

Below the Nation State

Power Asymmetry and Jurisdictional Boundaries around the Archives of Madeira Archipelago

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Introduction

As part of the 600th anniversary celebrations of the discovery and settlement of the previously uninhabited islands of Porto Santo and Madeira (1418–2018), the Regional Legislative Assembly of the Autonomic Region of Madeira issued a Resolution demanding the restitution of a set of archival fonds held in Lisbon at the National Archives of Portugal, which is known as ‘Torre do Tombo’.¹ These fonds come from private and royal institutions that created and accumulated documents throughout centuries in the Madeira archipelago until the last quarter of the 19th century, when the documents were tacitly transferred to the ‘Torre do Tombo’.

The quest for the restitution of these fonds is not new. On the eve of the 500th anniversary celebrations of the discovery and settlement of the archipelago, the authors of the first Madeiran encyclopaedia, the *Elucidário Madeirense* (1921), vigorously lamented the still inaccessible *mare magnum* of codices at ‘Torre do Tombo’. The lack of finding aids at the ‘Torre do Tombo’ limited the authors’ knowledge (re)construction about the archipelago. A turning point occurred in 1931, under the military dictatorship, with the establishment of the basis for a national network of public archives and libraries by the Decree no. 19952 dated 27 June 1931. An *erratum* to the decree published in July of the same year included Madeira, establishing the District Archives of Funchal (DAF). Two years later, in 1934, the first head of DAF, named João Cabral do Nascimento (1897–1978), claimed the restitution of the above-mentioned Madeiran fonds, held by the ‘Torre do Tombo’, from the then head of the General Inspection of Archives and Libraries (GIAL)², Júlio Dantas (1876–1962). On that occasion, GIAL denied DAF’s claim, arguing that such a restitution could lead to the ‘eventual dismantlement of Torre do Tombo’.³ However, four years later, in 1937, DAF discovered in Funchal a set of documents belonging to the same Madeiran fonds held by ‘Torre do Tombo’. This situation obviously

imposed a very difficult task for DAF in regards to the reunification of the fonds.⁴ Because of that, since that time Madeiran authorities have repeatedly requested restitution of these fonds from the authorities in Lisbon, but these requests have been ignored or denied. In fact, these claims were not even heard with the 1976 constitutional establishment of the Autonomic Region of Madeira, or the 1980 transfer of powers over the DAF's archives to the Regional Government, or when DAF became the Regional Archives of Madeira (RAM). Claims from the island authorities that call for more autonomy in the management of the islands' assets are not limited to the political level (transfer of power from the State's Central Administration – that is, from Lisbon – to the regional administration – that is, Madeira), but are reflected in the ability of the insular community to hold these fonds, in order to be able to manage them autonomously. This concern for local autonomy, evidently, reaches the sphere of protection and enhancement of cultural heritage in general and, more specifically, of documentary heritage of archival character included therein.

This scenario could be approached as a sub-national⁵ issue of displaced archives. Many disputed archival claims were only known at an international level, involving two or more countries.⁶ Most sub-national archival claims have remained invisible at both the international level and in academic discussion. For example, a growing number of studies about the transfer of colonial archives to the mainland or in the context of succession of states⁷ do not emphasise that those displacements have mostly taken place in sub-national contexts. Likewise, not all cases of conflict over the custody of cultural property in a sub-national context are limited to conflicts between colonised versus coloniser or Indigenous peoples versus settlers, as we will explain later.

In fact, the lack of conceptual accuracy about the term displaced archives, already recognised by some authors,⁸ could become a limitation for the theoretical understanding of sub-national archival issues. Reducing this problem as a mere divide between 'cultural nationalists' and 'cultural intranationalists'⁹ could make the essence of the claim in relation to dispossessed communities unclear, particularly in terms of information access and access to cultural heritage. While those who advocate cultural nationalism consider cultural property to belong to all who share the same nationality, often concentrated in national memory institutions, advocates of 'cultural intranationalism' consider that cultural artefacts should remain with their communities or groups to whom the heritage relates, as 'source communities' and as a means of safeguarding cultural diversity.¹⁰

In our assumptions, we regard the term 'dispossession' as a more productive concept to understand the displaced archives phenomena. In fact, to a certain extent, all archival institutions hold 'displaced' archives,¹¹ that is, many holdings (fonds and collections) have been removed from their original place of creation and deposition, in both sub-national and

international contexts. We consider that the dispossession of archives in a sub-national context from the original communities cannot be understood without the material component that is intrinsic to the notion of cultural property, especially when such phenomena occurred in circumstances of ‘unequal power relationships’, and without regard for how these claims relate to the ‘struggle of the communities for cultural self-determination and autonomy’.¹²

Thus, the main purpose of this chapter is to describe a case study developed in a sub-national context between the Autonomous Region of Madeira and the National Archive ‘Torre do Tombo’ (ANTT). Our analysis will focus theoretically on the etiologies of dispossession and empirically on a case study. Thus, the main questions that will lead this case study are: ‘Why were the Madeiran fonds taken in the past to or by ANTT?’ and ‘How were these Madeiran fonds represented in finding aids provided by ANTT and the RAM?’. Finally, based on nissological critiques,¹³ we will define and contextualise the notion of sub-national displaced archives as an under-researched subset of disputed archival claims, in order to reveal some particular aspects of this phenomenon.

Methods and Approach

Macedo discovered a considerable number of studies on displaced archives in which qualitative research methods and techniques were used.¹⁴ The author mapped the scientific literature, based on data extracted from the Web of Science, especially from the English-language archival terminology, and identified a set of 70 papers, produced between 1962 and 2018, of which 46% highlight the use of historical methods (e.g., essays, opinions), 30% correspond to case studies (single and multiple) and, to a lesser extent, conceptual and theoretical analysis (7%), ethnographic and auto-ethnographic methods (4%), participatory action research (3%), interviews (1%) and literary essays (1%). The methods employed were not explicitly indicated in 8% of the papers analyzed. In turn, Lowry pointed out that there is a gap in the scientific literature regarding the approach to subnational issues in the context of displaced archives.¹⁵

In a broader sense, studies on displaced archives have been approached under the theoretical conspectus of critical theory, particularly under the post-colonial critique.¹⁶ In fact, as discussed above, sub-national displacements rarely map perfectly to decolonial displacements. In our opinion, the post-colonial critique is not a completely appropriate framework for studying specific sub-national issues, especially when it comes to the relation of ‘island versus mainland’. Thus, we preferred to conduct this study under the theoretical framework of ‘critical displaced archives theory’¹⁷ and nissological theory¹⁸ or islands studies,¹⁹ paying attention to specificities related to sub-national contexts.²⁰

McCall defined nissology as ‘the study of islands on their own terms’.²¹ This field of study emerged in the 1980s as a critical response to the ‘continentalising’ or ‘continentalised’ discourses on islands, that is, a view (often stereotyped) of islands ‘often crafted by non-islanders’.²² Despite the fact that nissology and island studies are used as equivalent concepts, Baldacchino considers that island studies is not a discipline *per se*, much less a field in growth, considering it ‘an inter-, or even trans-, disciplinary focus of critical inquiry and scholarship’.²³ The studies concerning islands focus not only on insularity (more focused on physical and geographical dimensions) but also on ‘islandness’ (social and cultural components), in terms of opening and closing in relation to the world.²⁴ Baldacchino said that ‘island studies need/should not be focused only on islands themselves’, but that ‘studies of a particular phenomenon are also strengthened and enriched by an “island-mainland” [other than an “island-island”] comparison or dialectic’.²⁵ In the specific case of smaller and non-sovereign islands (i.e., in a sub-national context), post-colonial studies do not always fit, as we have assumed, with all sub-national spaces.

Baldacchino pointed out that a large part of post-colonial studies ‘may find it easier to pick on, and grapple with, Algeria rather than Mayotte, India rather than Bermuda, and Indonesia rather than Aruba’.²⁶ In our study, we will use island studies as an interpretative tool, in a sense of an alternative to post-colonial criticism, arguing that not all sub-national cases derive exclusively from colonialism, but in the manner that island communities build their identity from their own archives, in the current contexts of how ‘the global periphery is now, for better or worse, setting much of the agenda for a profession that hitherto has been squarely European [we may add “continental”] in orientation and perspective’.²⁷

The case of Madeira is positioned at this crossroads of strained relations between identitarian dependence to a sovereign state and the instrumental asset of autonomy as a means for building an insular identity.²⁸ Although the Portuguese archipelagos (Madeira and Azores) have historically been very important participants in the process of building Portuguese imperialism and colonialism over the centuries (islands as ‘laboratories’ of colonialism), due to their geostrategic location, island-continent relations ‘may be imposed unilaterally from above or nurtured unilaterally from below but is often an outcome of an ongoing process of negotiation and accommodation’.²⁹

This chapter also brings out an instrumental case study,³⁰ designed to explore a phenomenon – Madeiran displaced funds – in contrast with previous theoretical assumptions, in order to provide a discussion about new or unclear aspects of this case. After providing a brief contextualisation of the historical aspects of the Madeiran displaced funds (representing our case study), we carried out a document analysis of sources of the following Portuguese institutions: National Archives of Portugal ‘Torre do Tombo’

(ANTT) and Regional Archives of Madeira (RAM). Both of those institutions are responsible by the custody of the Madeiran displaced fonds that illustrates our case study.

The fonds were identified following a unique criterion: to be explicitly mentioned in Resolution of Regional Legislative Assembly of Madeira no. 3/2017/M dated 12 January (henceforth Resolution). So, we have analysed fonds produced by ecclesiastical and insular institutions of the Old/Ancient Regime (*Antigo Regime*), as follows: i) Cathedral Chapter of Funchal (*Cabido da Sé*), ii) Monastery of Saint Clare of Funchal (*Convento de Santa Clara do Funchal*), iii) the Monastery of Our Lady of Incarnation of Funchal (*Convento de Nossa Senhora da Encarnação do Funchal*), iv) Financial Royal Administration of Funchal (*Provedoria da Real Fazenda*) and the v) Customs of Funchal (*Alfândega do Funchal*). All these five fonds were claimed by the Resolution above mentioned.

Our main purpose in identifying these Madeiran displaced fonds was to analyse the content of the finding aids used to describe them, which were produced and updated by the institutions above mentioned, trying to highlight, behind their custodial archival history, the real motivation for their removal from Madeira (Island) to Lisbon (Continent). The data was gathered from fields in the finding aids previously identified. All the types of finding aids that we have consulted, such as catalogues, inventories, guides, indexes and databases, were in printed and digital versions, and were provided by the aforementioned institutions³¹. The analysis of the finding aids was primarily focused in relevant descriptive information about these displaced fonds. The specific fields that we have examined were: title, dimension, date(s), archival history and immediate source of acquisition or transfer. In addition, in order to find out some acquisition procedures of Madeira Island's displaced fonds, as well as the first formal claims for restitution, we have analysed some institutional correspondence exchanged between ANTT (through GIAL, representing central administration) and DAF (representing peripheral central administration). We also have identified and analysed some early Portuguese legislation. In this case, the data were gathered from GIAL and DAF digital holdings (commonly, 'archives of archives'), in order to identify and analyse possible decision-making by these entities, especially in terms of the rationale for accession actions and accessibility policy.

The Madeira Archipelago: A Brief Contextualisation

The Madeira archipelago is composed of two islands, Porto Santo and Madeira, as well as the uninhabited small sub-archipelagos, Desertas and Selvagens. The Madeira archipelago was already mentioned in maps dating back to the 14th century, as *Insula de Legname* (or Wood Island), due to its closeness to Canary Islands and North Africa,³² and as being part of an

archipelagic group called Macaronesia (Canary, Cape Verde, Azores and Madeira islands).

The archipelago was discovered ca. 1418–1420 by Prince Henry's elite navigators, namely, João Gonçalves Zarco, Tristão Vaz Teixeira and Bartolomeu Perestrelo, who developed the territory, with population settlement and the establishment of the first religious, civil and military infrastructures. From the 15th to 16th centuries, the Madeira archipelago was one of the main geostrategic platforms of Portuguese maritime expansion, due to the mass migrations of European people and the mass transportation of slaves from North and Sub-Saharan Africa and aboriginal *guanches* from Canary Island, and also due to sugarcane plantations in the archipelago until the discovery of Brazil (1500), after which the Archipelago started to face economic decline.³³ Madeira was the seat of one of the biggest Catholic dioceses in history for 22 years after its establishment in 1533;³⁴ the diocese had jurisdiction over the Azores archipelago, Brazil, Africa, the East and other lands yet to be discovered.

From the 15th to 18th centuries, a hereditary captaincy system³⁵ and a regime of *sesmarias*³⁶ were established in the archipelago.³⁷ Both were spread as role models of territorial and social organisation all over the Portuguese colonial empire.³⁸ The archipelago was vulnerable not only to natural disasters, but also to attacks led by pirates and French and Algerian corsairs. Because of the 1807–1811 French invasions of Portugal and the strategic retreat of the Portuguese royal family to Brazil, the Madeira archipelago was taken by British army troops, who settled there from 1801 to 1802. After the sovereignty transfer of Madeira from the United Kingdom to Portugal, through the Secret Convention on the Transfer of the Portuguese Monarchy to Brazil signed in 1807 in London, the archipelago was again occupied by British troops between 1810 and 1814, as a preventive strategy against the advance of Napoleonic forces and protection of the English community residing in the archipelago and Portuguese Crown interests. It is in this particular context of history that the movement for territorial autonomy and independence started to flourish.³⁹ According to the 1822 Constitution, Madeira and the Azores archipelagos were established as Adjacent Islands⁴⁰ and were granted a different status from the Portuguese mainland provinces and from territories under Portuguese jurisdiction in Africa, Asia and Oceania.

From a documentary heritage point of view, the 18th and the 19th centuries were marked by the 1759, 1834 and 1862 national seizures of the assets of religious orders, which had an impact in Madeira. This heritage, with the exclusion of the one returned to the Diocese of Funchal and also to the municipalities, was transferred to Lisbon on separate occasions.⁴¹

The end of the 19th century was also marked by autonomic movements in the Adjacent Islands⁴² until the fall of the monarchy (1910). However, autonomic claims were halted due to the First World War and the establishment

of the *Estado Novo* political regime, which led the archipelagos into a cycle of impoverishment and socioeconomic setback. Upon the 1974 Carnation Revolution, there were pro-independence events in Madeira and Azores, which were mitigated after their promotion from Adjacent Islands to autonomous regions after the 1976 constitutional and democratic transition.

Upon the accession of Portugal to the European Economic Community on 1 January 1986, and according to the 1997 Treaty of Amsterdam, the Portuguese archipelagos were granted the status of outermost regions of the European Union and started assuming a geostrategic role within the Atlantic Ocean area due to the size of their maritime jurisdiction.

One of the first legislative measures brought forward at regional level in Madeira was the prohibition of sending business archives of high cultural value to any location outside the autonomous region, although its enforcement has not been successful.⁴³ For example, the archives of Madeiran embroidery⁴⁴ and Madeira wine enterprises,⁴⁵ which are of the utmost economic and historical relevance to the archipelago, were transferred to the United States of America and the United Kingdom, respectively, by the hand of their owners, in violation of Regional Decree No. 14/78/M of 10 March, which transposed Decree-Law No. 429/77 of 15 October, into the regional legal order, which prohibited the exit of business archives considered cultural heritage of the Nation.⁴⁶

Currently, Madeiran regional authorities responsible for cultural heritage do not even have an inventory of the removed cultural heritage and face challenges while trying to disclose both the size and attributes of that heritage.

Madeiran Displaced Fonds: Identification, Reunification Strategies and Questions

As we have noted, by the Resolution no. 3/2017/M dated 12 January⁴⁷ five Madeiran displaced fonds explicitly mentioned should be transferred back from Lisbon to the Autonomous Region of Madeira. According to our research, this resolution was drawn up on the basis of incomplete or inadequate finding aids. The cataloguing process has continued. Thus, in data collection carried out in the Portuguese Archives Portal [PAP] (*Portal Português de Arquivos*),⁴⁸ we identified 11 Madeiran displaced fonds held at the ANTT, as follows: (1) *Convento de Santa Clara do Funchal* (CSCF); (2) *Convento de Nossa Senhora da Encarnação do Funchal* (CNSEF); (3) *Convento de São Francisco do Funchal* (CSFF); (4) *Cabido da Sé do Funchal* (CSF); (5) *Convento de Nossa Senhora da Piedade de Santa Cruz* (CNSPSC); (6) *Convento de São Bernardino de Câmara de Lobos* (CSBCL); (7) *Convento de Nossa Senhora da Porciúncula da Ribeira Brava* (CNSPRB); (8) *Convento de São Sebastião da Calheta* (CSSC); (9) *Provedoria e Junta da Real Fazenda do Funchal* (PJRFF); (10) *Comissão da Fazenda do Distrito da Madeira e Porto Santo* (CFMPS) and (11) *Alfândega do Funchal* (ALF) (Table 5.1).

Besides the fonds mentioned in Table 5.1, it should be emphasised that a search in PAP⁴⁹ has retrieved two other sub-fonds, namely: i) *Confraria das Escravas de Nossa Senhora do Monte* (CSCF) and ii) *Confraria de Nossa Senhora Mãe dos Homens e do Patriarca São José* (CSFF). Besides, in the same database we have also retrieved other two sub-fonds – i) *Subdelegação do Funchal da Secção Internacional da Polícia de Vigilância e Defesa do Estado* (PIDE/DGS) and ii) *Comissão Distrital do Funchal da União Nacional* -, which were transferred from Madeira to Lisbon in 1974, under the custody of the PIDE/DGS Extinction Coordination Service. As we have mentioned above, those Madeiran displaced fonds will not be analysed in this case study because they were not referred in the Resolution.

As we know, the reason why the Resolution explicitly mentions only those five displaced fonds that we referred above is due to the fact that the finding aids used at the time as information sources were outdated. Since 2002, ANTT has promoted a reorganisation of monastic fonds.⁵⁰ The final product was an inventory in which were listed those six Madeiran displaced fonds that were not originally mentioned in the Resolution. Such fonds are related to masculine monasteries (CFMPS, CNSPRB, CNSPSC, CSBCL, CSFF and CSSC). They were separately analysed as they had remained invisible within PJRFF's fond since their removal to Lisbon during the end of the 19th century. Concerning the other five Madeiran fonds listed in Table 5.1, it should be emphasised that the District Archives of Funchal had tried to establish since 1937 an inventory of the claimed documents at ANTT. The outcome of this initiative was published in the *Arquivo Histórico da Madeira* bulletin.⁵¹ ALF, PJRFF, CNSEF and CSCF fonds were microfilmed and partially digitised from microfilm in a project led by the *Centro de Estudos de História do Atlântico*⁵² – the Atlantic History Study Centre – which is currently discontinued.

Table 5.1 List of fonds held at ANTT

Fonds	Date(s)	Dimension (in units, n=2178)	Units with digital surrogates	Source
ALF	1620–1834	475	462	(ANTT, 2008)
CFMPS	1834–1851	16	16	
CNSPRB	1736–1809	3	3	
CNSPSC	1772–1776	1	1	
CSBCL	1792–1825	4	4	
CSCF	1447–[1900]	144	114	
CSFF	1732–1832	7	7	
CSSC	1674–1811	4	3	
PJRFF	1569–1834	1398	1341	
CSF	1478–1861	78	41	
CNSEF	1660–1890	48	48	

Table 5.2 Fonds held at RAM

Fonds	Date(s)	Dimension (in units, n=10680)	Source
ALF	1650–2000	10598	(Regional Government of Madeira, 2020)
CNSEF	1645–1895	36	
CSBCL	1783–1832	1	
CSCF	1634–1897	17	
CSFF	1710–1730	1	
CNSPSC	1705–1710	1	
PJRFF	1649–1833	26	

The institutional web portal of RAM only provides a digital inventory and does not provide any digital surrogates about the fonds held in institutional databases. Table 5.2 sums up the fonds held at this institution:

Historically, since 1937, the fonds held at RAM (CSFF, CNSEF, CSBCL, CSCF, CNSPSC) had been incorporated into the DAF – an institution within the pre-autonomic decentralised central administration. There are no recorded incorporations into PJRFF before 1957, while documents were incorporated in ALF throughout the years in 1951, 1953, 1958, 1964, 1975 and 2010 and 2012, having these last two been incorporated by RAM in a context of political autonomy. Despite the chronological extent, in some cases throughout centuries, there were significant documentary losses due to human and natural causes, as shown by time gaps. In some sense, finding aids provided by RAM are mere lists of installation units (u.i.) that do not comply with the international rules for archival description, as there are no digital representations of these installation units held in the institution's databases.⁵³

Therefore, after this brief explanation, we assume that the questions involved in the Madeiran archival claims case are strongly related to the dispersion of archival units typifying two different custody situations, as follows:

- 1 Archival units dispersed, and under the custody of two holding entities:** in this situation we have identified about seven fonds that are dispersed between RAM and ANTT, as follows: ALF (RAM 96%, n=10598 u.i. *versus* ANTT 4%, n= 475 u.i.); CSBCL (RAM 56%, n= 5 u.i. *versus* ANTT 44%, n= 4 u.i.); CNSPSC (RAM 50%, n= 1 u.i. *versus* ANTT 50%, n= 1 u.i.); CNSEF (RAM 42%, n= 35 u.i. *versus* ANTT 58%, n= 48 u.i.); CSCF (RAM 9%, n= 14 u.i. *versus* ANTT 91%, n= 144 u.i.); CSFF (RAM 13%, n= 1 u.i. *versus* ANTT 87%, n= 7 u.i.) and PJRFF (RAM 2%, n= 26 u.i. *versus* ANTT 98%, n= 1398 u.i.).
- 2 Archival units concentrated, and under the custody of a unique holding entity:** in this situation we have identified about four fonds held at ANTT, as follows: *Cabido da Sé do Funchal* (n=78 u.i.), *Comissão da*

Fazenda do Distrito da Madeira e Porto Santo (n=16 u.i.), *Convento de Nossa Senhora da Porciúncula da Ribeira Brava* (n=3 u.i.), *Convento de São Sebastião da Calheta* (n=3 u.i.).

As explained above, the dispute over the custody of these archives is reduced to the reunification of fonds, which lies between physical restitution or virtual access.⁵⁴ In the case of fonds with archival units dispersed between two custodians, as exemplified above (see point 1), it is clear that the finding aids available were not designed to represent intellectually and completely (as we say, in a reunified way) the fonds removed from Madeira. This lack in representation was previously discussed in a broad study carried out by Ribeiro that pointed out that the Portuguese finding aids referring to certain fonds ignored records of the same fonds held in other archival institutions in the country.⁵⁵ Ribeiro also concluded that, in general, finding aids were commonly used by Portuguese archival institutions merely as tools for listing assets under their custody.⁵⁶ In this sense, such fonds were misleadingly represented as having completeness and integrity.

In the specific case of Madeiran displaced fonds, the strategy adopted by both sides (RAM and ANTT), as we identified, was the delivery of reproductions (in microform and digitisation) as a substitute for the access to the original content of these cultural artefacts. In that sense, the government authorities of Madeira created a portal on the web – *Nesos*⁵⁷ – in order to provide digital access to a set of documents held by ANTT, among others. Nowadays, as far as we know, this portal is not being updated. In the same way, as of 2008, ANTT provided digital access to Madeiran fonds claimed by Madeiran authorities. In its turn, RAM provided a portal to access fonds and collections in 2017. As far as we know, no project has been carried out by RAM to digitise its own records in order to provide the reintegration of them with the digital copies that are now available from ANTT, thus providing a digital reunification of these displaced Madeiran fonds.

Probably, at the root of the Madeira authorities' discrepancy in relation to ANTT, placed at the core of the 2017 Resolution, is the method used for intellectually representing these claimed fonds. Hypothetically, we may ask if the claim focuses on 'continentalised' interpretations,⁵⁸ attributed to Madeiran displaced fonds represented in the ANTT finding aids, reflecting an idea of order and structure '(re)built'; or if the digitisations (or other substitutes to virtual reunification) provided by ANTT could be a new exercise of power, to prevent the physical reunification of these Madeiran displaced fonds to the island community.

A potential answer to these questions is that, in fact, virtual access does not equate with physical possession of cultural heritage, as we cannot ignore that the material dimension is a significant part of the concept of cultural property. In this case, this material dimension seems to be at the root of the discrepancy between the island and the continent, since the complaining

communities are anxious for physical control and access to these artefacts. This is attested to by the number of times that these fonds have been claimed by their source communities. Anyway, in a holistic sense, the notion behind reunification should not be limited to a physical and intellectual combination of dispersed artefacts, but in the sense that these artefacts are an extension of the memory of their communities, that is, above of all, a reunification *with* the community itself. The claim patent in the 2017 Resolution by the Madeiran authorities reinforces the very deep sense that the physical possession of these archival fonds (in the sense of a heritage that is part of a cultural history written in an island context) empowers the island's community in relation to the knowledge about (and in reconciliation with) its own past.

Under Blurred Provenance and Behind Insular Claims

The archival descriptions of the Madeiran displaced fonds held at the ANTT provide information on the legal instruments underlying the transfer of records from Madeira to Lisbon. In this sense, the descriptive metadata delivers useful information on aspects as sources of acquisition or transfer, and property or custody of archival fonds. Following the traces of these descriptions, we confirmed that only three of those five fonds that were analysed (see [Table 5.1](#)) explicitly mention the term 'incorporation' as means of acquisition, referring inclusively to two legal instruments: i) the Decree dated 2 October 1862⁵⁹ and ii) the Royal Ordinance of the Ministry of the Realm dated 9 June 1886⁶⁰. The 2 October Decree explicitly ordered the transfer and incorporation of 'the records of all churches and religious bodies in the national archive'. In our opinion, this instruction is the key factor in understanding the massive displacements of documents that have occurred later, from those archives of extinct and centralised ecclesiastical institutions – to Lisbon, where those documents were kept – first to the National Library of Portugal⁶¹, and then to the National Archives of Portugal 'Torre do Tombo'.

In the particular case of Madeira, most of the fonds were removed probably in the mid-19th century, and were certainly held at the Treasury Office of Funchal (*Repartição da Fazenda do Funchal*). Roberto Augusto da Costa Campos (1837-1907), a Madeiran who served as an officer of the ANTT, was involved in several archive transfers throughout the country. He went to Funchal twice, first in 1886, in 1887 and then in 1894, in order to identify, collect and make up the inventories of the seized fonds. This officer intended to keep documents safe from harm, considering that there was no archival service in the archipelago yet. However, one of the most serious problems was the constant allusion to the Royal Ordinance of the Ministry of the Realm dated 9 June 1886 and only used in ANTT's finding aids designed to find fonds removed from Madeira Island. It is surprising that the Royal

Ordinance of the Ministry of the Realm dated 9 June 1886 is not included in the indexes of the *Diário do Governo* (1886 edition), the official bulletin of the Portuguese government at that time. There is no legislative information regarding Madeira's archives in this period, except for the creation of a job for an archivist to exercise functions at the Funchal Finance Bureau (*Repartição da Fazenda do Funchal*), determined by the Law of 27 June 1864. Although the Funchal Finance Bureau had custody of the documents confiscated from religious orders in the archipelago, unfortunately the fate of this entity's archive is currently unknown, being presumed dispersed. Our research in the ANTT 'archive of the archive' reveals that the first finding aids created refer to this Royal Ordinance dated 9 June 1886⁶². The mention in the finding aids of legal diplomas that are not published in the Government Gazette can also be found in other fonds held by the ANTT, for instance, the Royal Ordinance of the Ministry of the Realm of 9 July 1863 regarding the Collegiate from Santiago de Coimbra.⁶³ In relation to these topics, it is licit to ask some questions: What is the content of these diplomas? Why are they not included in the indexes of the Government Gazette? Why does the ANTT cite a legal instrument in its finding aids that no longer exists, if it ever existed? In 1935, Machado labelled this legal instrument as *portaria surda*⁶⁴ – the 'deaf ordinance' – as a way of complaining about the inaccessibility of Madeiran fonds since their last transfer. Access to the content of these diplomas would make it possible to know if these massive concentrations of documents in Lisbon were lawful.

Júlio Dantas, the head of the General Inspection of Archives and Libraries (GIAL), confirmed that centralising efforts were leading the 'Torre do Tombo' to unsustainability and acknowledged that 'reclamações de carácter local, inspiradas no desenvolvimento do espírito regionalista, originavam incidentes desagradáveis'⁶⁵ – local complaints, inspired by the development of the regionalist thought, caused unpleasant incidents⁶⁶. The Decree no. 19952 dated 27 June 1931, which established a national network of public archives and libraries in provincial capitals, shaped the main reform concerning these services, as it paved the way for the establishment of the District Archives of Funchal. The latter's first head, João Cabral do Nascimento, asked the GIAL for the restitution of archives for the first time in 1934. In a letter dated 19 January 1934, the head of GIAL, Júlio Dantas, replied that the restitution of ANTT held archives was a 'assunto delicado' – a sensitive subject – that could lead to 'desorganização e, porventura, a destruição do Arquivo geral do país, que é a Torre do Tombo'⁶⁷ – lack of organisation and eventual dismantlement of Torre do Tombo, which is the National Archives of Portugal. Nevertheless, the District Archives of Funchal in 1937 found a part of the same fonds transferred to Lisbon at the end of the 19th century at the Treasury Office of Funchal (*Repartição de Finanças do Funchal*), thus raising the issue of the physical reunification of fonds. In the autonomic context, several microfilming and scanning projects

went ahead with funding provided by the Regional Government of Madeira, although in an incomplete and unsustainable way in the long run. *Nesos* web portal is an illustrative example.⁶⁸

This issue, as a claim lasting for more than 80 years, was again raised with the 2004 unveiling by the Regional Government of Madeira of the building designed to host the Regional Archives of Madeira. Several debates took place at the regional parliament claiming the ANTT-held archives,⁶⁹ and the controversy also reached the local media. Although the debate has stalled for political reasons, the scientific and professional Portuguese community has been particularly silent on this topic and on other topics. This has only recently become a research topic.⁷⁰

Empowering the Discussion about Sub-national Displaced Archives through a Nissological Lens

In this section we will carry out a theoretical interpretation of the phenomenon of displaced archives in a sub-national context. Although we foresee a great diversity of sub-national cases, which would not fit in a study with this dimension, we consider that the nissological criticism constitutes an interpretive tool appropriate enough to understand the case of Madeira, especially in its condition as a non-sovereign archipelagic region. It should be noted that small non-sovereign islands and their communities are not reduced to the classic polarisation between Indigenous/native islander vs. settler/mainlander, which, in our opinion, is an unproductive debate, because it only obscures the diversity of social realities experienced in the small islands located on the edge of a globalised world.⁷¹ As we know, most ‘displaced archives’ issues have been approached as international archival claims – involving two or more countries.⁷² As broadly demonstrated in Auer’s report,⁷³ the phenomena of archival dispossessions commonly occur as a result of inchoate factors, such as armed conflicts, state successions, decolonisation or illicit trafficking. The approach used to tackle these issues has been mostly legal, currently including a relevant set of legislation – treaties and recommendations issued by intergovernmental and non-governmental international organisations⁷⁴ – apart from national legislation on cultural heritage preservation.

Restitution, repatriation, return or relocation on the one hand, and joint heritage, on the other hand, are legal mechanisms designed to reimburse, compensate or reconcile phenomena related to cultural heritage dispossession.⁷⁵ However, the existence of a legal setting whose aim is to solve international archival claims does not necessarily mean its immediate practicability between parties involved in disputes. Although there have been a few issues successfully solved by legal means, Lowry has stated that ‘long-standing cases have not been resolved and some new cases have arisen’.⁷⁶ Nevertheless, the legalistic perspective used to approach the

restitution of archival heritage has remained the main line of thought in the dispute over this kind of heritage.

The underlying guidelines of the international legal setting on the restitution of cultural property, to which archives belong, have been designed to solve disputes between states. Governments play a main role in most components of many aforementioned legal instruments, thus suggesting a perspective based on the cultural nationalism/internationalism debate.⁷⁷ The theory of cultural internationalism, an expression that gathered strength with the 1954 Hague Convention,⁷⁸ considers movable cultural property as belonging to all humanity, regardless of where it is kept in custody. In the case of archives, on the one hand, cultural internationalism lessens the importance of physical custody and property for the sake of conservation, security and access, usually in countries with better resources.⁷⁹ On the other hand, the theory of cultural nationalism (influenced by 1970 UNESCO) confers primacy on permanent custody within the territories of the state or nation that created the cultural property. Each nation must develop measures for retaining within its jurisdictional boundaries for their classification and conservation, restrictions on cross-border circulation, limits for alienation and prerogatives in favour of public authorities. However, both perspectives cannot be interpreted linearly, especially when those territories and their communities were victims 'by reason of war, belligerent occupation, colonization, turbulent political or other circumstances or by reason of their current incapacity are at stake to protect their treasures from vandalism or organized crime'.⁸⁰ Although Cox⁸¹ and Gilliland⁸² recognise the importance of cultural internationalism as the most productive way of resolving disputes over custody of archives, the tendency of the former colonial powers is to justify custody based on the theory of nationalist cosmopolitanism, 'with direct references to imperialism and to a form of "de-contextualisation"'.⁸³ Although this variant favours the preservation of the physical artefact in detriment of its primary functions in relation to the source community, groups or individuals, those who support cultural nationalism argue that, in principle, 'countries have legitimate interests in their cultural heritage and are the best-placed custodians to preserve it'.⁸⁴ Given that 'national memory' is often used as a strong argument for the symbolic legitimation of the archival heritage of a nation or a dominant group, cultural nationalism admits threats like limiting access or deliberate destruction of archives by those dominant within the nation.⁸⁵ It is particularly illustrative that after the independence of Guinea-Bissau (1975), a former Portuguese colony, the Library and the National Historical Archives, created in 1984, was deliberately targeted and destroyed by nationals in the civil war of 1998 and 1999.⁸⁶ The costs of non-intervention in the internal affairs of States, when the destruction of cultural property is at stake, lead to the fact that 'transnational cultural property norms can be violated by intranational actions'.⁸⁷

Most of these legal instruments face several limitations when aiming to solve archival claims taking place at a lower and less visible level, like those taking place in a sub-national context.⁸⁸ Principles such as territorial integrity, non-interference in the sovereign matters of a State, respect for state sovereignty, inalienability, non-retroactivity of laws and other sets of immunities prevent the possibilities of repatriation or restitution not only in an international but also in a subnational context.⁸⁹ Such vicissitudes may have resulted from centralist attitudes; acts of expropriation or confiscations carried out by central government entities on ethnic or religious groups, local communities or institutions; (re)organisations of sub-national territorial units in terms of creation, merger or extinction; illicit trafficking or theft, especially in contexts of civil war or the acquisition of archives of insufficiently justified provenance by the institutions of memory (i.e., archives, libraries and museums).

In spite of a remarkable evolution of international conventions, treaties and laws in recent decades, regarding the way governments deal with their cultural heritage, international legislation assigns the monopoly of decisions to the Government (particularly to the central administration) at the expense of communities within the territory administered by that state.⁹⁰ Fishman recognises that some types of sub-national conflicts have been obscured by discussions of Indigenous issues, especially as several cases do not fit the 'indigenous-versus-settler template'⁹¹ Furthermore, 'citizens have historically never possessed any cultural property rights at international law vis-à-vis their own government'.⁹²

Given the very diverse conceptual framework concerning displaced archives,⁹³ mostly discussed in English-language archival terminology and less addressed in the terminology of Latin-origin countries,⁹⁴ the main obstacle is how to name those archives 'desalojados do seu *habitat* original' – displaced from their original position,⁹⁵ particularly in a sub-national context. It is imperative to find out the condition or the status of these archives in order to reveal the dispossession in inchoative contexts faced by claiming communities, considering 'their spatial and temporal contexts as opposed to their social and political contexts'.⁹⁶

Disputes over the custody of archival fonds in sub-national contexts stem from unequal relations between dispossessed communities, amplified by territorial discontinuity, vis-à-vis the dominant power structures. That inequality is demonstrated as dispossessed communities feel themselves limited when information access and access to archival heritage are at stake. Access is then a crucial issue when considering displaced archives.⁹⁷ As such, the dispossession of archival heritage from source communities derives from asymmetric relations at both political and ideological levels. Those relations can mean either the statement of an identarian superiority of one community over another or even the seizure of these communities' territorial and patrimonial rights. Archival dispossessions in sub-state contexts can

arise, as assumed above, from different contexts, by using *ope legis* measures, centralist positions of national administrations, seizures ordered by judicial rule, change of sub-national political-administrative boundaries, extra-legal appropriations or due to mere lack of infrastructures capable of keeping archives close to their community(ies), which may lead to physical displacement within the national territory under certain circumstances. The removal of these archives has had many purposes, such as the establishment of a national archival canon which relies on the concept of 'national memory', preventive conservation and security or management decisions. In addition, conflicts over the custody of archives from specific regions and communities of a nation do not always reach the political discussion table at the national level,⁹⁸ subsisting only and sparingly in the testimonies recorded in the local written press.

Many of the sub-national issues arise from an invisibility and lack of knowledge on a set of political-administrative and territorial structures, as well as from sociocultural dynamics comprised in a nation.⁹⁹ According to Giraudy, Moncada and Snyder, many sub-national phenomena are 'obscured by a national-level focus'¹⁰⁰ and, as such, 'national-level theories can be ill equipped to explain subnational outcomes'.¹⁰¹ In the framework of contemporary archival science, scientific production often has focused on theories and concepts focused in the performance of the institutions centred on the figure of the State.¹⁰²

In the case of island studies, especially non-sovereign and small islands (such as Madeira), as far as we are aware, the scientific production available on insular archives has not endorsed this line of research as an interpretative tool for the theoretical framework of archival science.

Although sub-national realities are very diverse,¹⁰³ the 'critical archival studies' proposal recognises an extensive range of research lines 'ranging from decolonisation to postcolonialism, feminism, queer theory, critical race theory, and deconstructionism',¹⁰⁴ perspectives that are part of the emancipatory or transformative paradigm.¹⁰⁵ Within this line of investigation, Lowry proposed 'critical displaced archives theory' with the objective of 'to explain injustices in cases of archival displacement, posit practical goals for their resolution, and provide a set of norms for achieving those aims'.¹⁰⁶ Although we have examples in the scientific literature¹⁰⁷ of how archives produced and accumulated in communities from small non-sovereign islands were removed to the central archives, islands studies or nissology, especially in a subnational context, are not yet part of this broad set of studies related to the current of thought called the *archival turn*. Colonial and post-colonial studies have been the interpretive tool used in most of these cases. In nissological terms, such phenomena can be interpreted as mechanisms of 'continentalisation' of the archives of insular communities through dispossession, using legal and extra-legal channels. Such strategies of 'continentalisation' of the archival heritage of insular communities in

non-sovereign regions are supported by arguments for preventive conservation and the ideological purposes of building not only nationalist archival canons but also, in political and administrative terms, in the affirmation of territorial sovereignty. For this reason, and also because they are *within* the perimeter of the national territory, custodian institutions may not consider fonds removed from their original locations to be 'displaced'. This perspective, in fact, diminishes the value, strength and visibility of the claims of insular communities, calling into question the relevance of the principle of territorial provenance in the context of the restitution of archives in a sub-national context. ANTT even defended, in the past, the right over fonds originated from Madeira, based on the idea that restitution would imply the destruction of the National Archives, which, in turn, would deplete the role of national archives and the national memory.

In addition, the dispossession of archives to the original communities is not restricted to their physical displacement, but may be reflected in the strategies for representing displaced archives in finding aids and in the production of surrogates by custodian entities. To what extent can the archival description, based or not on literary warrants, given by custodian institutions, clarify or, on the contrary, bias the interpretation given to the archives as displaced, in terms of provenance, territorial provenance, original order and integrity? Although the Code of Ethics of the International Council on Archives recommends that the archival community 'should cooperate in the repatriation of displaced archives',¹⁰⁸ even though such responsibility may begin 'with making the disputed archives accessible',¹⁰⁹ it has been widely debated that the representation of archival information in finding aids is not a neutral or impartial process. For this reason, the difficulties imposed in the identification of archives in the condition of 'displaced', preliminarily studied by Grimsted,¹¹⁰ require a critical reading of the descriptions available in finding aids, which are the object of these analyses, in both genre and rhetorical aspects.¹¹¹ The genre aspects, which pay attention to the different types of finding aids, can say a lot about the mechanisms of insertion, modification, fusion or elimination of content, which may constitute strategies of power of the custodial entities over the claiming communities. In the case of displaced archives from Madeira, for example, it is evident that ANTT and RAM did not seek to represent these disputed fonds in a reunified manner. For example, finding aids related to female convents held by ANTT do not complement the information gaps with finding aids from RAM or vice versa. In addition, the rhetorical aspects present in the descriptions available in finding aids can be obscured. Although the finding aids usually mention the literary warrants adopted in the archival description, it will not be difficult to conclude that, in some cases, custodial institutions justify the acquisition of these disputed fonds through silence and a lack of transparency. In the case of displaced fonds from Madeira, finding aids refer to legislation whose content is unknown. In our opinion, an idea of the legality

of the transfer process that took place in a given historical context is being communicated, which, while not entirely false, will only be partially true.

Associated with the representation of archival information, several authors have been defending the role of surrogates (micrography/digitisation) in the resolution of conflicts over custody. Although there is an acceptance of the possibilities that digitisation and web access provide as a fungible mechanism for the physical repatriation of archives, many of these mechanisms are not built in a participatory way, that is, together with the claimant communities. The production of surrogates for the original documents of fonds held in contested custody also constitutes a form of power relationship, not always perceived by the complaining communities, given that 'conversations over repatriation and digitisation are often occurring in a state of cruel optimism'.¹¹² In the case of Madeira, we saw how local digitisation projects and the virtual availability of dispersed fonds (such as *Nesos*, for example) did not have continuity, most likely due to the fact that the custodial entity on the continent – ANTT – made available the most up-to-date technological tools for this purpose, disregarding, in this case, the instruments produced on the island. In the light of nissological criticism, such a strategy could be justified as an exercise in a form of 'continentalisation' of digital custody by the custodian. In addition, this production of digital surrogates, without the participation of insular communities, can be seen as a repossession of the disputed fonds, from their inception to their dissemination. In addition to this nissological interpretation, sub-national asymmetries are demonstrated in the context of strained relations between centre and periphery, especially as 'local regional practices are appropriated or erased by national narratives, and where decision making is centralized and geographically distant from the everyday practices and knowledge that constitute local heritage'.¹¹³

In the context of archives, several sub-national issues arise from factors like the seizure of archives in legally defined territorial jurisdictions, which can affect private and public archives. In the Portuguese context, there are previous records of those practices, for example considering the extinction of the Society of Jesus (1759), the extinction of the religious orders (1834) and the establishment of the republican regime (1910). Massive document displacements towards Lisbon have taken place, to the National Library of Portugal, the ANTT and other nationwide archival institutions. This centralist project has nonetheless had some harmful effects, due to the difficult management of such amounts of fonds and collections and due to the growing complaints of local communities, who demanded archives and libraries to be kept in their original locations. The strategy pursued by the central administration of the Portuguese state to minimise the centralist approach was marked by proposals of legislative measures, such as the Decree no. 19952 dated 27 June 1931, which established a national network of public archives and libraries, including on the Adjacent Islands (Madeira and

Azores). Apart from that, some archival institutions were established in territories under Portuguese imperial and colonial jurisdiction, like Goa (1595), Angola (1930), Mozambique (1934), Macao (1952) and São Tomé and Príncipe (1969). However, the establishment of those institutions did not lead to the restitution of the fonds that were previously transferred to Lisbon. Until the decolonisation process triggered by the Carnation Revolution (1974), more archives were tacitly transferred to Lisbon, particularly the archive of the Portuguese International and State Defence Police/General Directorate of Security (PIDE-DGS).¹¹⁴ Archival institutions based in Lisbon, such as the National Archives of Portugal 'Torre do Tombo', the Overseas Historical Archive (*Arquivo Histórico Ultramarino*) and the Military Historical Archive (*Arquivo Histórico Militar*), emerged as holders of many fonds removed from former overseas territories.

In the particular case of Madeira, marked not only geographically by its condition of insularity, but also by a community with a large diaspora in various corners of the world, relations with the metropolis have been marked by several conflicts over the centuries. Such conflicts stemmed from communication problems due to physical distance, strong exposure to attacks (pirates, privateers and invasions) and financial, economic and political dependence on decision centres based on the Portuguese mainland, leading to conflicts for more decentralisation of power. The autonomist conscience in the archipelago had as a turning point the creation of the archipelagos' adjacency relationship to Portugal through the 1822 Constitution. From the nissological point of view, this was a strategy of 'continentalization of the islands' towards Portugal,¹¹⁵ with all the supervening consequences. For example, the Decree of 2 October 1862, which determined the transfer and incorporation in ANTT of all the extinct ecclesiastical archives, comes in this sense of 're-interpret' the history of the Nation through the constitution of a national archival canon and a unique centre of 'national memory', the ANTT. Therefore, the construction of a new history of the Nation had as a pretext the massive displacement of archives from different parts of the country and overseas to Lisbon, measures that proved disastrous due to the way the transfers were processed.¹¹⁶ It is in the context of the transfers made in 1886, 1887 and 1894 from Funchal to Lisbon, satisfying ANTT's centralist desire to build a 'national memory', that led to Madeiran intellectuals becoming aware of the 'loss', especially in commemorative contexts that are favourable events for the review of historical memory.¹¹⁷

The centre of this dispute is focused on the right to property on behalf of the island community, in all its forms of materialisation, so that 'its value is not only economic, but also symbolic, cultural and political', having as a reference point the insular territory.¹¹⁸ However, the demand for property is accompanied by centripetal and centrifugal tensions of resistance to the 'continentalisation' (greater dependence and centralisation) or 'insularisation' (greater isolation) dynamics of the islands by

the continent's power structures.¹¹⁹ The arguments that oppose, on the one hand, 'anti-continentalists' and 'anti-insularists' and, on the other hand, 'pro-continentalists' and 'pro-insularists' stem from asymmetries in the power relationship that historically have remained invisible around continent-island relations in a sub-national context. These positions orbit around identity issues based on the concept of *madeirensidade*, defined as everything related to what belongs to Madeiran identity.¹²⁰ *Madeirensidade* is a kind of islandness, as 'the essence of island living, the attributes that make an island what it fundamentally is, and which it has by necessity, without which it loses its identity'.¹²¹ The physical custody of archives removed from the archipelago means for insular communities a form of empowerment and accountability, which binds the community not only with regard to the (re)interpretation of their memory but also with the revitalisation of cultural practices at risk of extinction, economic and scientific development and the promotion of social cohesion.

These perspectives about islandness, when applied to cultural heritage, provide polarised discourses. While 'anti-continentalists' consider that cultural property has been appropriated (lawfully or unlawfully) against the interests of insular communities in historically questionable contexts, 'anti-insularists' refer to silence and use legal mechanisms and politicians to protect their interests on behalf of the nation. The 'pro-continentalists', for their part, defend a nationalist and sometimes cosmopolitan regionalism in relation to cultural heritage, while the 'pro-insularists' consider respect for cultural diversity within the national unity.¹²² As an illustration, starting from the arguments on the present topic in the insular press and in the regional parliamentary chamber,¹²³ the production of surrogates of Madeira's fonds in custody at ANTT has been debated in several ways: the 'anti-continentalists' considered that digitisation/microfilming constitutes a strategy of appropriation of archives, of a new form of power relationship through technology mediated by ANTT; the 'anti-insularists' considered that digital access meets the needs of the complaining communities and that the restitution could jeopardise the integrity of ANTT; the 'pro-continentalists' pointed to digitisation/microfilming as a satisfactory means that responds to the needs of insular communities and that, regardless of the custodian, what matters is shared heritage and the guarantee of conservation, preservation and access; 'pro-insularists' argued that cultural property should be close to their communities, as a way of social responsibility and preservation of cultural diversity within the nation. Although these arguments may vary according the ideological spectrum, political interests do not always correspond to the interests of the complaining communities. In addition, the archives of the Madeiran diaspora communities are not always taken into account by the insular authorities in terms of custody. Many of these archives of the Madeiran communities in the diaspora are 'out of scope' of the archival canon in some of the recipient countries,¹²⁴ making the status

of these archives of the diaspora communities likely to encounter future problems in terms of displacement and custody or destruction.

In any case, the answer to these disputes over the custody of archives will ultimately depend on the political and institutional willingness that satisfies the interests of the dispossessed communities.

Conclusion

Disputes over the sub-national restitution of archives have been an invisible topic in the critical framework of archival science. Although the legal approach has been the most used in the understanding of cultural heritage dispossession phenomena within this field, much of the work was limited to understanding international disputes. This study has tried to initiate a discussion that had remained invisible to the scientific community, starting from a specific case point of view. The distinction between archival dispossession phenomena, whether in sub-national or international contexts, lies on the lack of current recognition of past *ope legis* measures, which are perceived as unfair and centred within bureaucratic organisations. Those archival displacement processes took place in a first colonial, then transitional context, during sovereignty transfer processes between nation-states, and during political-administrative territory reforms.

The specific issue in Madeira seems to be a phenomenon coming from a power relation of central administration state institutions towards the insular community. Despite the centuries-long path of 'Torre do Tombo', one of the oldest Portuguese institutions still in operation that has in recent years taken measures in order to make information access to heritage claimed by the Madeiran community easier, it should be questioned whether the use of sophisticated information technologies does not lead to a new unperceived power relation. Can shared archival heritage solve the issues of property and custody of these claimed archives if, as shown above, finding aids were not designed to cover reunited archival representation? Ultimately, how should archives with the same origin be represented in finding aids, even if they are sparse? The identification of displaced archives should, on the one hand, begin with representation strategies within finding aids. On the other hand, the identification of dispossessions should be deepened by using the 'archives of archives'. Although such a recommendation may be feasible in 'making the disputed archives accessible',¹²⁵ this chapter demonstrated, based on the case of Madeira, that it is essential to read between the lines of the archival descriptions in finding aids produced by contested custodial entities.

The main contribution that is made with island studies or nissology for the understanding of the phenomenon of displaced archives consists in broadening not only the metatheoretical scope of the 'critical archival studies'¹²⁶ and, specifically, the 'critical displaced archives theory',¹²⁷ but also the

other way around. We analysed how the strategies of ‘continentalisation’ of the archival heritage of insular communities in past contexts were implemented by different mechanisms of dispossession, not only physical but also intellectual. Conversely, it is important to bring archival theory to the arena of island studies, especially as the dynamics of memory and forgetting are maintained by island communities in their relationship with cultural heritage, in particular with archives. The case of Madeira is illustrative of how a case that occurred in the 19th century did not ‘die’ over several generations, which kept a memory of dispossession alive.

The dispute over the custody of displaced archives on the mainland says a lot to the non-sovereign archipelagic regions, especially when property issues are involved, in all their forms of materialisation. Firstly, due to historical struggles for the physical and intellectual dispossession of property. Secondly, relations between mainland and insular communities have been guided by paternalistic, dependent and subsidiarity behaviour. The discussion around the custody of archives for the insular communities involves full ownership of the property. However, the restitution of archives to these insular communities is understood as an alienation of the national heritage although it does not actually leave the national border itself. The archival institutions of the mainland do not see the multiplier effects of the restitution of fonds to the insular communities, in scientific, cultural, educational and even economic terms.

Finally, we recognise that the case of Madeira does not allow for theoretical replicability and generalisation, because it is limited to a particular case. Most of the islands and their communities constitute very distinct and very diverse cultural microcosms, both as independent states and as non-sovereign territories.¹²⁸ Even so, the case of Madeira makes it possible to raise the prospect of the etiologies of dispossession and the displacement of archives in other subnational, island and non-island, archival jurisdictions.

Notes

- 1 Regional Legislative Assembly of Madeira, “Voto de protesto.”
- 2 In that times, the GIAL was the governing body of the National Archives of Portugal ‘Torre do Tombo’.
- 3 District Archives of Funchal, Correspondence.
- 4 Macedo, “Repatriação dos arquivos.”
- 5 The literature on cultural property uses sub-national and intranational with identical meanings, particularly Watkins “Cultural Nationalists”; Fishman, “Locating the International Interest” and Silverman, “Contested Cultural Heritage.” Cft. *Merriam-Webster*, s.v. “intranational,” accessed Sept. 7, 2021, <https://www.merriam-webster.com/dictionary/intranational>; *Merriam-Webster*, s.v. “subnational,” accessed 7 Sept. 2021, <https://www.merriam-webster.com/dictionary/sub-national>. Suksi distinguishes ‘sub-state’ from ‘sub-national’, considering that the first is ‘focused on institutions, procedures and competences of the intermediate layer of state organisation than on the

- issue of nationality or ethnicity' (*Sub-State Governance*, 4). We prefer the term sub-national in a broader sense and with a more consolidated use in the literature, using only intranational in citations.
- 6 Auer, "Disputed Archival Claims"; Kecskeméti, "Archival Claims," "Displaced European Archives" and "Archives Seizures."
 - 7 u. g., Jakubowski, *State Succession*.
 - 8 Lowry, Introduction to *Displaced Archives*, and "Radical Empathy,"; Ngoepe and Netshakhuma, "Archives in the Trenches."
 - 9 Watkins, "Cultural Nationalists." Watkins defined 'cultural intranationalism' as 'the views of distinct groups within a larger governmental body. In this regard, such groups may be galvanised by social, cultural, religious, or other factors' "Cultural Nationalists," 90.
 - 10 Hauser-Schäublin and Prott, "Introduction: Changing Concepts," 7.
 - 11 Ketelaar, Foreword to *Displaced Archives*.
 - 12 Hauser-Schäublin and Prott, "Introduction: Changing Concepts," 7.
 - 13 Baldacchino, "Studying Islands"; McCall, "Nissology: A Proposal."
 - 14 Macedo, "Arquivos deslocados."
 - 15 Lowry, "Proposing a Research Agenda."
 - 16 Roque and Wagner, *Engaging Colonial Knowledge*; Stoler, "Archival Dis-Ease."
 - 17 Lowry, "Radical Empathy."
 - 18 McCall, "Nissology: A Proposal."
 - 19 Baldacchino, "Autonomous But Not Sovereign?"; "Islands, Island Studies"; "Studying Islands"; Baldacchino and Veenendaal, "Society and Community".
 - 20 Baldacchino and Milne, "Exploring Sub-National Island Jurisdictions"; Baldacchino and Hepburn, "Different Appetite for Sovereignty?"; Suksi, *Sub-State Governance*.
 - 21 McCall, "Nissology: A Proposal," 2.
 - 22 Baldacchino, "Studying Islands," 42.
 - 23 Baldacchino, "Islands, Island Studies," 9.
 - 24 Baldacchino, "The Coming of Age; Grydehøj, "Future of Island Studies."
 - 25 Baldacchino, Islands, Island Studies,' 10.
 - 26 Baldacchino, "Upside Down Decolonization," 9.
 - 27 Cunningham and Wareham, "Introduction Communities of Memory," 1.
 - 28 Vieira, "Il discorso dell'anti-insularità."
 - 29 Baldacchino, "Upside Down Decolonization," 9.
 - 30 Grandy, "Instrumental Case Study."
 - 31 In the case of ANTT, most of the data were provided online by the ANTT's own fond, named "Archives of Archives" (*Arquivos dos Arquivos*), and available at: <https://digitarq.arquivos.pt/details?id=4201111>. In our opinion, the 'Archives of Archives' is an authority source, in terms of provide a set of reliable information to understand the inchoative phenomena of dispossession of archives, especially in the context of our case study. To contrast information, the Portuguese Archives Portal (Portal Português de Arquivos) was also consulted.
 - 32 Vieira, "O (re)descobrimento / (re)conhecimento."
 - 33 O'Flanagan, "Atlantic Settler Colonialism."
 - 34 Franco and Costa, *Diocese do Funchal*.
 - 35 The captaincy system (*capitanias*) consists of a primitive political-administrative structure for the administration of the territory, developed by Henry the Navigator based on the late-feudal administration model. It consisted in the delegation of the monarch's power to individuals, the captains of the grantee

- (*capitães do donatário*), who were normally members of the Portuguese high aristocracy, with rights and obligations established by donation charter for the development of the territory. Madeira was the first ‘laboratory’ of this model of territorial organisation in the process of Portuguese maritime expansion, having been exported to the Azores, Brazil and Portuguese domains in India. For further details, see Vieira, “Sugar Islands.”
- 36 The *sesmarias* regime (from six part) created in Portugal in 1375 consists of a method of distributing land to its holders/titleholders and landowners and managed by royal officials, the *sesmeiros*, with the aim of stimulating agricultural production and land occupation. This model, with adaptations, will be one of the main incentives for settlement and colonisation. For further details, see Lopez-Portillo, *Spain, Portugal*; Newitt, *Portuguese Overseas Expansion*; and Vieira, “Sugar Islands.”
- 37 Veríssimo, “Do mar à serra.”
- 38 Herzog, *Frontiers of Possession*.
- 39 Rodrigues, “Primeiro triénio liberal.”
- 40 In the context of the strategic withdrawal of the prince-regent from Portugal to Brazil during the Napoleonic invasions, in order not to aggregate the Madeira archipelago to Brazil, the archipelagos (Azores and Madeira) were added as territories attached to Portugal, in the Portuguese constitution of 1822.
- 41 Barata, *Os livros e o liberalismo*.
- 42 Torgal, Cordeiro and Pimenta, “Regionalismo e autonomia”.
- 43 Macedo, “Arquivos.”
- 44 The fonds in question is called “Vera Way Marghab Papers”, held in the South Dakota State University Archives and Special Collections, Hilton M. Briggs Library (US), described as a personal fond but part of a corporate archive, *Marghab Linens, Inc* which operated in Madeira from 1933 to 1998. The archive, library and many Madeiran tapestry artifacts were donated by Vera Way Marghab to the University of South Dakota and the South Dakota Art Museum. See South Dakota State University Archives Special Collections, “Vera Way Marghab Papers,” finding aid, Hilton M. Briggs Library, Brookings, South Dakota, 2018, accessed 7 Sept. 2021, <https://www.sdstate.edu/sdsu-archives-and-special-collections/vera-way-marghab-papers>.
- 45 This is the “Cossart, Gordon and Co.” fonds (1749–1925), an important Madeira wine trading company managed by English families established in the archipelago since the mid-18th century. The archives were taken by the Cossart Gordon family, purchased in the UK and integrated into the Guildhall Library Manuscripts Section, later merged with the London Metropolitan Archives in 2009. Cft. AIM25, “Cossart Gordon and Company,” finding aid, GB 0074 CLC/B/063. London Metropolitan Archives, London, accessed 7 Sept 2021. https://aim25.com/cgi-bin/vcdf/detail?coll_id=16850&inst_id=118&nv1=browse&nv2=sub&fbclid=IwAR1a2PahjtNfgbbb_BhG6-WrmlACmtlWSxteUIX5HM2w_ECqi3oqtm_J7TI.
- 46 The paragraph 1 of article 1 of Decree-Law no. 429/77, of 15 October states that: ‘The archives, cultural, historical and scientific value of private companies, national or foreign, which, due to their antiquity, economic relevance or political influence, have had great projection in national life at any time, are considered inalienable and not susceptible to leave national territory’.
- 47 Regional Legislative Assembly of Madeira, “Resolution.”
- 48 ANTT, “Portal de pesquisa.”
- 49 ANTT, “Portal de pesquisa.”

- 50 This work was supervised by José Mattoso (Instituto dos Arquivos Nacionais/Torre do Tombo, *Ordens monástico-conventuais*) and coordinated by Madeiran archivist Maria do Carmo Jasmins Dias Farinha.
- 51 Anonymous, Alfândega do Funchal, Cabido da Sé Catedral, Convento da Encarnação, Convento de Santa Clara, and Repartição da Fazenda; Machado, “Alguns Documentos.”
- 52 Centro de Estudos de História do Atlântico, “NESOS: Base de Dados.”
- 53 Regional Government of Madeira, “ABM: Direção Regional.”
- 54 Punzalan, “Understanding Virtual Reunification.”
- 55 Ribeiro, “Os instrumentos de acesso.”
- 56 Ribeiro, “Os instrumentos de acesso.”
- 57 Centro de Estudos de História do Atlântico, “NESOS: Base de Dados.”
- 58 Baldacchino, “Studying Islands”; “Upside Down Decolonization.”
- 59 *Decreto de 2 de outubro de 1862*.
- 60 *Portaria do Ministério do Reino de 9 de junho de 1886*
- 61 Former Royal Public Library of the Court, created in 1796.
- 62 On the ANTT institutional portal, see the early finding aids, developed in 1886 and 1894: *Instrumentos de Descrição, Livros de Índices*, finding aid, PT/TT/ID/1/286, Digitarq, last modified November 4, 2011, <https://digitarq.arquivos.pt/details?id=4202801>, in the fólhos 35, 43 e 47, concerning to the Funchal Cathedral, Santa Clara Convent and Nossa Senhora da Encarnação Convent.
- 63 Refer to the ANTT institutional portal, Colegiada de Santiago de Coimbra, finding aid for PT/TT/CSTC, Digitarq, last modified 1 July 2020, <https://digitarq.arquivos.pt/details?id=1382441>.
- 64 Machado, “Alguns documentos do mosteiro.”
- 65 Dantas, “Criação e organização,” 8.
- 66 Dantas had received several mail letters with requests for assistance from the various directors of the district archives in Portugal to intervene at the highest level with custodian entities to enforce the mandatory incorporations determined by law (Decree No. 19952 dated 27 June 1931). For instance, in the case of Madeira, several parishes in the Diocese of Funchal were vehemently opposed to the transfer process to the DAF, with clashes between popular and security forces between 1935 and 1937.
- 67 District Archives of Funchal, Correspondence.
- 68 Centro de Estudos de História do Atlântico, “NESOS: Base de Dados.”
- 69 Regional Legislative Assembly of Madeira, “Voto de protesto.”
- 70 Macedo, “Repatriação dos arquivos.”
- 71 Baldacchino and Veendelaal, “Society and Community.”
- 72 Macedo, “Arquivos deslocados.”
- 73 Auer, “Disputed Archival Claims.”
- 74 International Council on Archives, “Settling Disputed Archival Claims”; International Institute for the Unification of Private Law, UNIDROIT Convention; European Parliament, “Resolution” and “Directive 2014/60/EU”; UNESCO, “The 1954 Hague Convention”; UNESCO, “Vienna Convention.”
- 75 Cornu and Renold, “New Developments”; Stamatoudi, *Cultural Property Law*; Vrdoljak, “Enforcement of Restitution.”
- 76 Lowry, Introduction to *Displaced Archives*, 9.
- 77 Merryman, “Two Ways of Thinking”; “Public-Interest in Cultural Property”; “Nation and the Object”; “Cultural Property Internationalism.”
- 78 UNESCO, “The 1954 Hague Convention.”
- 79 Cox, “Revisiting the Law.”
- 80 Stamatoudi, *Cultural Property Law*, 20.

- 81 Cox, "Revisiting the Law."
 82 Gilliland, "Networking Records."
 83 Stamatoudi, *Cultural Property Law*, 21.
 84 Stamatoudi, *Cultural Property Law*, 30.
 85 Watkins, "Cultural Nationalists."
 86 Lopes, Mendy, and Cardoso, "Destruição da memória colectiva."
 87 Fishman, "Locating the International Interest," 351.
 88 Fishman, "Locating the International Interest"; Watkins, "Cultural Nationalists."
 89 Hauser-Schäublin and Prott, "Introduction: Changing Concepts"; Pavoni, "Sovereign Immunity."
 90 Fishman, "Locating the International Interest."
 91 Fishman, "Locating the International Interest," 350.
 92 Fishman, "Locating the International Interest," 351.
 93 Lowry, "Radical Empathy."
 94 Macedo, "Arquivos deslocados."
 95 Ribeiro, "O acesso à informação," 522.
 96 Lowry, Introduction to *Displaced Archives*, 5.
 97 Winn, "Ethics of Access."
 98 Fishman, "Locating the International Interest."
 99 Suksi, *Sub-State Governance*.
 100 Giraudy, Moncada, and Snyder, "Subnational Research," 5.
 101 Giraudy, Moncada, and Snyder, "Subnational Research," 17.
 102 Karabinos, "Archives and Post-Colonial History."
 103 Many of these sub-national territorial units adopt diverse terminology, such as overseas department or collectivity (France), overseas territory (United Kingdom), external territories (Australia), special administrative region (China), constituent countries (Netherlands), union territories (India) and unincorporated organised territory (United States), autonomous province (Finland), autonomous republic (Azerbaijan), and many others. For further reading, see Wikipedia, "List of autonomous areas by country," last modified 23 August 2021, 12:39 (UTC), https://en.wikipedia.org/wiki/List_of_autonomous_areas_by_country.
 104 Caswell, Punzalan and Sangwand. "Critical Archival Studies," 1.
 105 Mertens, *Transformative Research and Evaluation*.
 106 Lowry, "Radical Empathy," 198.
 107 u. g., Bastian, "A Question of Custody," *Owning Memory*, and "Reading Colonial Records"; Barber, "Who Owns Knowledge?"; Macedo, "Repatriação dos arquivos" and "Arquivos."
 108 International Council on Archives, "ICA Code of Ethics."
 109 Ketelaar, Foreword to *Displaced Archives*, ix.
 110 Grimsted, "Archival Rossica/Sovietica Abroad."
 111 MacNeil, "What Finding Aids Do."
 112 Lowry, "Radical Empathy," 199.
 113 Pocock and Jones, "Contesting the Center," 100.
 114 A PIDE (1933-1969) and its successor entity, the Directorate-General of Security (*Direção-Geral de Segurança* or DGS, 1969-1974), were secret, intelligence and political police bodies that operated throughout the Portuguese territory, including the colonies, during the *Estado Novo* (1933-1974). In 1975, the archives were transferred to Lisbon, to the custody of the PIDE / DGS Extinction Coordination Service, having been integrated in the ANTT in 1992.
 115 Vieira, "Il discorso dell'anti-insularità."

- 116 Ribeiro, “O acesso à informação,” and “Os instrumentos de acesso.”
 117 Smith, *Uses of Heritage*.
 118 Serrão, “Property, Land and Territory,” 7.
 119 Vieira, “Il discorso dell’anti-insularità.”
 120 Franco, “Nacionalidade e Regionalidade”; Rodrigues, “Da madeirensidade.”
 121 Royle and Brinklow, “Definitions and Typologies,” 11.
 122 Rodrigues, “Da madeirensidade.”
 123 u.g., Regional Legislative Assembly of Madeira, “Voto de protesto.”
 124 Rodrigues, “The Question of Custody”; Rodrigues, “An Archival Collecting Model,” and “Underrepresented Communities.”
 125 Ketelaar, Foreword to *Displaced Archives*, ix.
 126 Caswell, Punzalan and Sangwand. “Critical Archival Studies.”
 127 Lowry, “Proposing a Research Agenda” and “Radical Empathy.”
 128 cf. Depraetere and Dahl, “Locations and Classifications.”

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- Anonymous. A Madeira nos arquivos nacionais: Convento de Santa Clara. Parte 4 de 8. *Arquivo Histórico da Madeira*, 6 (1939d): 129–132.
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