

# Property Rights, Land and Territory in the European Overseas Empires

Direitos de Propriedade, Terra e Território nos Impérios  
Ultramarinos Europeus

Edited by José Vicente Serrão  
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## Property rights and social uses of land in Portuguese India: the Province of the North (1534-1739)

Susana Münch Miranda<sup>1</sup>

*Abstract:* This paper examines the regulation of land rights in Bassein and Daman during the 200 years these territories were under Portuguese rule. Based on primary and secondary sources, I argue that local elites played a significant role in shaping the *prazos* system, a topic yet insufficiently explored by the literature. The paper is organized as follows. The first section outlines the pre-existent land tenure system, which was largely based on the *iqṭā'*, a wide-spread institution in the Islamic world. The second section examines the setting up of the *prazos do Norte* system, which combined elements from the *iqṭā'*, the legal framework of emphyteusis and the long-established practice of granting crown's assets. The third section focuses on the adaptations this legal regime underwent as a result of its 'social appropriation' by colonial elites and the responses of state power.

*Resumo:* Este texto tem como propósito traçar uma síntese sobre a regulação dos direitos de propriedade na Província do Norte (Baçaim e Damão) no decurso dos 200 anos em que este território esteve agregado à monarquia portuguesa. A primeira parte observa o regime preexistente de apropriação e distribuição de direitos fundiários, marcado pela *iqṭā'*, um instituto comum no mundo islâmico. Na segunda parte, procura-se reter os aspectos estruturantes do regime dos *prazos do Norte*, caracterizado pela justaposição e adaptação da *iqṭā'* ao regime jurídico da enfiteuse e à prática de doação de bens da coroa. A terceira e última parte observa os usos sociais que os foreiros fizeram dos seus direitos de propriedade e o impacte que tiveram na reconfiguração do sistema, um tópico ainda pouco explorado pela historiografia.

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Part of the so-called *Province of the North*, Bassein and Daman claim an exceptional place in the *Estado da Índia* (as the Portuguese called their strongholds in Asia) due to the importance that land issues soon gained in these vast territories<sup>2</sup>. Their integration in the Portuguese monarchy, which started in the mid-1530s and was completed in the 1560s, triggered a process of institutional adjustment that would give rise to an original framework for collecting taxes and distributing land resources. Known as *prazos do Norte*, this ground-breaking experience becomes yet more relevant given that, on the one hand, it inspired the occupation of further territories, such as Ceylon and Mozambique, where with all due adaptations it also involved the integration of populations and the control over land resources. On the other hand, more than an agrarian regime, the *prazos do Norte* was a complex legal framework that also fulfilled other goals, mainly politically, socially and taxation-wise, thus explaining the lure of those territories within the Portuguese Asian society, as shown by the views of Father Manuel Godinho on Bassein in the 1660s. The best noblemen would converge here, living off the “*large income from villages bestowed on them by the king as a prize for their services*”; the “*nobles, both male and female*” were so many that the city became known as “*noble Bassein*” (Godinho 1974: 28).

Based on primary and secondary sources, this paper examines the regulation of land rights in Bassein and Daman during the two hundred years these territories were under Portuguese rule. Firstly, the paper examines the setting up of the *prazos* system, which derived from the adaptation of the pre-existing customary of land tenure with the Portuguese juridical framework of emphyteusis. How the Portuguese authorities interpreted the local agrarian regime, how they shaped it according to their own legal tradition and according to the goals of colonisation, are a few of the questions addressed in this paper. Secondly, I look into the social uses of land and their impact, a topic yet insufficiently explored by the literature. I argue that European-born Portuguese (*reinóis*) and Luso-Asians played a significant role in shaping the land tenure system and that, far from static, the *prazos* were surprisingly dynamic when examined in the long run.

## 1. Land tenure system in Muslim India

On December 23, 1534, the sultan of Gujarat formally ceded the city of Bassein and its surrounding territories to the Portuguese. Among the factors that lie behind this decision two stand out. On the one hand, the increase in Portuguese military power during the second and third decades of the sixteenth century that had translated into hostilities with Gujarat for the control of the navigation and trade in the Indian northwest coast. On the other hand, the rising power of the Mughal empire in India and its advances over Gujarat’s borders<sup>3</sup>. Faced with two enemies, sultan Bahadur Shah chose to strike a peace deal with the Portuguese, ceding Bassein. Located in the northwest of the Indian subcontinent, this annexed territory was an incoherent area. It stretched over 45 miles of coastline between the Karanja island, to the south, and Agassaim, to the north, and extended inland to a depth of 18 miles to the Western Ghats. In the following years, with the annexation of Manora and the Asserim mountain range, completed in 1556, Bassein’s territorial jurisdiction encompassed an area of 810 square miles, gathering some 300 villages (Rossa 1999: 111; Teixeira 2010: 37 and 56). The king of Portugal

<sup>2</sup> The Province of the North also included the Portuguese strongholds in Diu and Chaul.

<sup>3</sup> Ames 2008: 129-131; Couto 1995; Pearson 1976: 76; Saldanha 1997: 435-437. For further on the Portuguese presence in India in the early sixteenth century, see Disney 2009 and Subrahmanyam 1993.

gained thereby control over a dynamic agricultural region, whose main crops were rice and sugar cane. Cotton, areca nuts and betel leaves completed the produce the region had to offer (Couto 1994: 259). The territory was incorporated in the royal patrimony and its lands listed in the register of the *Estado da Índia* (*Tombo do Estado da Índia*), following the notion that the king of Portugal was the legitimate successor of the former landowner (Botelho 1868: 154-205).

The *prazos* system, which would be created thereafter, cannot be understood without looking into the pre-existent land tenure system, which was deeply rooted in the *iqṭāʿ*. Alien to the Hindu tradition, the *iqṭāʿ* was an institution common across the Islamic world for the collection and distribution of land revenue. The roots of this institution date back to the ninth century, though its introduction and diffusion throughout the Indian subcontinent would only take place in the beginning of the thirteenth century with the Delhi sultans, who used it as an instrument of political and economic submission on conquered territories in India (Cameron Levi 2002; Eaton 2005). The nature of this institution varied considerably in both time and space, but in the Deccan sultanates the *iqṭāʿ*'s were territorial units, whose tax revenues were temporarily granted to members of the military and administrative elite, as a compensation for the handover of administrative and defence duties. Without implying the transfer of land ownership to the grantees, this institution fulfilled several purposes that were crucial to maintain the sultanates, mainly tax collection and the supporting of a permanent army.

In Northern India, all lands linked to the *iqṭāʿ*'s were subject to the *kharāj*, a tax on cultivation levied on non-Muslims<sup>4</sup>. It could add up to half of the agricultural output and was the main instrument to redistribute agricultural surpluses among the military elites (Habib 1982a: 61 and 75). The peasants' rights of property and exploration were therefore not challenged, and they could use them at will. Thus, the Muslim domination did not subvert the pre-existing land exploitation system, which was based on peasant family farming, nor the network of rural villages, the smallest unit of administration. Living in the village was, in fact, a necessary condition for the collection of the *kharāj*, so it seems a reasonable claim that the status of farmers was similar to that of serfs in medieval Europe (Habib 1982a: 54-68). In any case, instead of comparing the *iqṭāʿ* to European fiefs and concomitantly identifying an "Islamic feudalism" some scholars point out that the *iqṭāʿ* was a tax farming practice and an instrument to convert tax revenue from agricultural production to cash (Cahen 1953; Cameron Levi 2002: 197).

In the fifteenth century the term *iqṭāʿ* was increasingly replaced by *sarkar* (which meant a district or territorial division), consisting of a variable number of *parganas* (a smaller district, consisting of one or more villages)<sup>5</sup>. Each *sarkar* was an *iqṭāʿ* assigned to a noble, who could sub-grant tax collection over his *parganas* to his subordinates, who in turn paid their soldiers by the same means. In practice, grants and sub-grants created a complex territorial grid that included tax-collection units variable in size (provinces, villages, or small plots), corresponding to a hierarchy of stakes in land revenue that, ultimately, was owed to the sultan. At its most elementary level, the collection of taxes was enforced by members of native Hindu lineages, coming from the rural elite. These were the *zamindars*, who converted the tax revenue from agricultural production to cash (Habib 1982a: 74-75; Cameron Levi 2002: 197). Before the handover to the Portuguese, the Bassein territory had probably been granted as *iqṭāʿ* to Burhan-ul-Mulk, the ruler of

<sup>4</sup> From Persian Arab *kharāj* (tax). *First Encyclopaedia of Islam 1913-1936*, vol. IV.

<sup>5</sup> In Maratha Hindustani, a *pargana* means a territorial division, similar to that of a district (Dalgado 1988, vol. II: 121-124).

the province (Teixeira 2010: 247). So the Portuguese monarchy incorporated a territory with a dense grid that grouped nearly 300 villages, over which grants and sub-grants of tax collection rights were distributed (Botelho 1868: 154-205).

The integration of Daman's lands in the Portuguese monarchy shows similar aspects. Located in the mouth of the Gulf of Cambay, the city and its district revolved politically around Gujarat, although the sultan was not in control of this territory, considered an appendage of the sultanate. In 1557-1558, Daman was ceded by Imad-ul-Mulk, the most powerful noble in Gujarat, to secure peace with the Portuguese and thereby protect his merchant ships from attacks from their coastal fleets (Pearson 1976: 82-83). However, the territory had to be conquered from a party of Abyssinian, who effectively controlled the territory. After a military campaign, in 1559 the Portuguese viceroy took hold of a territory that stretched twenty-five leagues along the coastline and eight leagues inland. For the *Estado da Índia*, this act meant overtaking a second agricultural territory, pulling the lands of Bassein northwards. It was subdivided, as far as administration and taxation were concerned, into nearly 330 villages, grouped in nine *parganas*, showing that also here the Portuguese had to deal with the pre-existing land tenure system<sup>6</sup>. All in all, according to calculations for the 1580s, the Province of the North covered a total area of 1,920 square miles (including Diu), home to nearly 750 villages, a number that already showed the colonisers' dynamics of rearranging land boundaries (Mendiratta 2012: 3 and 37).

## 2. The *prazos* of the North

The formation of the *prazos* proved instrumental to a strategy intended to subordinate the area to the Portuguese rule and collect its tax revenues. In this respect, the experience gathered in Bassein in the 1530s and 1540s was of paramount importance. Against the backdrop of military hostilities with Gujarat, governor João de Castro began to transfer land held by Muslim *iqta'dars* to Portuguese and Brahmins from Goa in the end of the 1540s<sup>7</sup>. The transfer combined the granting of the crown's assets with the institution of emphyteusis, a type of contract that was not only common in Portugal but also in continental Europe. As is well known, emphyteusis is a form of land transfer under which property rights over a given real estate were split between the landlord and the tenant. The former retained the *direct domain*, while the latter became entitled to the *useful domain*, which included the right to dispose of it, both during his life time and after his death, provided he paid an annual 'quitrent' or 'ground rent' (*foro*) (Serrão 2000: 426-427). In the case of Bassein, the Portuguese grantees were matched to *emphyteuts* (*foreiros*) and the fee they were to pay to the crown was compared to the quitrent of emphyteutic contracts (*foro*). In turn, the transferred assets – in this case, whole villages or plots – were called *prazo* (pl. *prazos*), while the grant was called *aforamento* (emphyteutic allotment) (Rocha 1907: 423). Like the former *iqta'* holders, the *foreiros* were given the right to collect land revenue. In return, they had to take up residence in Bassein, pay a ground-rent to the royal treasury and provide military services in case of war<sup>8</sup>.

<sup>6</sup> *O Tombo de Damão (1592)*: 33-34; Saldanha 1997: 444-446; Thomaz 1994b.

<sup>7</sup> Antunes 2002: 236-237; Lobato 1985; Thomaz 1994a: 237.

<sup>8</sup> The balance between the revenue of the taxes levied on cultivation and the quitrent due to the royal treasury was the income provided by a *prazo*.



Hence, the *prazos do Norte* resulted from different legal traditions: the Muslim *iqta'* land holding; the long established practice of the Portuguese crown to bestow assets as grants or *beneficia* (*mercês*) to reward military or administrative services; the emphyteusis and its legal framework contemplated in the Portuguese codified laws (*Ordenações*); and finally, the *prazos* also comprised a few rules of the ancient feudal law, due to the integration of the military services rendered by the *iqta'dars*. The juxtaposition of these traditions lent some unique features to these land holdings, which were later replicated, with some variations, in other areas of the Portuguese empire in Asia. In fact, the *prazos* system was originally characterised by its “legal hybridity”, a feature that was to become more pronounced throughout the sixteenth and seventeenth centuries, as other adaptations were introduced (Rodrigues 2013: 563).

From the monarchy's viewpoint, the *prazos* fulfilled multiple goals: territorial organization, military defence of the territory, tax mediation, and remunerating war or administrative services. Furthermore, the payment of quitrents translated into significant revenues, although there were some fluctuations regarding their relative weight<sup>9</sup>. In 1581, Bassein occupied the third place in the hierarchy of higher-income strongholds, after Goa and Hormuz, accounting for 18 percent of the revenues of the *Estado da Índia*. In 1634 its share was around 10 percent, immediately after Goa, which generated nearly 57 percent of the *Estado's* budget. All in all, the contribution of the Province of the North (Bassein and Daman) varied between 24.5 percent (1591), 15.4 percent (1634) and 30.3 percent (1720)<sup>10</sup>.

The *prazos* also played a key role in the creation of a local nobility, whose economic bedrock derived from the income of their land holdings. The possible depiction of this nobility can be obtained from the land registries (*tombos*), as they convey, among other, information on how the *prazo*-holders used their (limited) property rights. In this regard, it becomes clear that the legal system of the *prazos* underwent adaptations and transformations as a result of their ‘social appropriation’ by colonial elites and the responses of state power. It should be stressed that the latter comprised both the governing bodies of the Portuguese monarchy (based in Lisbon and, between 1580 and 1640, in Madrid) and the viceregal authorities of the *Estado da Índia* (based in Goa). As the next section shows, the interests of these actors regarding the *prazos* system were not always convergent.

### 3. *Prazo*-holders, viceroys and monarchy

Throughout the nearly two hundred years of Portuguese rule, the property rights of *prazo*-holders bolstered conflicts with both Lisbon and Goa's governments. These conflicts reflect several tensions, which arose mainly from contradictions inherent to the system's legal hybridity. Its roots lie in the social uses that *foreiros* made of their property rights, exploring in their favour either the broad rights of disposing land held under emphyteusis, or, whenever more beneficial, the more restrictive regulations of the granting of the crown's assets. Among the consequences of these social uses is, first of all, the rise of a lively market that dealt with useful domains. As early as the 1560s, a list of emphyteutic allotments reveals that, besides being bestowed a *prazo*, purchasing

<sup>9</sup> Besides quitrents (*foros*), revenues from Bassein and Daman also included customs rights (Miranda 2007: 129 and 138).

<sup>10</sup> Cunha 2006: 245; Godinho 1982: 65-66; Matos 1994: 70.

a useful domain was already a way to gain access to the income it provided<sup>11</sup>. Through this practice the remunerative nature of these grants tended to be lost, increasing the number of landholders without any service rendered to the monarchy. The possibility of purchasing a *prazo* also gave rise to cases of income concentration. In the 1660s, Rodrigo de Castro, deemed the richest and most powerful noble in the North, held 21 or 22 villages, among them Quelme (Daman); Gaspar Paim de Melo amassed 18 or 19 villages, and there were other nobles who held 10 to 12. According to governor António de Melo de Castro (1662-1666), four or five noblemen alone controlled income high enough to pay for 100 men that could otherwise defend the territory (Pereira 1935: 71). This assessment was probably somewhat exaggerated, though it is true that the king would eventually intervene in this regard.

Apart from selling, there is ample evidence of other forms of mobilising income from the *prazos*. These landholdings were sometimes disposed of under sub-emphyteusis, in which case the *foreiro* would receive a ground-rent himself<sup>12</sup>. They were also ceded as dowry (transferred thereby to sons-in-law), or part of their revenue was assigned to pay ecclesiastical dowries<sup>13</sup>. Landholdings were also bequeathed to religious institutions, such as the Convent of St. Monica (Goa) and the Society of Jesus. The crown also contributed occasionally to transferring land to the Society of Jesus and the orders of St. Augustine and St. Francis, either through donations or by authorising the acquisition of emphyteutic allotments<sup>14</sup>. However, despite complaints around such transfers, a land registry, compiled in Bassein in the late 1720s shows that only 16 percent of its *prazos* were held by religious institutions.

If *prazos* could easily be sold and exchanged, paving the way for the group of landholders to renew itself, it should be stressed that the emphyteusis also offered the conditions to perpetuate the *prazos* in the hands of the same families. Among them is the so-called renewal right, which allowed the last beneficiary to renew the *aforamento* for three additional lives, by means of a 25-percent increase in the quitrent. In Bassein and Daman there is evidence of this renewal of the *prazos*, formally sanctioned by a royal charter on September 25, 1679<sup>15</sup>. Revenue from the *prazos* was also used to support family projects in the long run. Certain *foreiros* sought, in fact, to add restrictive succession provisions, similar to an entailed estate, utterly subverting the terms under which they held the land<sup>16</sup>. It is therefore not surprising that, time and again, viceroys and governors found that villages were perpetuating within the same families, instead of being left vacant<sup>17</sup>. At another level, dividing the income derived from the landholdings was common among heirs. Although recognized by the

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<sup>11</sup> Historical Archives of Goa [HAG], Livros de Correspondência da Junta da Fazenda para o Reino [LCJFR], cód. 2415. I am grateful to Dr. Eugénia Rodrigues (IICT) for sharing this material. *Regimento das Fortalezas da Índia*, 1951, p. 303, 319-323; *O Tombo de Damão (1592)*, pp. 323-478.

<sup>12</sup> HAG, LCJFR, cód. 2415, p. 74.

<sup>13</sup> *O Tombo de Damão (1592)*, p. 54, 81, 98.

<sup>14</sup> Mendiratta 2012: 93; Teixeira 2010: 236, 320-341; Xavier 2008: 177.

<sup>15</sup> *Collecção Chronologica da Legislação Portuguesa, 1675-1683 e Suplemento à Segunda Série 1641-1683*, p. 346;

<sup>16</sup> HAG, LCJFR, cód. 2415, pp. 71-78.

<sup>17</sup> HAG, LCJFR, cód. 2415, p. 28; Arquivo Histórico Ultramarino [AHU], Índia, caixa 92, s.n., 15/01/1719.

emphyteutic legal framework, this practice compromised the fulfilment of military duties of the *prazo*-holder and was therefore highly criticized by viceregal authorities<sup>18</sup>.

Social actors also used in their favour, whenever convenient, the remunerative nature of their landholdings. Upon realising that royal officials seized their *prazos* for failure to meet the quitrent payment, Portuguese subjects in India obtained a royal decree in the late 1670s that forced the debtors' *prazos* to be leased out and the corresponding rent assigned to pay off their debt<sup>19</sup>. The king acknowledged thereby that these royal grants could not be confiscated because of debts. With this decision, the monarch also signalled that the *prazos* were part of the royal patrimony, although granted under the rules of emphyteusis. As a matter of fact, during the nearly two hundred years of Portuguese rule, the crown strived to reinforce this notion. The land tenure system suffered, nevertheless, some changes and adjustments as the king intervened to solve local conflicts and create conditions for the defence of the territory.

One of the earliest royal interventions targeted the duration of the *prazos*, as the framework of emphyteusis allowed the useful domain to be transferred either in perpetuity or for a number of lives. However, the perpetual grant of *prazos* in Bassein and Daman was formally prohibited in repeated provisions (1585, 1588, 1605 and 1672)<sup>20</sup>. Villages and plots of land should be granted for up to three lives, in line with a rule already enforced in Portugal (Serrão 2000: 436-439). With this restriction in place, the crown aimed at keeping a “pool” of lands that cyclically returned to the royal patrimony only to be granted once again. Yet, perpetual *prazos* still existed, which led viceroy count of Alvor in 1682 to refuse to confirm any of those grants, arguing that if so “*villages would be perpetuated in the houses of prazo-holders and their heirs, like entailed estates*”. This measure kindled immediate protests and those concerned eventually obtained confirmation from the king of their rights to the respective landholdings<sup>21</sup>. The frequency of such cases cannot be quantified, but a Bassein registry from the late 1720s records several dozens of *prazos* held *in perpetuum*, confirming the viceroys' perception of lacking assets to reward soldiers (Teixeira and Pires 2007: 346-363)<sup>22</sup>. The same concern also spurred a royal order, dated March 22, 1700, stating that all new *aforamentos* were to be granted for a single live, a guideline that was to be rescinded in 1720<sup>23</sup>.

Efforts to reinforce the link between war services and *prazos* can also be taken from other royal interventions. The transfer of such landholdings to religious institutions was forbidden in 1620, in an attempt to deter the practice of pious bequests and the following conversion of private properties into ecclesiastic patrimony<sup>24</sup>. Some years later, in yet another measure, the king curtailed the *prazo*-holders' freedom to designate their heirs. Within a comprehensive policy that aimed to restrain access to the crown's assets, Luso-Asians vassals were excluded from succession. This decision followed a proposal by the viceroy Francisco da Gama that claimed that the sons of mixed unions were less compliant with the military duties that came with holding a *prazo*. After a

<sup>18</sup> HAG, LCJFR, cód. 2415, pp. 16 e 69.

<sup>19</sup> *Collecção Chronologica da Legislação Portuguesa, 1675-1683 e Suplemento à Segunda Série 1641-1683*, p. 346.

<sup>20</sup> *Arquivo Portuguez Oriental*, Fasc. 3, doc. 40, pp. 134-141; HAG, LCJFR, cód. 2415, fl. 19.

<sup>21</sup> HAG, LCJFR, cód. 2415, fls. 28.

<sup>22</sup> Biblioteca Pública e Arquivo Distrital de Évora [BPADE], cód. CXV/1-39, fls. 468-470.

<sup>23</sup> HAG, LCJFR, cód. 2415, fl. 33-71. On this matter, see also Rodrigues 2013: 596.

<sup>24</sup> BPADE, cód. CXV/1-39, fls. 123-124.

royal instruction of February 14, 1626, *prazo*-holders could only bequeath them to their daughters, provided they married *reinóis* with a record of war services<sup>25</sup>. Thus, the group of *foreiros* became more elitist, from the end of the sixteenth century onwards (Teixeira 2010: 310-311), a change that went together with an increased competition for those grants, which involved henceforth a greater social prestige.

The growing interest of *reinóis* in the *prazos* heightened the tensions with Luso-Asians, doubly alienated from the succession of assets and their income: both as sons and sons-in-law. The discontent of the latter was amplified by the Bassein municipal council in a petition addressed to king John IV, in the early 1640s. The *casados* (married settlers) of Bassein called for its revocation, arguing with the principle of free marital choice, recognised by canon law, and reminding they were descendants of the “*best nobility in the kingdom*”. In 1648, that limitation was officially annulled, only to be reinstated in 1672 and 1682, against a political backdrop already marked by the territorial expansion of the Marathas<sup>26</sup>. In fact, new *aforamentos* of the following decades included the clause of female succession in the aforementioned terms<sup>27</sup>. Yet, male succession continued to prevail, either due to the *foreiros*' resistance to comply or the institution's flexibility, which still allowed the transaction of *prazos*. Tellingly, from the 363 landholdings listed in the Bassein's registry, 27.8% were held by women, a number that falls short of the reality in the Zambezi *prazos* (Mozambique), where the percentage of female holders went beyond 50 percent in the second half of the seventeenth century (Rodrigues 2013: 611).

Similar concerns regarding the defence of the territory and the remuneration of war services can also be found in the 1672 order forbidding *foreiros* from amassing more than four villages (Pereira 1935: 72-73). By setting this limit, the king was responding to the viceroys' complaints against land and villages being concentrated in the hands of a few nobles, as a result of plans of lineage consolidation. The Bassein land registry of the late 1720s, yet again, allows a quantitative assessment on the results of these measures. The 362 *prazos* registered therein belonged to 266 holders, which shows some concentration; however, the commonest accumulations included two or three *prazos*, never exceeding four<sup>28</sup>.

Apart from the crown and the *foreiros*, governors, viceroys and other top officials of the *Estado da Índia* also played a role in shaping the *prazos* system. A legal debate that raged in Goa in the 1670s, against the backdrop of the Maratha military expansion offers relevant insights on the perception of the viceregal government regarding the *prazos* system. The discussion was triggered by a proposal by viceroy Luís de Mendonça Furtado (1671-1677) to limit access to *prazos* solely to individuals with at least eight years of military service to the crown (Pereira 1935: 64). Upon being informed, the central government in Lisbon ordered top officials of the *Estado da Índia* to discuss the proposal. The opinions voiced in several meetings held at Goa insisted on

<sup>25</sup> Arquivos Nacionais da Torre do Tombo [ANTT], Documentos Remetidos da Índia/Livros das Monções, liv. 22, fl. 55v.º; Idem, liv. 23, fl. 34; BPADE, cód. CXV/1-39, fl. 131 e 415. See also Teixeira 2010: 269-270 and Rodrigues 2013: 605-606.

<sup>26</sup> BPADE, cód. CXV/1-39, fls.83-84; *Collecção Chronologica da Legislação Portuguesa, 1675-1683 e Suplemento à Segunda Série 1641-1683*, p. 287. On the political transformations in India in the last quarter of the seventeenth century, see Antunes 2006: 210-217.

<sup>27</sup> Some examples can be found here: ANTT, Junta da Real Fazenda do Estado da Índia, liv. 10, fls.104-105, 109-110, 113-114, 178-180; liv. 15, fls. 36-38; liv. 19, fls. 254-255v.

<sup>28</sup> Calculations from data in Teixeira and Pires 2007.

the distortions that the regime had suffered through time, underlining the missing link between rendering services to the king and holding a *prazo*<sup>29</sup>. Viceroys and governors had their share of responsibility in the process, so it was claimed, having allowed a large diversity of clauses in the granting of villages, mainly with regard to military duties. The lack of a single template of clauses raised problems around the duties of the grantees and allowed the rules of usufruct and disposal to be differently interpreted. Propped up or not by this lack of well-defined clauses, local treasurers (*feitores*) also contributed to a misrepresentation of the system, by handing over villages and lands without asking the new holders to show the respective letters of confirmation issued by the chancellery. As such, *prazos* were transferred to individuals without prior services to the king. Some viceroys also contributed to this state of affairs, by removing from new *aforamentos* the clause demanding confirmation by the king (Pereira 1935: 75-79). Other misconducts, such as converting lifetime grants into perpetual grants, needed the connivance of top officials from the *Estado da Índia*, such as the chancellor of the High Court. Consequently, it is clear that rents derived from the *prazos* instigated interests across the colonial society, which subverted the essential goals of the system: the defence of the territory and the remuneration of war services. The repeated interventions by the crown and the viceregal government, not always akin, must be read in the light of those goals.

In general, viceroys and governors strived to create the conditions to regularly have vacant lands and villages that could be donated, a policy that intensified after 1620. The *prazos*' multiple social uses opposed that aim, so measures restricting access, such as the exclusion of Luso-Asian descendants, the requirement of eight years of military service, or the ban on the renewal of lives, were put in place following suggestions or decisions taken by the viceregal government. Some of those interventions were welcome by the king who aimed to stress the nature of the landholdings as crown's assets. To this extent, orders from Lisbon attempted to contain the effects of the succession rules derived from emphyteusis, by forbidding perpetual *aforamentos* and pious bequests of *prazos* as well as by limiting the accumulation of villages<sup>30</sup>.

But the monarch also intervened to recognise the vassals' rights according to the legal institute of emphyteusis. This was the case when the king formally acknowledged the right of renewal in 1679 or when the grants for lives were reinstated in 1720 after a brief experience of donations for one lifetime only. In these last decisions, it seems clear that the monarchy was responding to the political transformations taking place in India since the second half of the seventeenth century, as a result of the Maratha expansionism in the wake of the decline of the Mughal empire. With the Maratha military threat, securing the support of the local nobility was key. Therefore, Lisbon recognised that, within certain limits, the power of disposing of the *prazos*' succession was a crucial element in the social reproduction of local elites, who held, at least, part of the responsibility for defending the Province of the North.

## Conclusion

With the eventual settlement of the Marathas around the inland *parganas* in 1718, the lands of the Province of the North witnessed constant skirmishes and fights. The military pressure was particularly high during the campaigns of 1723-1724 and 1730-

<sup>29</sup> HAG, LCJFR, cód. 2415. See also BPADE, cód. CXV/1-39, fl. 468-470.

<sup>30</sup> HAG, LCJFR, cód. 2415.

1732, with an impact on the region's economic life and the occupation of several *parganas* in the Bassein district (1730). This protracted state of war would lead to the invasion of 1737-1739, the sieges of Bassein and Daman and, ultimately, the surrender of the Province in 1739. In the following year, Chaul would be given over to the Marathas in exchange for raising the siege of Goa, and the Province of the North was then reduced to Diu and Daman (Antunes 2006: 220-223; Mendiratta 2012: 147-182). The *Estado da Índia* was thereafter deprived of territories that represented 30 percent of its tax revenue.

The *prazos do Norte* are an example of juxtaposition of legal institutions of European and non-European origins, which can also be found in other areas of the Portuguese empire. The overlapping that took place here of the *iqtā'*, the legal framework of emphyteusis and the practice of granting crown's assets went beyond the simple regulation on property rights. In fact, this legal hybrid system allowed accommodating both the goals of the state power and of the colonial elites. While the king used the *prazos* to ensure territorial organization, military defence, reward of services and tax mediation, a small group of *reinóis* and Luso-Asians was granted the income from those landholdings and used it for social reproduction. Their interests became, thus, vested in the maintenance of the Portuguese empire in Asia.

As I have shown in this paper, through time, the hybridity of this regime bolstered conflicts between *foreiros*, the crown and the viceroys. The flexible succession rules of the institute of emphyteusis contrasted with the more rigid norms that regulated the crown's assets and this contradiction could not be solved without changing 'the rules of the game'. The monarchy, therefore, tried to strike a balance between the nature of the *prazos* as crown's assets, and the (limited) rights of the *foreiros* of disposing of their landholdings in the framework of emphyteusis. Ultimately, it was within this delicate balance and within the contradictions of the system that the monarchy and the colonial elites held on to the *prazos* system, which, thus endured for more than 200 years in the Portuguese Province of the North.

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### Primary sources

Botelho, Simão. 1868. "Tombo do Estado da Índia". In *Subsídios para a História da Índia Portuguesa*, ed. Rodrigo José de Lima Felner. Lisbon: Academia Real das Ciências, 1-259.

Godinho, Padre Manuel. 1974 [1<sup>st</sup> ed. 1663]. *Relação do Novo Caminho que fez por Terra e Mar vindo da Índia para Portugal no ano de 1663*. Edited by A. Machado Guerreiro. Lisbon: Imprensa-Nacional-Casa da Moeda.

Matos, Artur Teodoro de (ed.). 2001. *O Tombo de Damão (1592)*. Lisbon: CNCDP-CEDG.

Pissurlencar, Panduronga (ed.). 1951. *Regimentos das Fortalezas da Índia*. Goa: Cartório Geral do Estado da Índia.

Rivara, J. H. da Cunha (ed.). 1992. *Arquivo Portuguez Oriental*. Fasc. 3. New Delhi: Asian Educational Services.

Silva, José Justino Andrade e (ed.). 1857. *Collecção Chronologica da Legislação Portuguesa, 1675-1683 e Suplemento à Segunda Série 1641-1683*. Lisbon.

## References

1987. *First Encyclopaedia of Islam 1913-1936*, vol. IV. Leiden: Brill.
- Ames, Glenn J. 2008. "The Province of the North: continuity and change in an age of decline and rebirth, c. 1571-1680". In *Portuguese Colonial Cities in the Early Modern World*, ed. Liam Mattheu Brochey, London: Ashgate Publishers, 129-148.
- Antunes, Luís Frederico Dias. 2002. "Algumas Considerações sobre os Prazos de Baçaim e Damão". *Anais de História de Além-Mar*, vol. III: 231-257.
- Antunes, Luís Frederico Dias. 2006. "Província do Norte". In *Nova História da Expansão Portuguesa*, vol. V, *O Império Oriental. 1660-1820*, tomo 2, coord. Maria de Jesus dos Mártires Lopes. Lisbon: Editorial Estampa, 207-264.
- Cahen, Claude. 1953. "L'évolution de l'iqtā du IXe au XIIIe siècle: contribution à une histoire comparée des sociétés médiévales". *Annales. Économies, Sociétés, Civilisations*, vol. 8, n. 1: 25-52.
- Cameron-Levi, Scott. 2002. *The Indian Diaspora in central Asia and its trade, 1550-1900*. Leiden: Brill.
- Couto, Dejanirah. 1995. "Em torno da concessão e da fortaleza de Baçaim, 1529-1546". *Mare Liberum*, n.9: 117-132.
- Couto, Dejanirah. 1994. "Baçaim, a capital do Norte". *Oceanos*, n. 19-20: 258-266.
- Cunha, João Manuel Teles. 2006. "Economia e Finanças". In *Nova História da Expansão Portuguesa*, vol. V, *O Império Oriental. 1660-1820*, tomo 2, coord. Maria de Jesus dos Mártires Lopes. Lisbon: Editorial Estampa, 162-338.
- Dalgado, Sebastião Rodolfo. 1988. *Glossário Luso-asiático*, 2 vols. New Delhi: Asian Educational Services.
- Disney, A. R. 2009. *A History of Portugal and the Portuguese Empire, volume 2: The Portuguese Empire*. New York: Cambridge University Press.
- Eaton, Richard. 2005. *The New Cambridge History of India. A social history of the Deccan, 1300-1761. Eight Indian Lives*. Cambridge University Press.
- Godinho, Vitorino Magalhães. 1982. *Les Finances de l'État Portugais des Indes Orientales (1517-1635). Matériaux pour une étude structurelle et conjoncturelle*. Paris: Fundação Calouste Gulbenkian.
- Habib, Irfan. 1982a. "Agrarian Economy". In *The Cambridge Economic History of India, vol. I (c.1200-c.1750)*, org. Tapan Raychaudhuri and Irfan Habib. New Delhi: Cambridge University Press, 48-75.
- Lobato, Alexandre. 1985. "Sobre os prazos da Índia". In *Actas do II Seminário Internacional de História Indo-Portuguesa*, org. Luís de Albuquerque and Inácio Guerreiro. Lisbon: Instituto de Investigação Científica e Tropical, 460-466.
- Matos, Artur Teodoro de. 1994. "A Situação Financeira do Estado da Índia no Período Filipino" (1581-1635)". In *Na Rota da Índia. Estudos de História da Expansão Portuguesa*. Macao: Instituto Cultural, 61-107.
- Mendiratta, Sidh Daniel Losa. 2012. *Dispositivos do sistema defensivo da Província do Norte do Estado da Índia, 1521-1739*. PhD. dissertation. Coimbra: Universidade de Coimbra.
- Miranda, Susana Münch. 2007. *A Administração da Fazenda Real no Estado da Índia (1517-1640)*. PhD. dissertation. Lisbon: FCSH-UNL.
- Pearson, M. N. 1976. *Merchants and Rulers in Gujarat. The response to the Portuguese in the Sixteenth Century*. Berkeley: University of California Press.
- Pereira, A. B. De Bragança. 1935. *Os Portugueses em Baçaim*. Goa: s. e.
- Rocha, M. A. Coelho da. 1907. *Instituições de Direito Civil Português*. Lisbon: Livraria Clássica.
- Rodrigues, Eugénia. 2013. *Portugueses e Africanos nos Rios de Sena. Os Prazos da Coroa em Moçambique nos Séculos XVII e XVIII*. Lisbon: Imprensa Nacional-Casa da Moeda.
- Rossa, Walter. 1999. "Baçaim, Sete Alegações para uma Aproximação ao Espaço Físico". In *Os Espaços de um Império. Estudos*, org. Artur Teodoro de Matos. Lisbon: CNCDP, 105-123.

- Saldanha, António Vasconcelos de. 1997. *Iustum Imperium. Dos tratados como fundamento do império dos portugueses no Oriente*. Lisbon: Fundação Oriente – Instituto Português do Oriente.
- Serrão, José Vicente. 2000. *Os Campos da Cidade. Configuração das estruturas fundiárias da região de Lisboa nos finais do Antigo Regime*. PhD. dissertation. Lisbon: ISCTE.
- Subrahmanyam, Sanjay. 1993. *The Portuguese Empire in Asia, 1500-1700: A Political and Economic History*. London and New York: Longman.
- Teixeira, André. 2010. *Baçaim e o seu território: política e economia (1534-1665)*. Dissertação de doutoramento. Lisbon: FCSH-UNL.
- Teixeira, André and Pires, Silvana. 2007. “O Tombo de Baçaim de 1727-1730”. *Anais de História de Além-Mar*, vol. VIII: 325-363.
- Thomaz, Luís Filipe. 1994. “A Estrutura Política e Administrativa do Estado da Índia no Século XVI”. In *De Ceuta a Timor*, Lisbon: Difel, 207-243.
- Thomaz, Luís Filipe. 1994b. “Damão”. In *Dicionário de História dos Descobrimentos Portugueses*, vol. 1, dir. Luís de Albuquerque. Lisbon: Círculo de Leitores, 334-335.
- Xavier, Ângela Barreto. 2008. *A Invenção de Goa. Poder Imperial e Conversões Culturais nos séculos XVI e XVII*. Lisbon: Imprensa de Ciências Sociais.