and will defend a thesis titled 'Negotiating Custom: A history of the Galle District Court (1740-1796)'. She received

her MPhil in the History of European Expansion and Globalisation from the University of Leiden in 2010 and a BA in History from the University of Colombo in 2007.

##### Serrao, Jose Vicente

Associate Professor of History at the Lisbon University Institute, former member of the MC of the 'Programme for the Study of European Rural Societies' (COST A35, 2005-2009) and co-founder of Rural RePort (Portuguese-speaking Network of Rural History). His fields of research and publication have been mainly the rural, economic, social and population history of Early Modern Portugal and Europe. More recently he is focusing his research and teaching on topics related to transnational, global and imperial history, leading currently two international research projects on property rights, territoriality and conflict in the Portuguese Empire.