

ORIGINAL ARTICLE

## Material Pluralism and Symbolic Violence: Palm Leaf Deeds and Paper Land Grants in Colonial Sri Lanka, 1680–1795

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A little less than two decades ago, historians like Christopher Bayly and David Washbrook worked on the idea of a colonial transition that supposedly took place in South Asia in the late eighteenth and early nineteenth centuries. Shifting markets (both in the Global South and in Europe), an increasing European colonial/imperial presence in the area, changing ideologies regarding colonial governance fueled by the Enlightenment, and a general process of “modernization” have been indicated as the prime movers of this colonial transition.<sup>1</sup> While this process was initially observed predominantly for the British colonial territories, later studies revealed similar developments in other territories—both governed by local and colonial powers—in South Asia and beyond.<sup>2</sup>

During the same two decades, the literature on legal pluralism in a colonial setting has grown considerably, certainly after Benton’s inspiring publications in that direction.<sup>3</sup> The concept has been influential, yet sometimes heavily

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<sup>1</sup> For India most famously, C. A. Bayly, *The Birth of the Modern World 1780–1914* (Malden, MA: Blackwell Publishing, 2004); and David Washbrook, “South India 1770–1840: The Colonial Transition,” *Modern Asian Studies* 38 (2004): 479–516; for their earlier works that already hinted at this transition, see, for example, David Washbrook, “Law, State and Agrarian Society in Colonial India,” *Modern Asian Studies* 15 (1981): 649–721; and C. A. Bayly, *Indian Society and the Making of the British Empire* (Cambridge: Cambridge University Press, 1988); for Sri Lanka, see Alicia Schrikker, *Dutch and British Colonial Intervention in Sri Lanka, 1780–1815. Expansion and Reform* (Leiden: Brill, 2007).

<sup>2</sup> For example, Hui Kian Kwee, *The Political Economy of Java’s Northeast Coast, c. 1740–1800: Elite Synergy* (Leiden: Brill, 2006); Anjana Singh, *Fort Cochin in Kerala, 1750–1830: The Social Condition of a Dutch Community in an Indian Milieu* (Leiden: Brill, 2007); Nirmal Ranjith Dewasiri, *The Adaptable Peasant: Agrarian Society in Western Sri Lanka under Dutch Rule, 1740–1800* (Leiden: Brill, 2008); and Sumit Guha, *Beyond Caste: Identity and Power in South Asia, Past and Present* (Leiden: Brill, 2013). Also see the contribution of Hodges and Chatterjee to this special issue on the “parwana politics” of eighteenth-century South India.

<sup>3</sup> Lauren Benton, *Law and Colonial Cultures: Legal Regimes in World History, 1400–1900* (Cambridge: Cambridge University Press, 2002); and Lauren Benton, *A Search for Sovereignty: Law and Geography*

debated. For example, and as was observed by Bhavani Raman,<sup>4</sup> Sudipta San's assertion that legal sovereignty under the British in India was validated through the colonists' "implicit idea of residual sovereignty and the notion of unfinished conquest," rather than seated on pre-colonial constitutions and customs, is in contrast to Benton's conceptualizations.<sup>5</sup> While this is an important distinction and a fair critique on Benton's influential framework, recent studies have further highlighted the dynamic and intricate social realities of (local and colonial) law in colonial South and Southeast Asia.<sup>6</sup>

Despite the unquestionable merits of both colonial transition and legal pluralism, and the fruitful discussions that are still going strong, we argue that a revision of the supposed modernization of the former can be achieved by integrating the latter concept into the debates.<sup>7</sup> First, the dominant paradigm on the supposed modernization brought along by the advent of the colonial state and its Enlightened bureaucracies is too Manichean, and does not pay enough attention to the continuities of pre-colonial and colonial institutional practices. The above-mentioned studies on legal pluralism add entanglements between the local and the imperial to this Manichean view, exploring the workings of such pluralisms and the co-existence of state and non-state institutions. They offer a new understanding of the dynamic circumstances under which such transitions took place. This literature has highlighted the complexity of the entanglements between local and colonial bureaucratic practices and the role of indigenous tradition and actors in relation to the colonial encounter in South Asia.<sup>8</sup> This in turn could problematize the process of "modernization,"

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in *European Empires, 1400-1900* (Cambridge: Cambridge University Press, 2009). Also see Tamar Herzog, *Upholding Justice. Society, State, and the Penal System in Quito (1650-1750)* (Ann Arbor: University of Michigan Press, 2004); and Tamar Herzog, "Colonial Law and 'Native Customs': Indigenous Land Rights in Colonial Spanish America," *The Americas* 63 (2013): 303–21.

<sup>4</sup> Bhavani Raman, "Sovereignty, Property and Land Development: The East India Company in Madras," *Journal of the Economic and Social History of the Orient* 61 (2018): 977.

<sup>5</sup> Sudipta Sen, "Unfinished Conquest: Residual Sovereignty and the Legal Foundations of the British Empire in India," *Law, Culture and the Humanities* 9 (2013): 227.

<sup>6</sup> Recent additions to such debates include, but are not limited to: Mitra Sharafi, *Law and Identity in Colonial South Asia: Parsi Legal Culture, 1772-1947* (Cambridge: Cambridge University Press, 2014); Leonard Hodges, "Between Litigation and Arbitration: Administering Legal Pluralism in Eighteenth-Century Bombay," *Itinerario* 42 (2018): 490–515; Mahmood Kooria, "The Dutch Mogharaer, Arabic Muharrar, and Javanese Law Books: A VOC Experiment with Muslim Law in Java, 1747-1767," *Itinerario* 42 (2018): 202–19; and Nadeera Rupasinghe, "Do You Know the Ninth Commandment? Tensions of the Oath in Dutch Colonial Sri Lanka," *Comparative Legal History* 7 (2019): 37–66.

<sup>7</sup> Even though the intersection between law and the colonial transition has been prominent in the works of Bernard S. Cohn, subsequent scholarly works seem to have lost track of this agenda; see, for example: Bernard S. Cohn, "Law and Colonial State in India," in *Colonialism and Its Forms of Knowledge: The British in India*, ed. Bernard S. Cohn (Princeton: Princeton University Press, 1996), 57–75. There are exceptions, such as the earlier referred to works of Raman (2018) and Sen (2013), although neither explicitly looks at the effects of such a political/economic transition of law (or vice versa).

<sup>8</sup> For example, Rosalind O'Hanlon and David Washbrook, eds., "Special Issue: Munshis, Pandits and Record-Keepers: Scribal Communities and Historical Change in India," *The Indian Economic & Social History Review* 47 (2010): 441–619; Bhavani Raman, *Document Raj. Writing and Scribes in Early*

particularly by highlighting how features of (early) modern colonial societies that were previously ascribed to European import are in fact proven to have much deeper, localized genealogies.

Besides enriching the debates on colonial modernization with insights from legal pluralism, this article wants to explore the added value of integrating materiality into the analysis of co-existing (pre-)colonial bureaucracies, and of legal practices in colonial societies respectively. The building blocks of these bureaucracies—being the “paperwork” in the broadest sense of the word—has not been studied as such, and certainly not in a comparative way, across borders of language and form.<sup>9</sup> Additionally, while the plurality of practical, customary, and “ceremonial” phenomena in colonial courts has been studied extensively—that is, the epistemologies and imaginaries of legal practices<sup>10</sup>—the question of how materiality influenced these practices has remained unanswered.

Therefore, in this article, we explore the pluralities and dynamics surrounding bureaucratization, legal standardization, and materiality in the eighteenth-century colonial context of South Asia, to analyze if and how the everyday processes of record-keeping can be connected to the aforementioned colonial transition on a macro level. The coastal regions of Sri Lanka under Dutch civil administration present themselves as perfect laboratories for this research question. Arguably, Sri Lanka’s transitional period was initiated decades earlier than the one observed for the better-studied regions in India.<sup>11</sup> The Portuguese activities in Sri Lanka started as early as the beginning of the sixteenth century, making Portugal one of the earliest colonial presences in South Asia; when the Dutch took over control of the coastal territories in the mid seventeenth century, consecutive generations of the island’s inhabitants had already come into contact with colonial bureaucratic practices next to the co-existing pre-colonial institutions. Throughout this time, several registering regimes existed on the island, most of which were recognized by the colonial state, from the official paper registers and deeds compiled by the Dutch East India Company (VOC), to the locally produced palm leaf records inscribed by local scribes and headmen. This prolonged interaction between European colonial powers and local institutions that followed, as well as the parallel presence

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*Colonial South India* (Chicago: The University of Chicago Press, 2012); Danna Agmon, *A Colonial Affair. Commerce, Conversion, and Scandal in French India* (Ithaca, NY: Cornell University Press, 2017); and Rosalind O’Hanlon, Anand Venkatkrishnan, and Richard David Williams, “Special Issue: Scribal Service People in Motion: Culture, Power and the Politics of Mobility in India’s Long Eighteenth Century, c. 1680–1820,” *Indian Economic and Social History Review* 57 (2020): 443–60.

<sup>9</sup> Somewhat of an exception perhaps being Miles Ogborn, *Indian Ink: Script and Print in the Making of the English East India Company* (Chicago: The University of Chicago Press, 2007).

<sup>10</sup> In Sri Lankan historiography, see, for example, Rupesinghe’s earlier-cited article on the role of oath-taking in the Dutch rural court of Galle; Rupesinghe, “Do You Know the Ninth Commandment?”

<sup>11</sup> *Ibid.* As has been argued by Strathern and Biedermann, Sri Lanka’s history can offer interesting new perspectives on better-known South Asian and global histories, yet its historiography has so far remained largely localized. Zoltán Biedermann and Alan Strathern, *Sri Lanka at the Crossroads of History* (London: UCL Press, 2017), 2–3.

of the independent Kingdom of Kandy at the island's heart all throughout the Portuguese and Dutch period, allows us to study processes of continuity and material co-existence. As we will argue, this long history of interaction ensured a "colonial transition" happening under Dutch rule as early as the 1740s.<sup>12</sup>

In this article, we study this pluralistic colonial transition through the prism of land registration, both in the rural hinterland as well as the urban Dutch settings, and encompassing pre-colonial, Portuguese, and Dutch practices in state and non-state institutions. In the subsistence systems of South Asia, land ownership had always been essential, and even in pre-colonial times this created a public sphere where the needs of the state—represented by its bureaucratic institutions—and those of individual subjects interacted very directly with one another.<sup>13</sup> Sri Lanka was no exception to that rule, and first the Portuguese and afterwards the Dutch institutions were integrating processes of land registration into their colonial policies, earlier than elsewhere in South Asia.

As we shall see below, the history of land registration in Sri Lanka is a story of changing conventions and significant entanglements of pre-colonial and successive colonially introduced features and infrastructures regarding the documentation of people and their property. Subsequently, this resulted in a plurality of practices when it came to how and by whom land was recorded, and on what kind of materials: inscribed on dried palm leaves (or *olas*), or written with ink on paper? We will also argue, however, that this plurality, and the observed continuities, do not imply that the colonial state regarded all practices as equal, nor does it mean that they did not try to alter the existing systems to their preference for paper. Through acts of what we consider "symbolic violence"—such as the carving or stamping of VOC logos and signatures on the *olas* of indigenous litigants, or attempts at delegitimising such documents through legislation—the Company tried to hamper the widespread usage of *olas* as documents recognizing land ownership, inheritance, and genealogy.<sup>14</sup> However, at the same time, we will show that despite such attempts, material pluralism continued to be dominant both in and outside of the colonial bureaucracies all the way to the end of the Dutch period of rule, and that the *olas* remained important instruments when it came to the registration of land, property, and transactions.

By doing so, we strive to contribute to contemporary debates on imperial bureaucracies in South Asia by highlighting a relatively early and non-British

<sup>12</sup> D.A. Kotelawele, "Agrarian Policies of the Dutch in South-West Ceylon, 1743-1767," *A.A.G. Bijdragen* 14 (1967): 3-34; and Schrikker, *Dutch and British Colonial Intervention in Sri Lanka*, 39-50.

<sup>13</sup> Nadeera Rupesinghe, "Defining Land Rights in Dutch Sri Lanka," *Portuguese Journal of Social Science* 16 (2017): 157-58. For a change that has similarly been described for other regions in South Asia in the eighteenth century, where direct interactions between (colonial) states and their subjects intensified significantly, see Sumit Guha, "Property Rights, Social Structure and Rural Society in Comparative Perspective: Evidence from Historic South Asia," *International Journal of South Asian Studies* 5 (2013): 19-20.

<sup>14</sup> For a more thorough consideration of the relationship between registration and recognition, see Keith Breckenridge and Simon Szreter, eds., *Registration and Recognition: Documenting the Person in World History* (Oxford: Oxford University Press, 2012).

imperial encounter between an increasing bureaucratic power and a South Asian society. First, we focus on the practices surrounding land registration in the centuries leading up to the colonial transitional period of the eighteenth century. In the second segment, the ideological and normative Dutch interferences, and the subsequent policy changes that were put in place which initiated the transition, are put center stage. Third, we will then highlight how some of these policy attempts could be considered expressions of symbolic violence in a bid to delegitimize locally produced forms of land registration, and question the effectiveness of this symbolic violence. In the fourth and final part of this article we will highlight how, despite active attempts of the Company to do otherwise, both the VOC's internal bureaucracy as well as local landowners continued to use *olas* as the key documents to record land ownership and the transactions that took place on the real estate market (Figure 1).

### Land Registration in Sri Lanka, Fifteenth–Seventeenth Centuries

In the patchwork of smaller kingdoms spread across pre-colonial Sri Lanka, a system of land ownership existed whereby the “lord of the lands” (*bhupati*) owned all the domains within his territory. To maintain a plot of land that belonged to these kings, individuals had to either pay taxes or perform labor services based on their caste status, locally known as the *rājakāriya* duty.<sup>15</sup> But rather than being this direct king–subject relationship, in practice, this system was maintained through a much more localized and indirect structure in which labor duties were performed by lower caste families for higher caste families, and taxes were collected by local headmen, rather than by direct representatives of the king.<sup>16</sup> The actual registration of this temporary ownership and parallel duties and taxes to the king happened on a village level, where *kanakkuppillai*<sup>17</sup> or local scribes drew up deeds in the Sinhalese language on palm leaves for private real estate transactions, which were officialized by village heads through their approval in the form of signatures.

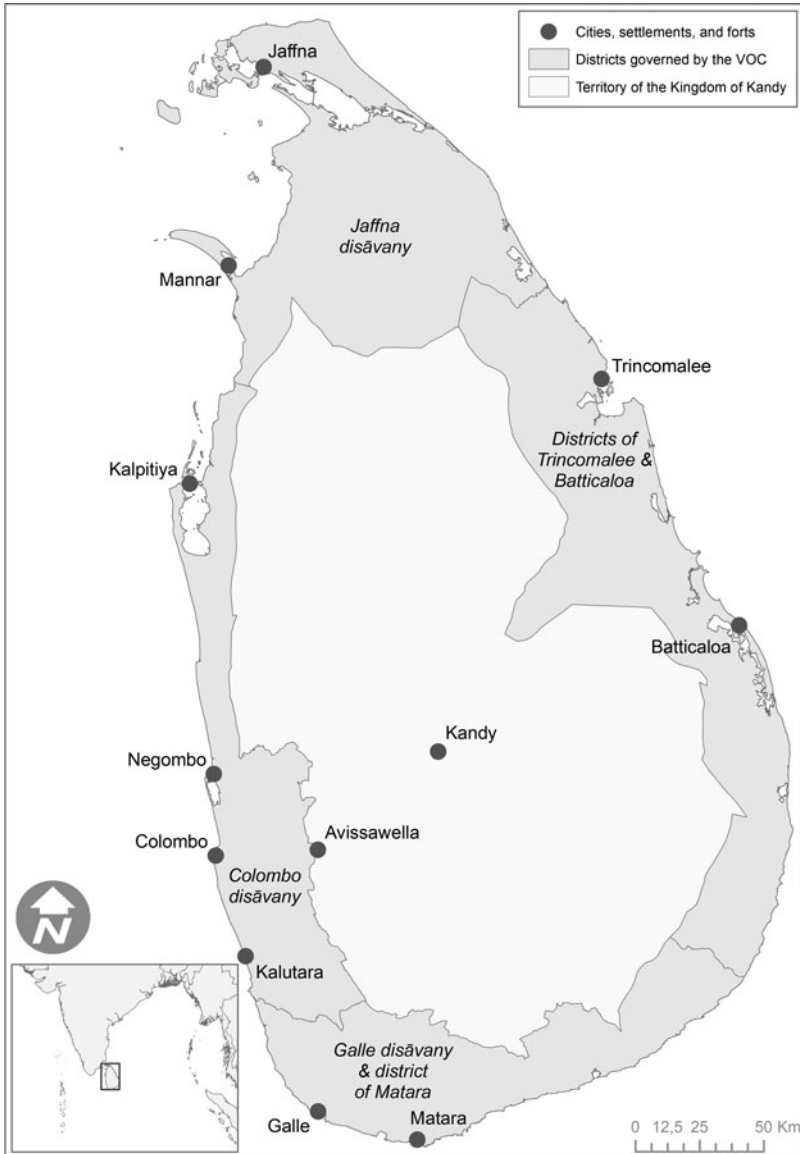
As was observed by Berkwitz in his seminal piece on the material aspect of Buddhist manuscripts in Sri Lanka, the practice of drying the palm leaves and inscribing them was a labor-intensive process that turned it into craftsmanship.<sup>18</sup> Therefore, *olas* were considered valuable possessions not only for

<sup>15</sup> Exceptions were lands granted to Buddhist orders for the creation of temples and the maintenance of the monks there; lands granted to families loyal to the king who had performed extraordinary services, for example during wars; and the “ancestral lands” (*paravēni*) that had been owned by families for generations.

<sup>16</sup> M.U. De Silva, “Land Tenure, Caste System and the Rājakāriya, under Foreign Rule: A Review of Change in Sri Lanka under Western Powers, 1597–1832,” *Journal of the Royal Asiatic Society of Sri Lanka* 37 (1993): 1–57.

<sup>17</sup> A word with Tamil roots, used to describe a group of secretaries, a term possibly inherited during the Chola period, which was used by the Dutch in their sources to refer to local scribes, also see Raman, *Document Rāj*, 12.

<sup>18</sup> Stephen C. Berkwitz, “Materiality and Merit in Sri Lankan Buddhist Manuscripts,” in *Buddhist Manuscript Cultures. Knowledge, Ritual, and Art*, ed. Stephen C. Berkwitz, Juliane Schober, and Claudia Brown (New York: Routledge, 2009), 36.



**Figure 1.** Map of Sri Lanka, 1766–96, ©Thijs Hermesen (Humanities Lab, Faculty of Arts, Radboud University).

what was inscribed on them, but also for their materiality, with some even attaining what can be considered a sacramental value.<sup>19</sup> While Berkwitz

<sup>19</sup> Also see Jinah Kim, *Receptacle of the Sacred. Illustrated Manuscripts and the Buddhist Book Cult in South Asia* (Berkeley: University of California Press, 2013).

considered Buddhist manuscripts specifically, which of itself increased this value on pure merit, more practical *olas*, such as deeds, wills, and registers, were similarly held in high regard. For example, for the British period we have descriptions of *olas* containing cosmic threats of what would happen if the terms of the deed were ever violated, which often include torturous rebirths in hell.<sup>20</sup> Such threats were so common that they almost seem to have become a Sinhala legalese trope as much as a religious statement, suggesting the social worth of such documents.<sup>21</sup>

Next to this (near-)sacred value of the material, there was also a practical tradition when it came to the *olas*. By the early modern period, Sri Lanka had become a hub for *ola* inscribing, with many professional craftsmen working for both temples and courts to make palm leaf manuscripts.<sup>22</sup> When it comes to land registration using such *olas*, the exact practices in Sri Lankan history remain elusive. Based on what we know from the Indian subcontinent,<sup>23</sup> and from the fact that during the Portuguese and Dutch periods such practices have also been described,<sup>24</sup> it seems almost every village had its own scribes who assisted the local chiefs in recording property and taxes. Additionally, we know that a centralized registration of land and taxes existed in the form of the *lĕkam miti* registers, maintained by the courts of the kingdoms of Kotte and Kandy.<sup>25</sup> The connection between the two spheres of registration must have existed, but the exact mechanism remains unknown; most likely these locally produced *olas* were copied into the centralized registers by court administrators, and the original ones remained in private possession.

Both these localized networks of village scribes and a more centralized registration system persisted throughout the Portuguese (1505–1658) and Dutch (1658–1796) colonial periods, and even until early British rule in the nineteenth century. They were used by the colonial powers to maintain the earlier-mentioned *rĕjakĕriya* system, like the pre-colonial kings had done before them. And thus, although they were political nemeses, Portuguese and Dutch colonial rule in Sri Lanka was largely based on the same premises; namely, their appropriation of the position of the pre-colonial *bhupati*.<sup>26</sup> Early Portuguese and

<sup>20</sup> Sir Archibald Campbell Lawrie, *A Gazetteer of the Central Province of Ceylon, Excluding Walapane* (London: British Library, Historical Print Editions, 2011), esp. 758, where he describes in 1896 how the ending of a deed promises that all those who would dispute the wording of the deed would suffer in the eight hells.

<sup>21</sup> We thank Alex McKinley for pointing out this custom to us.

<sup>22</sup> Berkwitz, "Materiality and Merit," 36–39.

<sup>23</sup> See, for example, the contributions of Guha and others in the earlier mentioned 2010 special issue on scribal practices in South Asia published in *Indian Economic & Social History Review* 47 (2010): 441–619; and Raman, *Document Raj*.

<sup>24</sup> See, for example, Jurrien van Goor, *Jan Kompenie as Schoolmaster: Dutch Education in Ceylon 1690–1795* (Groningen: Wolters-Noordhoff, 1978), 109–11; and José Vicente Serrão, "The Portuguese Land Policies in Ceylon: On the Possibilities and Limits of a Process of Territorial Occupation," in *Property Rights, Land and Territory in the European Overseas Empires*, ed. José Vicente Serrão et al. (Lisbon: CEHC, 2014), 183–96.

<sup>25</sup> H.A.P. Abhayawardhana, *Lĕkam Miti Vimarshanaya (A Critical Study of Lekam Miti)* (Colombo: Department of National Archives, 2009).

<sup>26</sup> For a much more detailed account regarding this system and how it changed under colonial influence, see Dewasiri, *The Adaptable Peasant*, 131–35.

Dutch intermingling with this system was marked by somewhat contradicting policies in which, on the one hand, the respective colonial governments tried to maintain the system of indirect rule, while on the other hand, they tried to benefit much more directly from the claimed *bhupati* position.<sup>27</sup> Portuguese policies regarding land (and labor) illustrate the dynamic that was prevalent throughout the sixteenth and early seventeenth centuries. According to Serrão, the Portuguese colonial officials in Sri Lanka were instructed from the metropole to establish their policy on two clear pillars: first, they were to acquaint and familiarize themselves with the local systems; thereafter they were to “take it over and run it according to the Portuguese interests.”<sup>28</sup> This led to a form of governance in which only the land and people that were directly beneficial to the Iberian Crown were taken into official policy, while the rest was left “as is.” In this respect, continuity can be observed between the Portuguese and early Dutch periods<sup>29</sup>: foremost the specific focus on the harvest and protection of cinnamon, by claiming lands that were to remain untouched to protect the cinnamon growing there,<sup>30</sup> and by recruiting members of the *salāgama* caste as permanent cinnamon peelers for the colonial state. But both the Portuguese and the Dutch also employed a reward system for loyal subjects serving as, for example, native headmen, local officials, and indigenous soldiers (*lascarins*), who received plots of land as compensation for their service. The “best” plots of land directly surrounding the colonial forts were granted to European settlers or the most loyal local families.<sup>31</sup>

To facilitate such policy—for this study most prominently the land grants—the Portuguese and Dutch colonial states needed information about the lands and the people they governed. Already early on, an extensive bureaucracy was installed, again inspired by a local system. The *lēkam miti* of the kingdom of Kotte was first translated by the Portuguese in 1599, and later reworked in

<sup>27</sup> S. Arasaratnam, “Elements of Social and Economic Change in Dutch Maritime Ceylon (Sri Lanka) 1658–1796,” *Indian Economic & Social History Review* 22 (1985): 35–54; Chandra Richard de Silva, “Sri Lanka in the Early Sixteenth Century: Economic & Social Conditions,” in *History of Sri Lanka*, ed. K.M. De Silva (Peradeniya: University of Peradeniya, 1995), 37–60; and Serrão, “The Portuguese Land Policies in Ceylon.”

<sup>28</sup> Serrão, “The Portuguese Land Policies in Ceylon,” 189.

<sup>29</sup> Principally drawing from earlier-cited literature from authors like Arasaratnam, De Silva, Dewasiri, and Serrão.

<sup>30</sup> Additionally, the colonizing states showed great interest in the capture of elephants to sell to different markets on the Indian subcontinent.

<sup>31</sup> Serrão, “The Portuguese Land Policies in Ceylon,” 189–90; regarding the Dutch period, directly following the conquest against the Portuguese, the area surrounding Colombo had been significantly depopulated. There were not enough Europeans to resettle the lands or to function as officials. Therefore, the local families that had fought on the side of the VOC were granted high positions within the pre-existing system of indirect rule as established by the Portuguese and paired with fairly large plots of arable land, see Sinnappah Arasaratnam, *Dutch Power in Ceylon, 1658–1687* (Amsterdam: Djambatan, 1958), 120–21; Rijckloff van Goens (sr.), *Memoirs of Ryckloff van Goens Governor of Ceylon Delivered to His Successors Jacob Hustaart on December 26, 1663 and Ryckloff van Goens the Younger on April 12, 1675*, ed. Edmund Reimers (Colombo: Ceylon Government Press, 1932), 46–47.



what the Portuguese dubbed the *tombo* (tome, volume) registers.<sup>32</sup> Together with the *foral* (charter) revenue registers, the *tombos* contained information on the lands eligible for taxation, and people whose (caste-based) services could be exploited.<sup>33</sup> Under the efforts of the first Dutch governors, this practice was continued, although it would later fall into disuse and become significantly fragmented until it was revived as a centralized system from the second half of the eighteenth century, as we shall see below.<sup>34</sup> Interestingly, where the Portuguese *tombos* were recorded on a village-level, the Dutch *thombos* (generally spelled with an “h”) contained details on the level of the individual.<sup>35</sup>

Despite the latter inconsistency, land policy was mostly a matter of (attempted) continuation between the Portuguese and early Dutch periods. Their efforts at exploiting their self-proclaimed position as *bhupati* had a fairly significant impact on the land and population directly surrounding the colonial centers of power: the port towns. However, the lands beyond were hardly reached and a lot of political power there remained with local elites such as the *kōrāla* and *mudaliyār* chiefs.<sup>36</sup> The VOC would continue to mostly focus on cinnamon, and to a lesser extent elephants and areca nuts, and as such, their interest in an island-wide administration naturally decreased in the late seventeenth century. Lands were almost exclusively granted within the limits of what was considered Colombo and its outskirts, and some strategic settlements along the coastline (see Figure 2).<sup>37</sup> This policy would continue for a few decades but was shaken up by a large transition that started in the 1740s.

### Dutch Land Policies: Ideological Changes and Reform, 1740–96

As has been described by Kotelawe, Gustaaf Willem baron van Imhoff (r. 1736–40) was the first governor to break with the general disinterest in local agriculture that had manifested itself in Dutch colonial rule up until his governance.<sup>38</sup> He would introduce policies that would significantly change the social and economic makeup of the colony. Van Imhoff was of the opinion that it would be to the benefit of both the Company and the local population if

<sup>32</sup> Chandra Richard de Silva, “The First Portuguese Revenue Register of the Kingdom of Kotte,” *The Ceylon Journal of Historical and Social Studies* 5 (1975): 69–153.

<sup>33</sup> Serrão, “The Portuguese Land Policies in Ceylon,” 189.

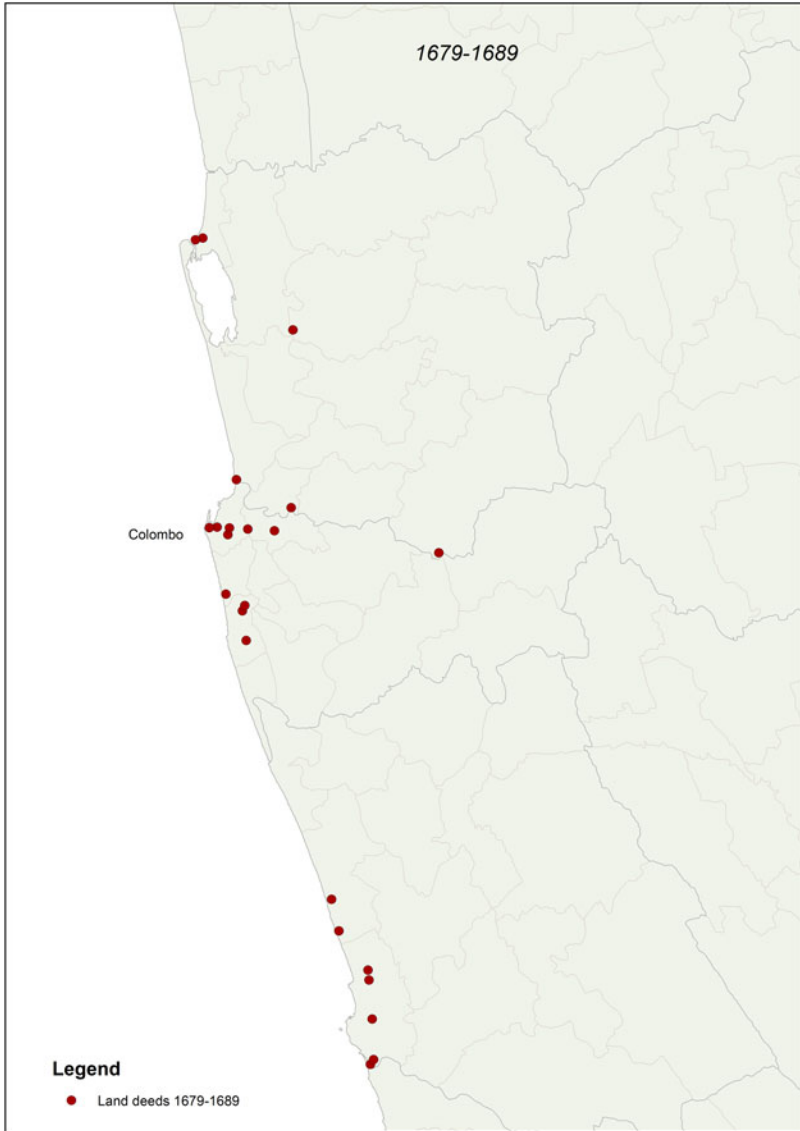
<sup>34</sup> S.W. Mottau, “Documents on Ceylon History (2): Documents Relating to the Tombo Registration of the Dutch Administration in Ceylon: Instructions Issued to the Tombo Commissioners,” *The Ceylon Historical Journal* 3 (1953): 173–89; K.D. Paranavitana, *Land for Money. Dutch Land Registration in Sri Lanka* (Colombo: Sri Devi, 2001); and Luc Bulten, “Reconsidering Colonial Registration: Documenting People, Property, and Labour in Eighteenth-Century Sri Lanka” (forthcoming dissertation, Radboud University, Nijmegen), ch. 1.

<sup>35</sup> See Albert Van Den Belt, Jan Kok, and Kees Mandemakers, “Digital Thombos: A New Source for 18th Century Sri Lankan Family History. Research Note,” *History of the Family* 16 (2011): 481–89; and Jan Kok, “The Thombo Treasure. Colonial Population Administration as Source for the Historical Demography of Early Modern Sri Lanka,” *Australian Economic History Review* 60 (2020): 105–21.

<sup>36</sup> Dewasiri, *The Adaptable Peasant*; and Serrão, “The Portuguese Land Policies in Ceylon,” 191–92.

<sup>37</sup> Database of land grant deeds based on Sri Lankan National Archives (hereafter SLNA), Lot 1: Dutch records, inv. nrs. 2509-2516, “Gifte-Boeken” or registers of land grants, 1679–1767.

<sup>38</sup> Kotelawe, “Agrarian Policies,” 5.



**Figure 2.** Locations of land in Sri Lanka handed out by Dutch colonial government via land grants between 1679 and 1689.

the island's local economy was to be improved.<sup>39</sup> To do so, he proposed a much more significant focus on the products that were either already being grown on

<sup>39</sup> Schrikker, *Dutch and British Colonial Intervention in Sri Lanka*, 35–37. The exact meaning of Van Imhoff's expressions are disputed, with Dewasiri claiming that he meant that the envisioned policy changes should be beneficial for the Company and the local ruling elites, but as we argue farther

the island or would be very suitable for growth there. In short, he wanted to grant as much land to local farmers as possible to intensify the growth of economically viable produce. For example, one plan was to have the local people grow cash crops on their lands that could be bought by the Company, who in turn would sell it on either the European or Asian markets, like tobacco, pepper, and coffee.<sup>40</sup> Additionally, he proposed that the Company would put in the effort to reinstall the centralized *thombo* registry so that the VOC would know who owned what land, and could tax appropriately. Up until then these forms of registrations were supervised by the *kōrāla* chiefs, and by implementing a unified *thombo* register Van Imhoff likely wanted to bypass the power of these traditional local elites.<sup>41</sup> To expedite this process, he recommended his successors to establish rural councils (*Landraden*) to deal with all such local affairs, from the compilation of the land and population registers to potential legal conflicts surrounding land, tenure, or taxation.<sup>42</sup>

While neither of these reforms were actually implemented during Van Imhoff's reign, his direct successors would follow up on his recommendations. Under the rule of Governor Julius Valentyn Stein van Gollenesse (r. 1743–51) significant changes were introduced to promote the collection of agricultural produce, both indirectly by auctioning off some of the “traditional” taxable products to renters, and directly through the promotion and purchasing of introduced cash crops such as coffee.<sup>43</sup> While the implementation of renters as tax collectors led to significant social turmoil at first, for example, because people deemed to be of a lower social standing were collecting the taxes of high-caste communities, farming out taxes became the primary mode of income for the VOC as early as 1760.<sup>44</sup> In a similar fashion, the implementation of the “new” *thombos* led to significant protests from the communities that were to be registered in the 1740s, however, by 1760, an estimated 250,000 individuals and their landed property were recorded and it was reported to Batavia that the registers would help greatly in regard to taxation and exploitation of labor duties, and to solve land conflicts amongst locals.<sup>45</sup>

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along in the article, this seems unlikely, as Van Imhoff intended to bypass the power of the local headmen and chiefs instead.

<sup>40</sup> See, for example, Gerrit J. Knaap, “Coffee for Cash. The Dutch East India Company and the Expansion of Coffee Cultivation in Java, Ambon and Ceylon 1700–1730,” in *Trading Companies in Asia: 1600–1830*, ed. Jurrien Van Goor (Utrecht: Hes uitgevers, 1986), 33–50.

<sup>41</sup> Baron Gustaaf Willem van Imhoff, *Memoir Left by Baron van Imhoff to His Successor, 1740*, ed. Sophia Pieris (Colombo: H C Cottle, Government Printer, 1911), 19.

<sup>42</sup> Nadeera Rupesinghe, “Negotiating Custom. Colonial Lawmaking in the Galle Landraad” (unpublished PhD diss., Universiteit Leiden, 2016), 27–29.

<sup>43</sup> Kotelawe, “Agrarian Policies,” 14–15, 27.

<sup>44</sup> As per a dispatch sent from Colombo to Batavia, about 35% of the Company's revenue stemmed from tax farming, SLNA 1/1187, fol. 40. Regarding the social conflicts between the renters and local peasants, see Bulten, “Reconsidering Colonial Registration,” ch. 2.

<sup>45</sup> SLNA 1/1187, fol. 31–36. A much more detailed account regarding the interactions between the colonial government and the local landowners and their families who were registered will be explored in the earlier-mentioned upcoming dissertation “Reconsidering Colonial Registration.”

This colonial transition had immense consequences for the population of Sri Lanka's southwestern regions under Dutch control.<sup>46</sup> While VOC policy making was far from consistent, as has been observed by Schrikker, the economic focus of the colony changed rapidly.<sup>47</sup> This further necessitated additional administration and, as we shall see below, significantly increased the reach of the encroaching colonial bureaucratic apparatus.<sup>48</sup> While the process of bureaucratization was one that was negotiable and strongly influenced by local agents, concepts, categories, and infrastructures,<sup>49</sup> it also increased the colonial state's legibility of and thus influence on the hinterland.<sup>50</sup> Similar to other areas in South Asia, most interactions regarding—and administration of—caste-based labor, land ownership and tenure, and taxation were increasingly organized by a foreign colonial state (rather than on a village level).<sup>51</sup>

Land deeds are a perfect example to function as a proxy for the increased bureaucratization of the Dutch civil government.<sup>52</sup> Already from the early days of Dutch rule such deeds, most prominently the *giftebrieven* (gift deeds), formalized a gift of land to loyal subjects, in an effort to tie them and their progeny closer to the government. Such deeds were relatively small pieces of paper noting the plot(s) of land in question, the proprietor, and the reason they were granted the land, and were officially signed by the governor. While the actual granting of land was naturally a non-physical practice, the *giftebrieven* itself solidified this act (similar to how the *thombos* recognized one's land ownership). Certainly in the last two decades of the seventeenth century, the Dutch saw this as a valuable instrument to establish their sovereignty over the coastal cities under their control and the direct hinterland, with about forty deeds handed out on average every year for plots in the city center and the suburbs of Colombo, the so-called *Four Gravets* (see [Figure 2](#)). However, around the turn of the eighteenth century the momentum had passed, and barely one grant per month was stamped by the Dutch officials, and the officials in question seem to

<sup>46</sup> For example, in relation to land tenure, inter and intra-caste relations, class formation, and labor duties, see Dewasiri, *The Adaptable Peasant*, 235–38.

<sup>47</sup> Schrikker, *Dutch and British Colonial Intervention in Sri Lanka*, 35–37, 50–51.

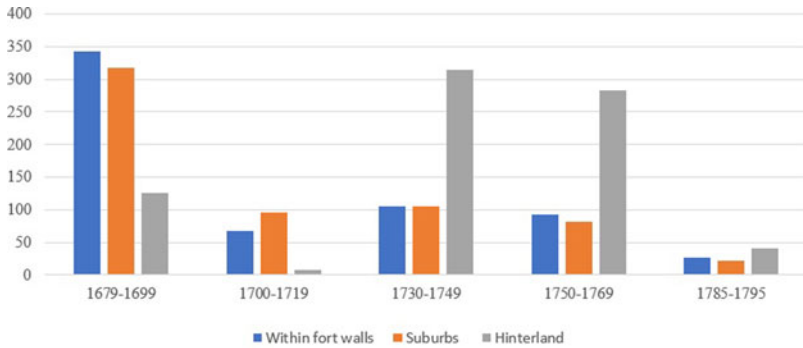
<sup>48</sup> To illustrate how sometimes more “conservative” policy still led to more intensive administration, one need only to look at Governor Jan Schreuder (r. 1757–62) who ordered an update of the 1745 *thombos* to prevent the local population of illegitimately acquiring more lands and harming the cinnamon-producing forests that way; Kotelawele, “Agrarian Policies,” 19, 21–22.

<sup>49</sup> For example, *olas* were used by local landowners as evidence for their property and the tenurial categorization the land should receive in the *thombo* registers, see Bulten, “Reconsidering Colonial Registration,” ch. 2 and 6; also see Rupesinghe, “Negotiating Custom”; Rupesinghe, “Defining Land Rights”; and Luc Bulten, Jan Kok, Dries Lyna, and Nadeera Rupesinghe, “Contested Conjuality? Sinhalese Marriage Practices in Eighteenth-Century Dutch Colonial Sri Lanka,” *Annales de Démographie Historique* 135 (2018): 51–80.

<sup>50</sup> James C. Scott, *Seeing Like a State: How Certain Schemes to Improve the Human Condition Have Failed* (New Haven, CT: Yale University Press, 1998).

<sup>51</sup> Guha, “Property Rights,” 19–20.

<sup>52</sup> Database of 2497 land deeds, handed out by Dutch officials in Sri Lanka between 1679 and 1795 (84% of all deeds, as records are missing for July 1767–July 1786). We would like to thank Sanne de Jong for her support in constructing this database.



**Figure 3.** Land deeds granted by Dutch colonial government in Sri Lanka for land in forts, suburbs, and hinterland, 1679–1795.

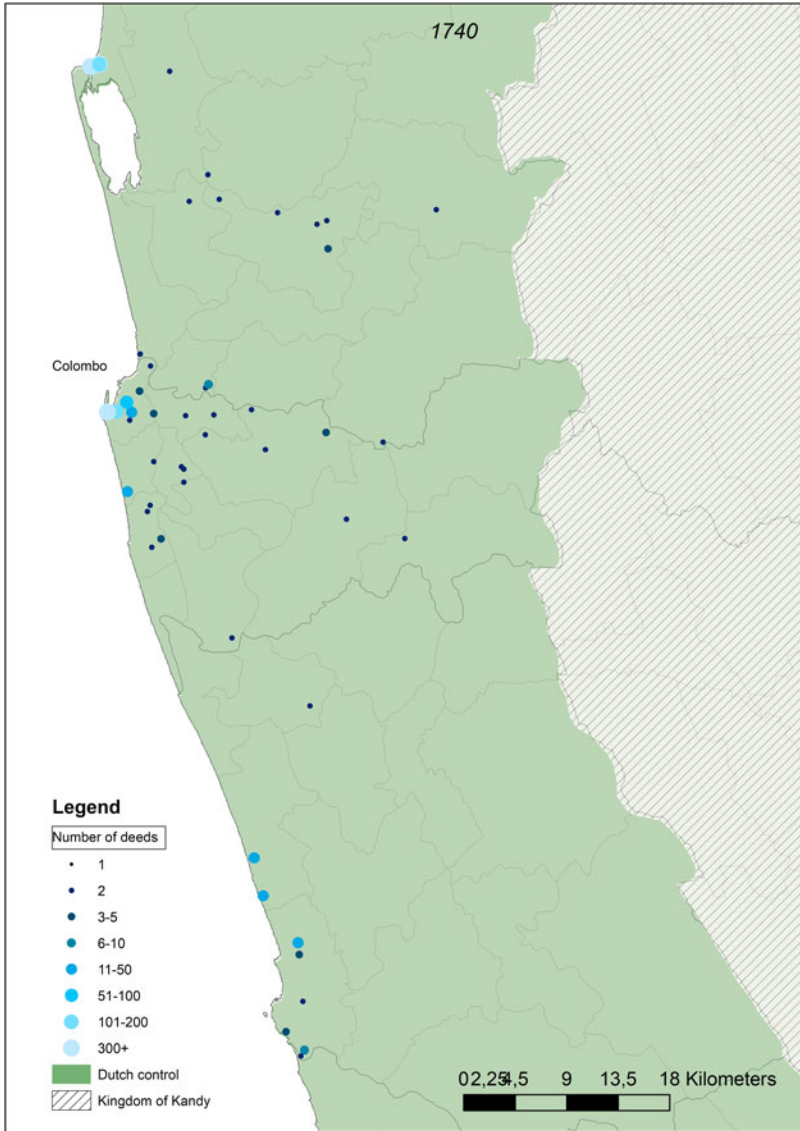
have gone back to granting lands using *olas*.<sup>53</sup> This changed again when, influenced by the aforementioned policy changes of the 1740s, the VOC’s bureaucracy became increasingly interested in land registration again. Subsequently, a massive increase in grants in the form of *giftebrieven* can be observed from the 1740s onwards (see Figure 3). Not only did the amount of the grants change significantly, but the apparent reach of the grants also changed as well. Where before 1745 almost all *giftebrieven* considered plots of land directly surrounding colonial port cities like Colombo and Negombo, after 1745, a majority of the lands that were granted by the VOC were situated in the hinterland, which suggests an increasing encroachment of the Dutch colonial bureaucracy on Sri Lanka’s hinterlands, and with this encroachment forms of symbolic violence to appropriate the system of land registration, as we shall see subsequently (see Figures 4 and 5).

### Material Pluralism and Symbolic Violence

The growing encroachment of Dutch land registration on the hinterland from the 1740s onwards—both with the *thombo* administration in general and the *giftebrieven* in particular—was accompanied by a bureaucratic shift as well. The continuing efforts to record ever more land in the rural hinterlands of Sri Lanka were not only attempts to establish Dutch sovereignty, but also coincided with a material modification. The intention was to move away from traditional palm leaf records towards Dutch paperwork, which up until then had co-existed in a spectre of material pluralism, as, apart from the areas directly surrounding the Dutch colonial forts (such as the ones in Colombo, Galle and Jaffna), most hinterland regions were still recorded locally on *olas*, which at times were translated and copied to paper.<sup>54</sup>

<sup>53</sup> Specifically the “*sannas olas*.”

<sup>54</sup> For example, the Dutch often ordered local headmen to compile lists of “serviceable people”—that is, people from specific caste groups bound to labor duties—which were usually presented by

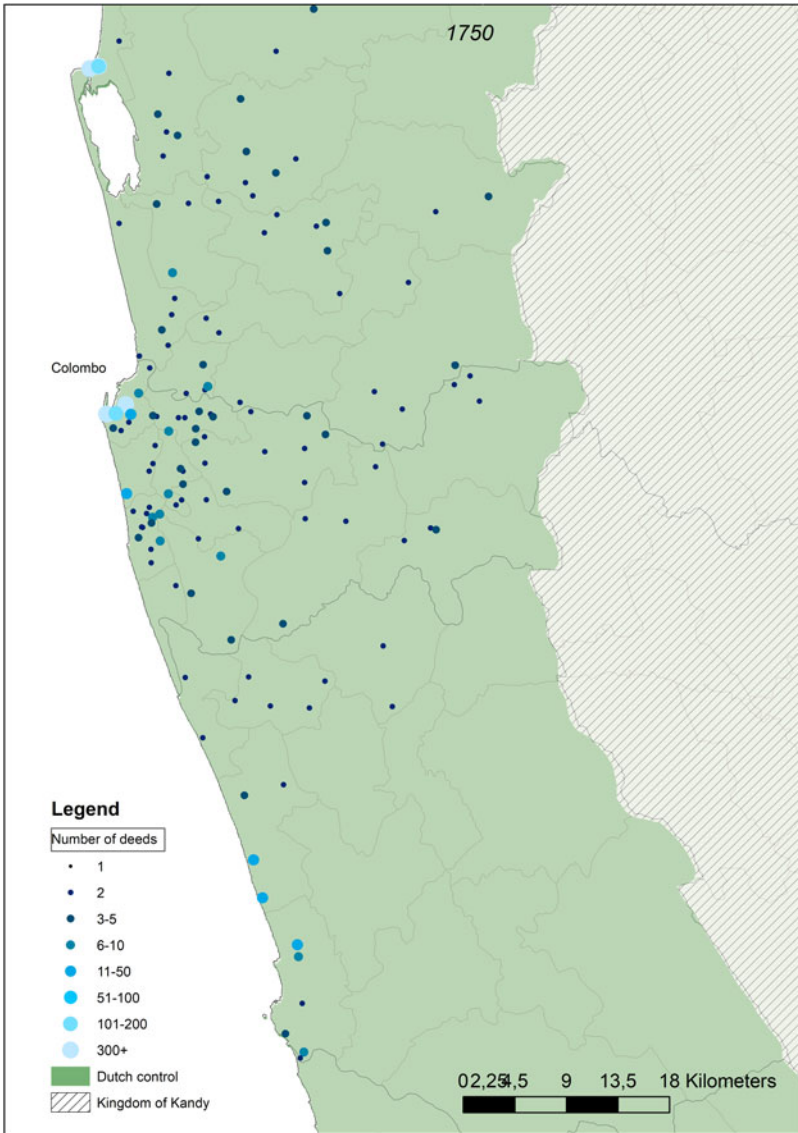


**Figure 4.** Number of land deeds per location in 1740.

As we noted above, the age-old Sinhalese practice of recording private land transactions on palm leaves did not disappear with the advent of colonial governments and their paper empires. The Portuguese and later the Dutch

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the chiefs on *olas* that were reworked to paper records by the (mostly Eurasian) clerks of the VOC. See Bulten, “Reconsidering Colonial Registration,” ch. 2.



**Figure 5.** Number of land deeds per location in 1750.

used their official system of state-driven land donations to tie loyal subjects to the colonial government, while at the same time ensuring the further cultivation of fallow land. But next to this colonial system, the real estate market continued to exist, and Sinhalese, Moorish, Chettiyar, and European subjects kept on privately selling and buying land and houses all throughout the seventeenth and eighteenth centuries. From the onset onwards—and

even before the last Portuguese had been forced off the island in 1658—the Dutch civil administration had attempted to infringe on this private land market of Sri Lanka. A 1648 ordinance promulgated for the southern city of Galle gives us an insight into their attempts to regulate land transactions.<sup>55</sup> Under the pretence that they regularly witnessed disputes between Sinhalese subjects in Galle “because there are no proper deeds of buying and selling,” from that point on all transactions concerning real estate had to be registered with two Dutch administrators of the newly established Court of First Instance. Transactions in the hinterland were to be communicated to two local village headmen (*mayorāls*), who would draw up an *ola* deed on palm leaves. In turn these headmen would register these rural transactions with the urban clerks on their yearly visit to Galle, inscribing these palm leaf deeds into the Dutch paper trail. This process was to ensure that local transactions of land could be traced (and where subsequently recognized) by the Dutch colonial bureaucracy. Moreover, during that process, the Dutch clerk in the city would add a date on the back of the palm leaf, making it into an official transaction deed. This physical intervention in the materiality of the palm leaves was a recurring theme in the Dutch interventions in the local registration practices, not only in the densely populated southwestern part of the island, but also in the northern region surrounding the city of Jaffna. When subjects wanted to prove that they had presented the *thombo*-administrator with their palm leaf evidence in order to avoid additional taxation, this Dutch official was instructed to write the date on the back side of the original *ola*.<sup>56</sup> Interestingly, this implies that as of themselves, locally produced *olas* were inherently recognized by the colonial government, but officially only when seen and signed by a colonial official, even though in civil court cases unsigned *olas* were seemingly accepted by colonial councillors as readily as signed ones.

In the late seventeenth and early eighteenth centuries, the Dutch government allowed a system of material pluralism, whereby multiple types of documents related to land registration co-existed: paper *gifbrieven* from governors or district heads, private sales drawn up before a Dutch notary or sworn clerk (often from mixed background), Sinhalese palm leaf deeds by village scribes and certified by village headmen, and, of course, the *thombo* registers. However, plurality did not necessarily imply equality: in an effort to establish their sovereignty over the real estate market, the Dutch increasingly attempted to draw *ola* deeds into their paper empire by having their clerks physically carve into the palm leaves. More than merely stamping them bureaucratically,

<sup>55</sup> Lodewijk Hovy, *Ceylonees plakkaatboek: plakkaten en andere wetten uitgevaardigd door het Nederlandse bestuur op Ceylon, 1638-1796* (Hilversum: Verloren, 1991), vol. I, ordinance from July 16, 1648: *Ordonnantie voor de commissarissen der dagelijkse zaken als rechtbank van eerste aanleg in de Galle corle*. In this ordinance, the Court of First Instance is installed, as a local court to relieve the governor and the Political Council in Colombo of everyday civil matters that arose in and around Galle. Central to the Dutch interest was the lack of registration or documentation of real estate between Sinhalese, which apparently led to disputes.

<sup>56</sup> Hovy, *Ceylonees plakkaatboek*, vol. 1, ordinance from April 25/August 14, 1704: *Compendium van plakkaten en ordonnantie voor Jaffna*, no. 24.



the Dutch also harmed the material integrity of these sacralized *olas*. These interventions by Dutch clerks thus cannot be downplayed, as these were acts of symbolic violence, establishing hierarchies of power by mutilating age-old forms of land registration, and attempts at establishing the sovereignty of a colonial legal regime.<sup>57</sup>

Additionally, in the wake of the establishment of the *Landraden* in the 1740s and parallel legislation on land registration, the Dutch became more adamant in their efforts to control the real estate market. On the side of the land donations, a 1745 ordinance proclaimed that from then on, local subjects had 3 months to hand in their palm leaf deeds—which had been granted to them by the colonial district head or *disāva*<sup>58</sup>—and receive a paper *giftebrief* in return to prove their ownership of land. This exchange operation was part of a much larger machinery to re-evaluate the key role of land grants in establishing the Dutch sovereignty over the coastal regions, and the island's agricultural economy. Unfortunately, the archival material does not allow us to distinguish between exchanged *ola* deeds and new land grants, but the sharp rise in the total number of granted *giftebrieven* after 1745 seems to indicate that the normative efforts of the Dutch to get more control over land ownership via the system of land donations was successfully translated into actual policy (see Figure 3). But bear in mind that the original target audience of the land grants had always been loyal Sinhalese subjects, with the land grant as a token of appreciation for their service to the Dutch colonial government. It should perhaps be not that surprising then that (the progeny of) these loyal subjects answered the call of this ordinance and were accommodating the government in this exchange operation. After all, complying with this request would re-establish their ownership over the land and strengthen their legal claim. The overwhelming wave of land grants to non-European subjects—and in general to people not even employed by the Company—in the second quarter of the eighteenth century further supports that hypothesis, or at least showcases the growing encroachment of the Dutch colonial government on state-driven Sinhalese land ownership (and that of other local communities) via land grants (see Figure 6).<sup>59</sup>

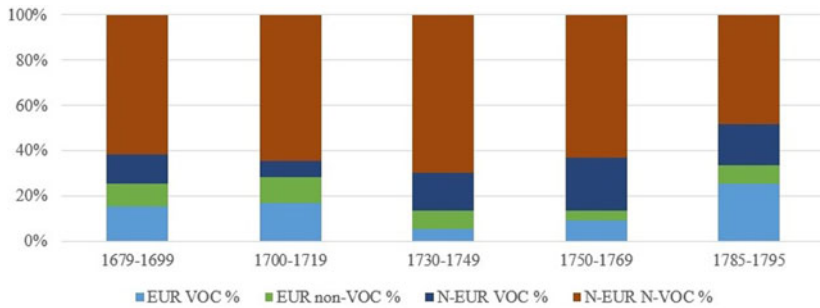
In May 1757, the Dutch colonial government copied this procedure from their core business of land grants to the regular real estate market, as they issued a similar exchange operation.<sup>60</sup> All subjects had 1 year and 6 weeks to come to the Dutch clerk to certify their ownership in Dutch paper registration.

<sup>57</sup> Chatterjee and Hodges witness a similar process in the appropriation of the *parwanas* (Indo-Persian grants) in eighteenth-century Southern India.

<sup>58</sup> *Disāva* was a Lankan title for the highest-ranking chief under the king, who was both an administrative and a military aid to him. During colonial times, this title was appropriated by Portuguese and Dutch colonial officials respectively, and these officials functioned as the brokers between the colonial governments and the local chiefs, although they could also be addressed by local inhabitants directly.

<sup>59</sup> Luc Bulten and Dries Lyna, "Classifications at Work: Social Categories and Dutch Bureaucracy in Colonial Sri Lanka," *Itinerario Journal of Imperial and Global Interactions* 45 (2021): 252–78.

<sup>60</sup> Hovy, *Ceylonees plakkaatboek*, vol. II, ordinance from May 31 (Colombo) and July 4 (Galle), 1757: *Plakkaat verbiedende de vervreemding en verhypothekering van onroerend goed en vaartuigen anders dan bij*



**Figure 6.** Land deeds granted by the Dutch colonial government in Sri Lanka according to social background, 1679–1795.

In addition, from then on nobody was allowed anymore to sell, trade, or alienate real estate, land, or vessels on “private bills or *olas*” any more, but rather all of these transactions had to be made known to a Dutch clerk. Given the general shift in Dutch attention to the agricultural profit of Sri Lanka—for which they had installed the *Landraden* and breathed new life into the *thombo* registration—the financial motives behind this second exchange program from *olas* to paper registration are not difficult to establish. Although the Dutch continued to stress the benefits that a solid land registration would yield for local subjects—just like they did in the mid-seventeenth century—they were quite explicit about their own interests in the ordinance from 1757. They honestly stated that the private transactions on *ola* deeds outside of the reach of Dutch clerks were “to great detriment of the country’s income” and that “the lord of the land suffered damage” when subjects did not register ownership.<sup>61</sup>

Although this ordinance from the late 1750s proclaims tough punishments for those subjects who failed to comply with the material exchange operation, in itself it of course reveals a Dutch failure to control the private real estate market. Too many transactions had been happening outside of the reach of the Dutch civil administration in the late seventeenth and early eighteenth centuries.<sup>62</sup> This frustration was channelled through and targeted at the materiality of these private land deeds and the persistent network of local village scribes who were often not directly employed by the Company. From the 1740s onwards, the negative Dutch attitude toward palm leaf deeds as inferior

*schepen- of justitiële akte*. On that same day, the Dutch government also issued a similar ordinance to regulate the private trade in enslaved people.

<sup>61</sup> Ibid.

<sup>62</sup> The 1757 ordinance was not just a hollow phrase, but had actual implications in the legal sphere. In one civil case brought before the highest Dutch civil court in colonial Colombo in the late 1750s, two Sinhalese men fought out a legal battle over the use of two houses as collateral in a business deal. One of these Sinhalese men made explicit reference to the 1757 ordinance, claiming that his opponent had not registered these houses within the allotted year and 6 weeks, and that therefore, he could not be considered the legal owner of these houses. The incomplete case file does not allow us to tell much more about the outcome of this trial. SLNA 1/4325: *Nicolaas Fonseca vs. Domingo Fernando and Francisco Rodrigo Chenepadij*, 1759.

to paperwork and to village scribes as being less trustworthy than Dutch clerks became ever more explicit in the official normative communication. More than once, Dutch ordinances referred to deceitful *olas* in the same sentences as invalid notes or used the diminutive form “little *olas*” (*olatjes* and *briefjes*), always in sharp contrast with the official paperwork and legal mark of quality from a Dutch clerk.<sup>63</sup>

But whereas the exchange operation and general re-evaluation of the state-driven land grants had positive effects for the colonial government—at least as measured in the number of land grants of the 1740s to the 1760s (see Figure 6)—the Dutch attempt to gain control over the private land market with the 1757 ordinance seems to have been less successful. As the Dutch pushed their paper empire ever more forcefully onto the rural hinterland of Sri Lanka from the 1740s onwards, the age-old palm leaf registration proved resilient and widespread. This tension field was never fully resolved during the Dutch rule on the island; on the contrary, all throughout the eighteenth century, indigenous officials in Dutch colonial bureaucracies kept on using *olas* for their reports. For example, the local envoys of the VOC (*saparamādu*) and other “indigenous commissioners” carved out their reports in Sinhalese on palm leaves, which were later translated and put to paper by sworn clerks.<sup>64</sup> Additionally, people continued to use *olas* to record private real estate transactions. But even in the highest echelons of Dutch colonial bureaucracy, the *olas* remained in use; up until the very end the *disāva*—who was a Dutch official after all—kept on handing out land grants on palm leaves, silently acknowledging the tenacity and perhaps even pre-eminence of *olas* in the system of material pluralism that the Dutch had to allow in eighteenth-century Sri Lanka.<sup>65</sup>

### Layering Legal Regimes of Documenting Land and Property

Despite this growing Dutch discomfort and blatant attempts at downplaying the role of *olas* in the real estate market of the southwestern part of Sri Lanka, palm leaf deeds remained an integral part of recording the everyday and the extraordinary in the life of Sinhalese villagers (cf. Berkwitz). Legal battles over land ownership fought out before the Dutch colonial courts in the second half of the eighteenth century showcase the constant field of friction between the Dutch paper empire and the palm leaf reality of everyday legalities. Colonial Dutch courts in that sense are perfect laboratories to study material pluralism in Sri Lanka before the advent of British colonial rule at around 1800.

A particular case study invites us to further reflect on the intricate relationship between different systems of land registration, and the underlying

<sup>63</sup> For example, Hovy, *Ceylonees plakkaatboek*, vol. II: ordinance from July 27, 1769 (Colombo): *Resolutie om het vergaande besluit van het bestuur te Jaffna betreffende het opmaken van akten zodanig te wijzigen*; ordinance from October 10, 1786 (Colombo): *Resolutie om de voorgenomen heruitvaardiging door het bestuur van Jaffna van het plakkaat waarbij het aan de inlandse schoolmeesters verboden wordt enige notariële akten te passeren en onderhandse olassen te kontrakteeren, goed te keuren*.

<sup>64</sup> Bulten, “Reconsidering Colonial Registration,” ch. 2.

<sup>65</sup> *Ibid.*

material pluralism in colonial Sri Lanka. A civil suit between two Sinhalese men takes us from the lowest rural council in the Galle province to the highest appellate court in colonial Sri Lanka, involving private lease and transaction *olas*, two series of public land *thombos*, and subsequent registrations in the Dutch paper empire between the mid-1750s and the mid-1790s.<sup>66</sup> The case revolves around a particular plot of land in the village of Mabotuwana,<sup>67</sup> about 20 km inland northwest of the city of Galle. A young Sinhalese man named Lookanmattege Silvester lived in the suburbs of Galle together with his uncle. Silvester's grandfather had left his eight children each a fraction of the family land in Mabotuwana. Subsequently, when Silvester's parents had passed away he and his sister (who was at the time unmarried), collectively inherited one eighth of that family plot, similar to their uncle's share. Interestingly, however, Silvester would go on to put this share up for collateral, either with his sister's blessing or without her knowing.

To be precise, in 1763, Silvester and his uncle decided to jointly pledge their share (two eighths) as collateral for a loan they received from the Sinhalese man Goeroegammege, who was the Sinhalese chief (*vidāne*) of Lelwala, a larger settlement nearby Mabotuwana. Eight years later, that *vidāne* wanted to buy those two eighths of land from Silvester and his uncle. Following Sinhalese customary law, Silvester and his uncle publicly stated in the village of Mabotuwana that they wanted to renounce their two-eighth portions, allowing relatives, nearby and far away, to exercise their right to buy this land back into the family, which always trumped interested purchasers from outside of the family. However, as none of the children or grandchildren of Silvester's grandfather (including Silvester's sister) showed any interest, the *vidāne* was able to buy the land for a sum of 18 *rijksdaalders*, the value as officially taxed by five "experienced men." Silvester, his uncle, and the *vidāne* then went down to a sworn clerk of the village, who drew up a Sinhalese transaction *ola*, signed by the village headmen (*mayorāls*) as witnesses of that transaction. With this Sinhalese transaction *ola* on palm leaf, the *vidāne* then went to the colonial *thombo* administrator just outside Galle, who took out the Dutch land register of Mabotuwana, which he had drawn up 12 years earlier (1759), and wrote down the *vidāne*'s name as new owner of the two eighths of land.

With these consecutive steps to register their land transaction, Silvester and Goeroegammege followed the procedure that the Dutch colonial government had gradually pushed onto the private land market. The 1648 ordinance for Galle still provided the guidebook more than a century later, but the crucial layer of the local *thombo* administrator and the parallel land register were relatively new, only built in the system with the installment of *Landraden* from the 1740s onwards (see section "Land Registration in Sri Lanka" for an explanation of the [dis]continuities between the Portuguese and Dutch *thombos*). This legal procedure exemplifies the larger shift in Dutch colonial policy on the island from one of indirect rule, tapping into pre-existing power structures and

<sup>66</sup> SLNA 1/4534: *Goeroegammegeij Abraham De Silwe vs. Abraham de Zilva*, 1793–94.

<sup>67</sup> The village Mabotuwana/Mabottoewanne was an annex to the larger settlement Leelwalle/Leelwelle in the Gangaboda *pattu* (sub-district).

hierarchies, to a system of more direct governance, bypassing traditional elites (in this case the *mayorāls*) in favor of appointed officials in the Dutch bureaucracy.

In the meantime, Silvester's sister had gotten married and when she died in 1788, her husband, the schoolmaster Abraham de Zilva from Galle, claimed his late wife's share (her half of the one eighth) of that family land. He turned to the by-then poverty-stricken Silvester, who agreed to sell him the one eighth of the family land that he already sold to the *vidāne* 17 years earlier; Abraham was of course not aware of this earlier transaction.<sup>68</sup> Without informing the *mayorāls* in Mabotuwana, Silvester immediately turned to the *Landraad*, and asked them to transfer his property rights to his brother-in-law and have him inscribed as the new owner of his fraction of the family land in the Dutch *thombo* registers. The *Landraad* instructed the *thombo* administrator to find out if there were other family members still alive who could potentially claim part of this land, and if not, to officialize the transaction in the land registers. For some reason, the *thombo* record-keeper did not consult the village heads in Mabotuwana or the 1759 Dutch land registers, and pinned down the schoolmaster as the official owner in the 1788 update of the "old" *thombo*. Perhaps this was exactly what Silvester intended, knowing full well that he was selling the share of the family land that he and his sister had inherited for the second time.

Here, the dubious role of the *thombo* administrator shows that there were inherent risks for the Dutch colonial government in taking matters into their own bureaucracy away from the *mayorāls*, particularly if protocol and tradition were not adequately adhered to; not only did the *thombo* administrator fail to consult the village heads of Mabotuwana in 1788 about the initial transaction from 1771, but he also ignored the written entry in his own *thombo* register of 1759. Both the traditional act of registration with the village chiefs and the Dutch colonial register remained untapped by the *thombo* administrator, resulting in the chaotic double ownership and parallel legal issues. What should have been an improvement of the seventeenth-century system turned out to be failure, at least in this case. But more than just the errors of this administrator, and through it the failure of the system he represented, this case also exemplifies how legal regimes of documentation became increasingly layered over time in eighteenth-century Sri Lanka. Moreover, it shows how such layering could potentially cause very specific risks and tensions, both between the colonial state bureaucracy and colonized subjects and also among bureaucratic agents and local (extended) families respectively, as we shall see.

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<sup>68</sup> The precise role of Silvester's sister is left unexplained in the case file belonging to the lawsuit. Since she had been unmarried when her parents had died, she had collectively inherited their share of the family land together with Silvester in accordance with the Sinhalese bilateral inheritance laws upheld at the time. However, Silvester and his uncle seem to have put up this plot as collateral for this loan with either her permission, or behind her back. Either way, her later husband (Abraham) seems to have thought the plot still belonged to his late wife and her brother, Silvester.

Five months later De Zilva, the schoolmaster, apparently discovered the double ownership, and went to the European district head of Galle (*disāva*) to claim sole ownership of “his” land. However, the *disāva* refuted the schoolmaster’s assertion and re-affirmed the (by now) former *vidāne*’s ownership of both Silvester’s fraction as well as his uncle’s. In addition, the *disāva* put the blame on Silvester for reselling the same piece of land on two occasions, almost 20 years apart. So despite admitting that Silvester had been in the wrong, he did recognize and uphold the original transaction among Silvester, his uncle, and the *vidāne* as recorded in the *ola* and in the (old) *thombo*.

Although the district head made a clear arbitration decision, the schoolmaster was still unsatisfied, and a couple of years later he turned to the lower-ranked local head (*kōrāla*) of the Galle *kōrālē* (district), who in turn forwarded his request to the Galle *Landraad*. The court started up an official investigation into this dispute that had been dragging on for over two decades, and after considering all the elements, the *Landraad* decided in favour of the schoolmaster in 1793. The *Landraad* then ordered the *thombo* administrator to nullify the 1771 Sinhalese transaction *ola*, on the condition that the purchase price of 18 *rijksdaalders* be repaid to the former *vidāne*. The court argued that the schoolmaster as brother-in-law was more entitled to the family land than the former *vidāne*; moreover, as by the early 1790s, Silvester appeared to be the only living relative, the entirety of the family land in Mabotuwana was his by inheritance. The altered entry in the 1788 *thombo* register remained final.

Interestingly, none of the colonial courts, litigating parties, or even the *disāva* or *kōrāla* explicitly accused the *thombo* administrator for his earlier blatant errors, nor did they link up these issues to larger systemic failures. For most of them, Silvester, as original owner, had done the wrong thing by selling the same fraction of land twice. Silvester in turn defended himself by claiming that he was convinced that even with the 1771 *ola* to Goeroegammege, he had only pledged the land temporarily, and that full ownership remained his. The only party involved who targeted the *thombo* administrator was Goeroegammege, who placed this administrator and his registers at the crossroads of Dutch legislation and Sinhalese tradition by stating that the *thombo* administrator—by recording this error—contravened both the Dutch ordinances such as the one from 1648, as well as the “order and tradition of times immemorial.”<sup>69</sup> The former *vidāne* Goeroegammege was obviously not content with this ruling, and decided to appeal against the verdict of the *Landraad* to the Court of Justice in Galle in 1794. The council members there even forwarded the case file to the highest appellate court in Colombo, to discuss this complicated matter of land ownership. And although the appellate verdict was not archived, the secretary of the Galle Court of Justice himself explicitly questioned the validity of the earlier *Landraad* verdict in his writings to Colombo. Therefore, it seems that in the end the odds turned in favor of the former *vidāne*.

<sup>69</sup> SLNA/1 4534: *Goeroegammegeij Abraham De Silwe vs. Abraham de Zilva, 1793-1794: Appeal from Goeroegammegeij to the Galle commander, June 18, 1794: “teegen de order en gewoonte van onheuglijke tijden af.”*

This rich case study of the uneasy interaction of palm leaf deeds and paper registers serves as a beautiful illustration of the complicated legal hybridity of land registration that dominated eighteenth-century colonial Sri Lanka. Silvester and his uncle had followed customary Sinhalese law in 1771 by publicly denouncing their property rights on three occasions to allow relatives to exercise their right to keep patrimony in the family. In this initial transaction both local scribes and village chiefs, as well as the *thombo* administrator were directly involved, the latter acting in relationship to the *Landraad*. Sinhalese palm leaf deeds co-existed with paper registers. As the eighteenth century progressed, colonial institutions and local practices of land transaction remained blurred, despite the Dutch attempts to separate them.

For the Dutch judiciary, this material pluralism and entangled systems of registering land transactions created a host of potential problem for everyday adjudication of rights to land. The case study of the *vidāne* and the schoolmaster shows how difficult it was for the Dutch judiciary to separate the wheat from the chaff and to establish an official record of the original ownership and later transactions. Certainly when the officious arbitration of the *disāva* and official litigation in the *Landraad* started contradicting each other, and subsequently the low, middle, and high courts disagreed on ownership, matters became complicated.

But in the end, one has to admit that this relative chaos offered remarkable room for negotiation of the subjects involved. The schoolmaster opted for the road of arbitration, by first petitioning directly to the *disāva* and then, when he felt unheard, to the *kōrāla*; Goeroegammege decided on the path of litigation, and used the judicial tools at hand, by appealing unfavorable verdicts to higher courts in the city. The different paths taken by the litigants in this case highlight the level of “forum shopping” that was afforded at the time, and the fact that some Asian actors opted to utilize Dutch colonial courts (directly), while others opted for more traditional paths (e.g. the schoolmaster addressing the *disāva* and *kōrāla* respectively).<sup>70</sup> Moreover, however, this case highlights how, next to this legal pluralism, there was also a significant layering of materiality and documentation practices. While the Dutch had at times tried to hamper the legitimacy of the *olas* as legal documents, this case shows the entanglements of Dutch and local practices of the registration and documentation of land and land transactions.

<sup>70</sup> Alicia Schrikker and Dries Lyna, “Threads of the Legal Web. Dutch Law and Everyday Colonialism in Eighteenth-Century Asia,” in *The Uses of Justice in Global Perspective 1600-1900*, ed. Manon Van der Heijden, Griet Vermeesch, and Jaco Zuijderduijn (London: Routledge, 2019), 44; also see Keebet Von Benda-Beckmann, “Forum Shopping and Shopping Forums: Dispute Processing in a Minangkabau Village in West Sumatra,” *Journal of Legal Pluralism and Unofficial Law* 13 (1981): 117–59; and Franz Von Benda-Beckmann and Keebet Von Benda-Beckmann, “Islamic Law in a Plural Context: The Struggle over Inheritance Law in Colonial West Sumatra,” *Journal of the Economic and Social History of the Orient* 55 (2012): 771–93.

## Conclusion

In pre-colonial Sri Lanka, different systems of land registration had co-existed.<sup>71</sup> In and around the courts of the kings of Kotte and Kandy centralized *lĕkam miti* registers were used to keep track of land ownership and parallel services/taxes that had to be fulfilled by their subjects. At the same time, extensive networks of village scribes carved everyday land transactions on palm leaf deeds, authenticated by village chiefs. The Portuguese from the turn of the sixteenth century (and later the Dutch) consciously built further on these solid pre-colonial foundations. They both took over the role of the kings as lords of the land, and adapted the *lĕkam miti* into the *thombo* registers, and the Dutch started recording detailed information on family members of the landowners as well. To further strengthen their sovereignty over the coastal regions of the island, the Portuguese had introduced a system of land grants, with which they tied loyal Sinhalese subjects and their progeny to land (and often services). When the Dutch took over from the Portuguese in the middle of the seventeenth century, they also used this system of land grants, mainly to strengthen their position in and around key coastal cities such as Colombo and Negombo.

After neglecting agricultural interests in Sri Lanka for a generation or so, the first decades of the eighteenth century saw a remarkable growth in Dutch attention for stimulating the island's agricultural production and parallel opportunities for taxation. In the 1740s, the Dutch government solidified this intent with the instalment of special rural courts (*Landraden*) and the Herculean task of recording 5,000,000 subjects by locally trained Dutch civil administrators in the renewed centralised *thombo* registers. These remarkable efforts made land ownership in Sri Lanka far more legible than ever before, and were equally an articulation of a different style of rule; bypassing the traditional elites in favor of lower-ranked Sinhalese employees of the Dutch colonial government seemingly ensured a more optimal flow of information from the rural hinterland to the urban centers.

This early colonial transition in Sri Lanka was not just articulated by optimizing existing systems of land grants and registration and the professionalization of a parallel bureaucracy. It was accompanied by Dutch efforts to infringe on the materiality of land transactions as well. From the beginning of their civil administration, the Dutch had to allow a certain degree of material pluralism, with the coexistence of their own paper empire next to the traditional way of recording the everyday and the special by village clerks on palm leaf deeds. But from the outset, the Dutch had attempted to establish

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<sup>71</sup> Native systems of recording that pre-dated the arrival of Europeans was not something unique to Sri Lanka or even Asia; in colonial Latin America the use of Quipus (Khipus) in the Andes, or pictographic records in Meso-America by Spanish colonial officials and courts showcase that such registration practices persisted throughout the colonial period and thereafter, despite attempts by the colonial authorities to control, translate, and eliminate them. See, for example, Jose Carlos De la Puente Luna, "That Which Belongs to All: *Khipus*, Community, and Indigenous Legal Activism in the Early Colonial Andes," *The Americas* 12 (2014): 1–36; and Karen B. Graubart, "Shifting Landscapes. Heterogeneous Conceptions of Land Use and Tenure in the Lima Valley," *Colonial Latin American Review* 26 (2017): 62–84.



their sovereignty by performing acts of symbolic violence on these palm leaf deeds. Only after an official Dutch clerk carved a date on the original *ola*, and when sworn translators provided copies in Dutch, were these documents officially appropriated as valid legal documents in the Dutch Asian empire.

In the wake of the renewed interest in registering land ownership in the 1740s, the growing Dutch discomfort with palm leaf documents became ever more apparent. Two state-driven exchange operations were promulgated in 1745 and 1757, forcing subjects to turn in their palm leaf land grants in favor of paper copies. But whereas the first operation that targeted the system of official land grants with an audience of already loyal subjects could be called a moderate success, a similar effort to establish Dutch sovereignty and their paper encroachment over the private land market in the late 1750s was apparently less effective. Right until the end of the eighteenth century, *olas* were used time and again to record land transactions, both in the hinterland and in the urban centers. Moreover, from the lower envoys in Dutch service to the highest echelon of European district heads, Dutch officials kept on carving land transactions of all sorts on Sinhalese palm leaf deeds. The rich civil suit of Goeroegammege, Silvester, and Abraham that spanned the late eighteenth century showcases this continued coexistence of paper and palm leaf realities, the hybrid system of material pluralism with which the Dutch tacitly acknowledged the pre-eminence of *olas* in the (private) land market of eighteenth-century Sri Lanka.

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