

Guests in Foreign Lands

Land Control and Ownership in Greater Senegambia in the Face of the Portuguese Presence (16th and 17th Centuries)

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1 Introduction

On 22 March 1626, King Philip, ruler of Portugal and Castile, increased the Bishop of Cape Verde's salary through a letter of grace that began as follows: "Dom Philip, by the grace of God, King of Portugal, and of the Algarves on this side and beyond the sea in Africa, Lord of Guinea, and of the Conquest, navigation, trade of Ethiopia, Arabia, Persia and India, etc."¹ Such a preamble was quite common in Portuguese official documents. This discursive construction suggests the subjugation of various parts of the world under direct Portuguese control through concepts like "lord" and "conquest", which, in the political vocabulary of the time, expressed ownership and dominion, especially over lands.² In the early 17th century, the term "Guinea" no longer referred to the entire land south of the Maghreb, as it had before, but took on more specific contours related to the region south of the Senegal River, which became known in Portugal as Guinea of Cape Verde.³ Therefore, the expression "Lord of Guinea" as a qualifier for the King of Portugal represented him as an authority over an African region, even though its boundaries were still in the process of definition.

In Lisbon, government institutions, such as the Council of India, actively worked to incorporate the African coast in front of the Cape Verde archipelago into the so-called Portuguese Empire. Thus, in the *Relation of the Coast of Guinea*, circa 1606, this Council defined "that 'the Captaincy of Cape Verde comprises the Island of S. Tiago with the adjacent ones', [and] later admitted that

1 Brásio, *Monumenta Missionaria Africana, África Ocidental*, serie 2, vol. 5, document 40. Original: "Dom Felipe, por graça de Deus rei de Portugal e dos Algarves, daquém e dalém mar em África, senhor da Guiné e da conquista, navegação, comércio de Etiópia, Arábia, Pérsia e Índia, faço saber ...". All translations are mine.

2 Bluteau, Rafael. *Vocabulário português, e latino* See: "Conquista"; "Senhor".

3 Horta, "A Guiné do Cabo Verde", p. 41 et *passim*.

‘the district of this captaincy along the mainland coast begins at the Sanaga River and ends at the Casses River, where the district of Sierra Leone begins’, which characterised the Coast of Guinea.⁴ As Zelinda Cohen argues, the incorporation of this region as a district of the Captaincy of Cape Verde aimed to highlight the ability of the island authorities to intervene in what was happening on the continental portion, where the Portuguese monarchy faced significant resistance—both from local rulers and its own vassals—in implementing its administrative mechanisms.⁵ Therefore, based on official documentation from the Portuguese Crown, one can see Portugal’s desire for lordship and control over this point of the African coast.

However, on the ground, the reality was more complex. In the annual letter written on 1 January 1610, on the island of Santiago, Cape Verde, the Jesuit Father Baltasar Barreira reported the conditions in which Portuguese traders lived on the West African coast between present-day Senegal and Sierra Leone. The Jesuit lamented that “the Portuguese living in these ports are in great submission, and they suffer tyrannies from kings and others who govern the land, just to live there at their will and leave the land rich, even at the risk of losing everything in one day”.⁶ A few years later, in 1623, an English merchant reiterated this observation, stating that “the conditions that [the Portuguese *lançados*]⁷ live subject unto, under the black kings, make it appear they have little comfort in any Christian country”.⁸ Such findings raise questions about the early Portuguese presence in West Africa, inviting us to analyse the forms

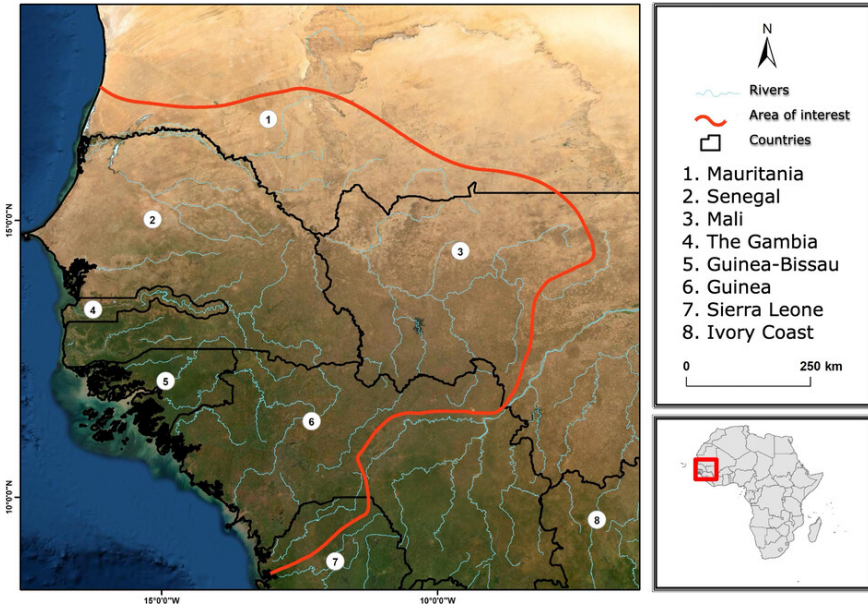
4 Cohen, “Administração das ilhas de Cabo Verde e seu distrito no segundo século de colonização (1560–1640)”, 193. Original: “que ‘a Capitania do Cabo Verde compreende a Ilha de S. Thiago com as mais adjacentes’ [and] admitia mais à frente que ‘o distrito dessa Capitania pela costa firme começa no Rio Sanagá e acaba no Rio dos Casses, onde começa o distrito da Serra Leoa”.

5 Cohen, “Administração das ilhas de Cabo Verde e seu distrito no segundo século de colonização (1560–1640)”, 192–194.

6 Annual letter from Father Baltasar Barreira to the Provincial of Portugal, in Brásio, *Monumenta Missionaria Africana, África Ocidental*, serie 2, vol. 4, 383. Original: “é grande a sujeição em que vivem os portugueses destes portos, e as tiranias que sofrem dos reis, e dos mais que governam a terra, só por viverem à sua vontade e por sair dali ricos, ainda que a risco de perder tudo em um dia”.

7 *Lançados* were those who had removed themselves from the Portuguese jurisdiction and unofficially settled in African lands, without legal authorisation from the Crown. The features of Portuguese *lançados* are a hot topic in the historiography concerning the early Portuguese presence in West Africa. See Soares, “Os Lançados nos Rios da Guiné: século XVI–meados do século XVII”; Nafané, “Lançados, Culture and Identity: Prelude to Creole Societies on the Rivers of Guinea and Cape Verde” and Cook, “The Silent Tangomão”, 24–62.

8 Jobson, *The Golden Trade*, 98.



MAP 3.1 Greater Senegambia. Greater Senegambia, formed by the basin of the Senegal and Gambia rivers and, to the south, the Kolonté river, whose headwaters are in the same region as the two rivers that flow to the north.
Note: Mota, “O Islã na África Atlântica: transformações no significado de comportamentos religiosos”.
 MAP BY THE AUTHOR

of access, control and use of African lands made available to European foreigners, against the idea of Portuguese lordship over them.

In this Chapter, my goal is to demonstrate how the Portuguese who settled on the African coast were subjected to local African normative regimes, related to the ownership and control of land, and the implications of this for other kinds of properties held by foreigners during the 16th and 17th centuries. The area under study comprises the basin of the Senegal and Gambia rivers, extending from the south of present-day Mauritania to the north of Sierra Leone, the “Greater Senegambia”, as shown in Map 3.1. Contrary to the idea of Portuguese lordship or conquest in this portion of Africa in the Early Modern period, my argument builds on previous scholarship about dependency and reciprocity between African landlords and their guests.⁹ Methodologically, this investiga -

9 On reciprocity, see Brooks, *Eurafricans in Western Africa*; Green, *The rise of the Trans-Atlantic Slave Trade in Western Africa*, 84; Mark and Horta, *The Forgotten Diaspora* 6i; Malacco, *A Senegâmbia e o Atlântico*, 75–79.

tion is based on the examination of oral and written sources. The former comes from African oral traditions, available at the *National Center for Arts and Culture*, an important archive of oralities in the Republic of The Gambia. The latter includes several textual genres produced by Europeans and Portuguese descendants from Cape Verde.

This Chapter is placed at the intersection of African and Portuguese Empire historiography. Its contribution involves an analysis of the Portuguese presence in West Africa emphasising intercultural relations in a bottom-up historical approach. Through such methodology, my main goal is to demonstrate the significance of recognising local normative cultures for a better understanding of ownership regimes in the Iberian empires, revealing the role of African agency. My point is that the key element for comprehending the norms governing Portuguese properties in Africa should be sought within African normative cultures, rather than Portuguese or broader European laws. This argument states that foreign agents were entirely subjected to the control exercised by local rulers. European merchants and practical connoisseurs of African societies in the period used to state that the Portuguese were guests in foreign lands, as asserted by the Cape Verdean merchant Francisco de Lemos Coelho, in the mid-17th century.¹⁰ Thus, their relationships were imbalanced in favour of African powers, which authorised a European presence through rights concessions that could be revoked at any time.

This observation differs from the notion of “conquest”, which granted rhetorical and political legitimacy to the concept of “Portuguese Empire”. Of course, the idea of an empire ruled from Lisbon and able to impose its will over peoples on several continents is no longer accredited, and historians have more sophisticated tools to approach the relationship between Portuguese agents and local powers, traders, religious authorities, and common folks along the extension of the Portuguese presence across the world. However, these understandings are most often brought to debate by the historiography concerned with the empire’s periphery, like Africanist, Brazilianist, and Asianist historians.¹¹ The longstanding influence of Charles Boxer’s *The Portuguese Seaborne Empire*, first published in 1969 and based on an approach that neglects the role African societies had during the building of such an empire, reinforces the need for this Chapter. In Portuguese-written scholarship, for instance, the argument intro-

10 Lemos Coelho, *Discripção da Costa de Guíne e Situação de todos os Portos e Rios dela ...*, 92–93.

11 For example, see Candido, *Wealth, Land, and Property in Angola*; Bastias Saavedra, “Decentering Law and Empire”.

duced here is far from hegemonic. The fact that Boxer's book was re-edited in Portugal in 2018 illustrates how a Luso-centric perspective is as strong as ever.¹²

My approach begins with the question: how were Portuguese merchants, clergy, administrators, and *lançados* incorporated into African societies regarding property custody, housing, concession, and land use? To answer this, I first address theoretical questions concerning land and labour studies in pre-colonial Africa. I then present local agrarian regimes considering West African oral traditions. Following that, I explore the interplay between justice and orality in Greater Senegambia. Finally, I use the insights gained from the latter topics to provide a fresh perspective on European-written sources, particularly regarding the Portuguese presence in the region. Such an approach leads to my contribution, which states that understanding the ownership regime applied to Europeans on the African coast is contingent on knowledge of African normative cultures on its own terms, available by crisscrossing written and oral information.

This Chapter thus analyses how land ownership regimes in Senegambia were intertwined with local norms. This approach is relevant in recognising the primacy of local institutional forms of land control in regions colonised by Portugal worldwide. I propose that studies on land tenure in Africa be framed within local normative categories rather than exclusively relying on European colonial legislation. By decentring Iberian jurisdictions as the only lens through which to view ownership regimes in Africa and elsewhere, we open new avenues for addressing a latent issue in societies of colonial origin: the appropriation of indigenous lands, continually legitimised by a historiography focused on the dynamics of European legislation to the detriment of indigenous political and normative cultures. As demonstrated in the introductory chapter of this volume, this system of ideas is based on the principle of European exceptionalism and is a rhetorical device used to justify the expropriation of indigenous lands in the Americas, rooted in ideas proposed by John Locke.¹³ Overcoming this paradigm is an urgent task.

12 Boxer, *O Império Marítimo Português 1415–1825*.

13 See Bastias Saavedra (Chapter 1) in this volume.

2 Labour Control and Land Ownership in Africa

In the field of Africanist historiography during the Early Modern period, also known as precolonial African history, studies on land ownership and control occupy a marginal position. The exploration of agrarian issues in Africa largely emerged from European colonial policies on the continent that started in the 1880s.¹⁴ In his seminal study of economic transformations in precolonial Africa, with a focus on Senegambia, Philip Curtin extensively examined trade, its routes, agents, products and currencies, as well as its internal and external dimensions. While the economic dynamics of the region, including land usage, are central to Curtin's argument, he did not delve into land control as a pivotal element of economic production. This absence can be traced back to the assumption that the abundant availability of land would have driven African social and political systems to prioritise labour control. Once land was considered by historians as abundant, communal and widely accessible, dominance over people became the primary factor in generating wealth.¹⁵

Building on this premise, John Thornton posited that, before the 19th century, access to land in Africa had a communal characteristic, making the control of labour the primary driver of wealth production. Thornton argued that European records of the time reflected land ownership in Africa because European chroniclers could not conceive of any other arrangement.¹⁶ He acknowledged "state ownership or at least corporate control by the state",¹⁷ arguing that those who were introduced in European sources as landowners were indeed dependent on the political authority. Thornton concludes, "hence, rather than being private estates where tenants were charged rents, the nobles' 'lands' in Sierra Leone were revenue assignments".¹⁸ He makes his point clear: "we have good reason to believe that Africa did not have a small property, that is, plots

14 Berstein, "Rural Land and Land Conflicts in Sub-Saharan Africa".

15 Curtin, *Economic Change in Precolonial Africa*.

16 Thornton, *Africa and Africans in the Making of the Atlantic World*, 76: "Sixteenth- and seventeenth-century European observers were fully aware that African societies were both politically and economically inegalitarian and that these inequalities were represented in social and legal structures. But their understanding of those social and legal structures was usually shaped by European terms and the institutions they represented. Thus, although some recognized the absence of landed private property, many made Africans into landholders in spite of themselves. [...] European witnesses, after all, came from an area where the concept of landownership and income based on its lease to tenants was the fundamental starting point of law."

17 Thornton, *Africa and Africans in the Making of the Atlantic World*, 80.

18 Thornton, *Africa and Africans in the Making of the Atlantic World*, 81.

of land owned by cultivators or let out to rent by petty landlords, just as it did not have great property".¹⁹ Connecting the dots, Thornton addresses the role of slavery:

It is precisely here, however, that slavery is so important in Africa, and why it played such a large role there. If Africans did not have private ownership of one factor of production (land), they could still own another, labor (the third factor, capital, was relatively unimportant before the Industrial Revolution). Private ownership of labor therefore provided the African entrepreneur with secure and reproducing wealth.²⁰

In the historiography he engaged with, this conception of land justified a slave-based system of production, where ownership of a product did not correspond to the owner of the land but rather to the one controlling the labour force. The principle of "control over people" is widespread among scholars and, as highlighted by Assan Sarr, has its roots in colonial officials and anthropologists. Along with the colonial science on Africa, this interpretation was supported by an analytical framework developed to address the Russian territorial expansion and spatial control. In Russia, the abundance of land purportedly motivated servitude systems as a means of adding labour to the land, thereby ensuring agricultural productivity, tax collection, and social control over productive space. In Africa, this model was adapted by replacing servile relationships with slavery, due to anthropological scepticism regarding land's inherent ownership.²¹

Thornton embarked on this idea to find a better explanation for slavery in Africa. Thus, he asserted that African law accepted the property of enslaved people instead of the ownership of land. This was seen as a norm that, while distinct from the European system where land ownership was allowed, still made room for the private ownership of products resulting from labour. However, European travellers and chroniclers were not oblivious to the realities they observed, nor were they exclusively influenced by a European environment where land was always privately owned. As Manuel Bastias Saavedra has discussed, land ownership in Europe was not universally characterised by private property until the late 18th century. Both in Europe and Africa, land management was governed by a complex web of social ties and local rights, ensur-

19 Thornton, *Africa and Africans in the Making of the Atlantic World*, 84.

20 Thornton, *Africa and Africans in the Making of the Atlantic World*, 85.

21 Sarr, *Islam, Power, and Dependency in the River Gambia Basin*, 3–5.

ing various forms of communal land use and tenure.²² Then, the idea that European documentation imposed a particular land ownership regime onto African contexts primarily stems from a misinterpretation of contemporary land ownership regimes in Europe. Even if written sources were merely projections of European perceptions onto Africa, they would still allow for the description of various forms of social relations regarding land.

Thornton's point about land as state ownership aims to make a case that opposes individual and communal use of land. He argues that those presented in European sources as landowners "did not obtain their territorial jurisdictions by heredity, could not sell or alienate it, and could not pass it on to their progeny (so it was clearly not 'theirs'). Instead, it was given to them by the kings as a source of income while they served him as officials."²³ However, other scholarships lead to another direction. Robert Baum's research among Diola people in Greater Senegambia reveals that "paddy land was individually owned but was often worked by brothers, together with their wives and children. Most rice paddies were passed down from a father to his sons, though a small number were inherited by daughters from their mothers."²⁴ Also, Walter Hawthorne cross referenced contemporary data with 17th-century documents to argue that though fathers used to give land to their sons when they married, the inheritance system favoured the elder son. Hence, patterns of migration and the opening of new fields could emerge when disputes could not be settled by consensus.²⁵ Both of these reveal that land could be transmitted within a familyhood and was an important economic resource. As Sarr posits, there was no contradiction between individual/family use and communal/state control over land.

Engaging with these viewpoints, recent scholarship has thickened the challenge against the prevailing narrative. Crislayne Alfagali, through her examination of land conflicts in 18th-century Angola, demonstrates how control over land was a significant concern for local leaders and how local norms in Central West Africa were acknowledged by Portuguese agents at the time. In the context of establishing an iron factory in the Ilamba region of Angola's hinterland, Portuguese records indicated that the land "belonged, in the political and economic sense,"²⁶ to local rulers who held the title of *soba*, according to Alfagali.

22 Bastias Saavedra (Chapter 1) in this volume.

23 Thornton, *Africa and Africans in the Making of the Atlantic World*, 81.

24 Baum, *Shrines of the Slave Trade*, 29.

25 Hawthorne, *Planting Rice and Harvesting Slaves*, 47–48.

26 Alfagali, "Conflito de terras nos sertões de Angola", 8. Also see Alfagali (Chapter 9) in this volume.

She reveals how Portuguese interests were directed towards lands belonging to others and managed in accordance with local norms. Consequently, disputes arising from claims over these lands demanded consideration of local African justice.

Alfagali also illustrates Portuguese administrators' acknowledgment of Ambundo people's customs by documenting instances where the Governor of Angola doubted settler residents who asserted they had purchased land from the *sobas*. This doubt stemmed from the fact that "no *soba* could have carried out this negotiation because 'commonly the *sobas* cannot sell their land because they are a kind of *morgado*'";²⁷ as acknowledged by Governor Francisco de Sousa Coutinho. Alfagali argues that the term "morgado" was used by the Governor due to its similarity to the notion of kinship and the transmission of titles among the Ambundo people. In Portugal, *morgados* were "tied assets that the successor possesses precisely without the ability to alienate or divide, in the same form and order as declared by the founder". The use of this term to describe the situation in Angola indicates that "the Governor believed that land ownership was governed by kinship rules in a sort of African *morgado*".²⁸

Although Portuguese strategies in the regions of Senegambia and Angola differed considerably and underwent transformation between the 16th and 18th centuries, local African elites played significant roles in both realms.²⁹ The concessions of land rights, resistance to Portuguese interests and occupations and various negotiations all unfolded within the framework of local normative cultures and in adherence to local African customs. Therefore, it is imperative to revisit primary sources to challenge the paradigm that relegated land to a secondary position in the West African political and economic system. Drawing inspiration from Alfagali's work, this Chapter illustrates how an understanding of juridical systems in Greater Senegambia and its local norms related to land ownership is imperative to comprehending the Portuguese presence in the region, which was only made possible through concessions by local authorities.

27 Alfagali, "Conflito de terras nos sertões de Angola", 9.

28 Alfagali, "Conflito de terras nos sertões de Angola", 14.

29 This Chapter addresses cases from Greater Senegambia, including Guinea-Bissau. For Mozambique and Angola, see Rodrigues, *Portugueses e Africanos nos Rios de Sena, Carvalho, Sobas e homens do rei*, Candido, "Conquest, occupation, colonialism and exclusion: land disputes in Angola", 223–235.

3 Land Control in West African Oral Traditions

Oral traditions serve as crucial historical records for various regions of Africa.³⁰ In the field of professional historiography, Jan Vansina's 1961 *De la tradition orale: Essai de methode historique* broke new ground by positing the oral tradition among credible sources for history through sophisticated methodology that considered its nature, forms of transmission, textual framework and symbolisms and poetics, the role played by memory and, of course, its limits.³¹ However, oral sources differ substantially from written sources, which originate from the past and bear witness to it. Oral historians generally agree that these oral documents are not dormant in the archives of memory, awaiting someone's interest. Instead, they are actively produced during the act of narration, even though they draw upon cultural learning and memory.³² Narrated traditions imbue the past with meanings closely connected to the present. Nevertheless, societies organised around orality have structures that adapt to innovations, embracing change when necessary but avoiding it when possible. For instance, the public context of narration and the social validation of the narrated events are crucial elements to consider when analysing this type of documentation.

However, the primary motivation for turning this chapter toward oral traditions is not merely a desire to extract factual African information about the past; the reliance on orality is driven by the need to identify categories native to African societies for the purpose of reflecting upon and constructing their own historical narratives. Concerning land control and ownership, I am looking for local tenets and institutions transmitted orally that set local normative regimes. Far from being mere repositories of the past, these traditions are intellectual productions aimed at guiding the present by drawing on connections to the past. These connections are often conveyed through the organised and systematic transmission of knowledge from one generation to the next and are conventionally referred to as tradition. Thus, the application of this knowledge helps us to understand the agrarian structure in Greater Senegambia and provides us with insights guided by African social norms that allow a re-reading of early European written sources.

Oral documents used in this chapter are available at the National Center for Arts and Culture (NCAC), an oral archive located in Fajara, The Gambia. A similar archive once existed in Guinea-Bissau but was tragically destroyed during the civil war of 1998–1999. Today, the NCAC is a pivotal institution for preserving

30 Ba, "A tradição viva".

31 Vansina, *Oral Tradition: A Study in Oral Methodology*.

32 Ferreira and Amado, "Apresentação", xiv.

the historical memory of Greater Senegambia, as its collection of oral traditions encompasses not only the history of The Gambia but that of the entire region. While most of the oral documents available originate from The Gambia, there are narratives from Senegal and Guinea-Bissau as well. The collection comprises traditions gathered mostly between the 1950s and 1980s.

Today, the original oral texts were recorded and transcribed. They are often bilingual as the interviews were conducted in the languages of the interviewees (Mandingo, Wolof, Fula, among others) and subsequently translated into English. The collection has been digitalised and is expected to be available online in the coming years.³³ Access to this archive enables historians to re-evaluate European sources in light of African perspectives, offering fresh approaches to writing the history of Africa and for the Portuguese presence in Africa, thereby moving beyond the myth of “five centuries of colonisation”³⁴—which continues to frame non-specialists’ historical imagination about the relationship between Portugal and its former African colonies.

For the writing of this Chapter, I have methodically analysed nine narratives, orally collected in The Gambia between 1972 and 1978, using transcripts from the NCAC collection. These texts were selected from the catalogue available at the NCAC, focusing on narratives related to the political history of pre-colonial states in the region, such as Kaabu, Fulado, Kombo, Wuli, and Chadu. Through an intensive examination of this *corpus*, several categories linked to local agrarian law were identified, including the conditions for land occupation and the social relationships associated with land tenure. These categories emphasise the central role of territory in the oral traditions, be it a category for state political power or a domain held by local families and communities.³⁵

Land as state territory and as socially defined political and economic resources are intertwined categories. In Mandingo oral traditions, the 13th century emerges as a transformative period as most Mandingo people, the predominant people in present-day Gambia, reference it as the moment of their migration from the Mali Empire towards the east. In the official ethnic memory, they were led by the renowned Mandingo conqueror Tiramakang Traore—an event seen as seminal, marking Mandingo presence in Greater Senegambia. Conversely, many family oral traditions suggest a gradual movement of

33 <https://ncac-national-digital-archive.blogs.uni-hamburg.de/>. Accessed 11 August 2022. I would like to thank Hassoum Ceesay and all his team working at NCAC, Fajara.

34 Pélissier, *História da Guiné*, 23.

35 I would like to thank Maria Raquel Morais Fernandes, a History student at the Federal University of Viçosa, who received a CNPq scholarship in a Scientific Initiation project and whose final conclusions supported the analysis in this section.

Mandingo families occurring long before Tiramakang's conquests. These early "settlers" established homes among pre-existing communities, likely the Bainunk people, engaged in interethnic marriages and forged novel relationships with neighbouring communities well before the military conquests deemed as foundational.³⁶

These narratives display distinct meanings for land ownership legitimacy. The first one argues that a military conquest made the governorship possible, settling a territory under Mandingo rule. However, Mandingo rulers were unable to dispossess local settlers, as they did not have rights over land, which was managed by local institutions. The second tradition states that land rights were achieved through social ties, like marriage, which integrated some Mandingo migrants into local societies and, hence, allowed them to access land through local institutions.

This context explains why encounters between Mandingo populations and the indigenous peoples of Greater Senegambia, particularly in the Gambia River region to the south, are depicted in oral narratives as fraught with disputes over land dominance. Expressions, such as "we own the land",³⁷ "this land is our inheritance",³⁸ or "we are the owners of the land",³⁹ manifest local concerns with constructing a historical narrative that secures present-day land usage. The legitimacy of this usage is rooted in the history of land occupation and its disposal as an important economic resource. The term "settled" describes those who initially occupied a particular place, whether by founding villages or developing family lineages associated with territorial dominance.

Oral traditions indicate that the legitimacy of land ownership can be the result of social, political, and military conquest. The granting of land use to others and its access through inheritance, marriages, or other social mechanisms signify the acquisition of the resource as a social conquest. This elucidates why Mandingo family traditions advocated for a peaceful migration to Senegambia, highlighting how Mandingo people intermingled with local inhabitants and gradually gained land ownership rights. The topic of military conquest by Tiramakang's army remains a prevalent memory, as the rhetoric of African imperial power and the legacy of ancient Mali hold deep and extensive roots in West Africa, portraying Mandingo people as possessing noble origins.⁴⁰ Nev-

36 Sidibé, *A Brief History of Kaabu and Fuladu (1300–1930)*, 14.

37 National Center for Arts and Culture/Oral History and Antiquities Division, Research and Documentation Division, (hereinafter NCAC), Folder 3346B, 52.

38 NCAC. Folder 487B, 17.

39 NCAC. Folder 163A, 12.

40 Gomez, *African Dominion*.

ertheless, land domain and its legitimacy derive more from social conquest, recognised according to local norms, than from military acquisition.

Narratives that explore the life of Alieu Malali, the father of Alpha Molo, the Fulani leader who established the Fulado State between Upper Casamance and Guinea-Bissau, reflect conflicts related to the legitimacy of land control through conquest. These narratives suggest that the Fula people from Futa Jalon, in present-day Guinea-Conakry, feared losing their governing rights due to the lack of public acknowledgement of their land ownership.⁴¹ In essence, they conquered the territory politically and militarily but recognised that the land did not belong to them, in accordance with widely accepted local customs. Given that the Fula military conquests occurred between the 18th and 19th centuries, their social legitimacy had not yet been firmly established through integration with indigenous peoples in the late 19th and early 20th centuries, in contrast to the Mandingo political expansion in the 13th century which was well-integrated in local norms by the 18th century, when Fula newcomers obtained power.

The local norm that governs these perceptions regarding land legitimacy before the Mandingo and Fula peoples is based on the conditions that allow a foreigner, whether European or African, to settle in a particular location. In this process, two elements assume central importance in oral traditions: access to unoccupied land, often described as “turning the bush into land”, and permission granted by a local authority for the foreigner to settle there. In the first case, the act of “clearing the land” represents the cornerstone of the right to occupy a location through prior claim. In the second case, recognition of the local authority, who possesses the socially acknowledged prerogative of managing the territory and its resources, plays a pivotal role in granting or denying land access to others.

The phrase “clearing the land” signifies a method of appropriating natural space, establishing territorial claims and thereby subjecting it to local norms. This concept is evident in narratives of the occupation of places, such as Bakau, Gambia: “the way they found [the space], people formed their places, they also settled in that way, everyone cut their bush”, that is, they cleared a space which became theirs.⁴² Similar stories emerge regarding Basee Tenda, where the entire area was once wilderness, but the act of clearing and settling transformed it into a habitable space: “at that time, the whole place was a bush. Basee Tenda was a bush. Our father cleaned Basee Tenda. When he cleared, he

41 NCAC. Folder 490A-02, 14.

42 NCAC. Folder 419A, 16.

settled in Basee Tenda.”⁴³ This concept also applies to the narratives concerning the Sanneh and Manneh family lineages, marking the expansion of the Mali Empire: “when Tiramakang arrived in this land, he raised it into a village, [...] Until then, it was just a bush.”⁴⁴ The underlying idea is that the land belongs to those who first occupy it.

Authorisation from a local power plays a vital role when foreigners wish to establish themselves in an already inhabited land. Such permission must align with the norms of the community. This aspect is particularly relevant to the arrival of Europeans who sought to settle in African lands during the 16th and 17th centuries. Identifying the legitimate owner of the land or the authority responsible for the community, to whom the foreigner should make contact and form a bond, is a recurring theme in several narratives. The trajectory of Malali serves as an enlightening example, as he journeyed through various places but faced rejection until reaching a region located between The Gambia and Guinea-Bissau known as Chadu, where he was *permitted* to settle.⁴⁵

Numerous oral accounts describe how the head of a community grants land to foreigners, either permitting or forbidding the occupation of specific land parcels. The criteria for granting or denying access to land can encompass physical or metaphysical aspects, indicating various forms of interaction, coexistence and segregation between humans and non-humans. For instance, in Basee Tenda, Gasamma-Jimintee prevented Arfang Musa from occupying certain land due to the presence of a spirit, redirecting him to an area free from spiritual restrictions.⁴⁶ Therefore, oral traditions assert that non-human agency can substantially influence the right to occupy a particular place. Moreover, this recognition requires careful consideration to prevent the categorisation of lands inhabited by spiritual entities as unproductive or unoccupied. The rights attributed to non-human beings integrate them deeply into local social and political dynamics, as well as into the land they inhabit.

In his work on land control in the Gambia River basin, Sarr highlights that human occupation in some regions was restricted due to spiritual prohibitions. Although these areas were fertile and resource-rich, human occupation was prohibited because they were inhabited by spirits, which were to be avoided due to the potential for dangerous interactions. However, with the spread of Islam in the region, Sarr argues that these forbidden lands were eventually occupied through spiritual battles waged by Muslim preachers, known as *mar-*

43 NCAC. Folder 346B, 4–5.

44 NCAC. Folder 553, 43.

45 NCAC. Folder 490A-02.

46 NCAC. Folder 346B, 6–8.

abouts, against the spirits inhabiting those areas. After the Muslims' victory and the expulsion of the spirits, new villages were established in formerly forbidden forests.⁴⁷ Building upon Sarr's argument and the example cited earlier, it is evident that interactions between humans and non-humans form an integral part of the local norm in West Africa, necessitating their consideration in the analysis of land ownership regimes and their implications on the local normative culture.⁴⁸

In addition to the spiritual conquest of land facilitating the expansion of Islam in Greater Senegambia, the concession of territories by local rulers played a fundamental role in the establishment of the Islamic State of Bundu, located along the upper Senegal River in the late 17th century. Malick Dauda Sy was a prominent Tucolor ruler and a key figure in the *jihad* that founded Bundu as an imamate in 1695. Sy, whose known biography is mostly derived from oral tradition, is depicted as a distinguished *marabout*, surrounded by disciples and recognised for his religious devotion. Born to a Muslim leader, he received his initial Islamic education from his father.⁴⁹ Later, he attended the madrasa or Koranic school in Pir, near present-day Tivaouane, Senegal, and left for Mauritania, where he finished his Islamic training.⁵⁰

Upon returning to Bundu, Sy dedicated himself to Islamic teaching and founded a community on a parcel of land granted by the *tunka*, the ruler of the Gajaaga polity in the upper Senegal River.⁵¹ By surrounding himself with *talibes* (disciples), Sy sought to consolidate his political strength and create a network of dependency relationships centred around the land he had been granted.⁵² He achieved this position by attracting *talibes* to whom he would teach the Koran and Islamic tenets. Thus, they would live with him and farm on his land, which made it more productive and allowed Sy to accumulate a surplus, further applied in overpassing the Gajaaga's ruler through a *jihad* declared in 1695.⁵³ Sy distinguished his new cluster from the *tunka's* network, where he held a subordinate position. In this example, land conquering was legitimate if there was a local Muslim community to appreciate it due to the newly introduced Islamic norms.

47 Sarr, *Islam, Power, and Dependency in the River Gambia Basin*, 89, 102.

48 On the different ways in which non-human agencies affect ownership, see also Bastias Saavedra (Chapter 1) in this volume.

49 Curtin, "Jihad in West Africa: Early Phases and Inter-Relations in Mauritania and Senegal", 18.

50 Ka, *École de Pir Saniokhor*, 96–98.

51 Ka, *École de Pir Saniokhor*, 96–98.

52 NCAC. Tape 132/A, 3–4.

53 Klein, "Social and economic factors in the Muslim Revolution in Senegambia", 110–112.

At the state level, land ownership also played a significant role in granting rights to pass through the land, settle, or collect resources. According to oral traditions, when a territory served as the sole or primary access point to other locations, people—particularly traders—needed authorisation, often involving payment, to traverse it. These dynamics influenced conflicts and alliances formed in the region. Traders travelling through West Africa—as recounted by Muso Singhate, an 81-year-old man knowledgeable on The Gambia's history—paid taxes, the amount of which “depends on the type of wealth, and who orders them to pay is the owner of the village”.⁵⁴ Similarly, land productivity and territorial resources, such as water, were subject to taxation, as described by Mbalefele Janneh, a resident of Bakau, The Gambia, well-versed in the region's history. Residents of Banjul, for instance, were required to pay tribute to Mansa Kabu for the founding of the island. In Niumi, a cluster of villages at the mouth of the Gambia River, dwellers “paid Mansa of Niumi for the river. [...] for the bounties of the river”.⁵⁵ Here, “Mansa” is a title for the ruler.

In conclusion, African oral traditions clearly demonstrate that land, even if not treated as personal property that could be bought or sold, was held under someone's control. These narratives acknowledge land ownership and show that it was a resource entwined in political networks and governed by local laws. Either as a territory ruled by a sovereign or as an economic resource controlled by community, family, or local potentates, the land was under local ownership regimes. Consequently, access to it by explorers, be they European or African, fundamentally depended on their engagement with this complex web of social, political, and economic relationships, and their submission to local normative culture.

4 Justice and Orality in Greater Senegambia

The most basic questions concerning how West African societies functioned during the first centuries of contact with Europeans involve their juridical systems. How was justice produced? How was it limited? Could despotic rulers apply their will without any constraints? What normative context did the Europeans get into? To address them, we must recognise that most West African societies have cultivated normative cultures rooted in orality, as shown above. Consequently, grasping how justice operates through local traditions and insti-

54 NCAC. Folder 163A, 81.

55 NCAC. Folder 419A, 05.

tutions, passed down orally across generations, becomes essential for comprehending the dynamics related to the ownership of movable assets and land.

Portuguese sources about West Africa show how oral administration of justice was closely intertwined with gerontocracy. As described by the chronicler and merchant André Álvares de Almada, who extensively documented the societies of Greater Senegambia in the 1590s, governance in the region's political entities was overseen by chiefs supported by the elders of the land, "who are much obeyed by all the nations of the black people and to whom they always give a hand".⁵⁶ Among the Mandingo people of Casão, present-day Kasang on the northern shore of the Gambia River, Almada noted that "the judgements of this land of the Casangas are made the same way as on the Coast, before the King or Lord of the land, with some old men who serve as judges, and then they verbally give their sentences; the parties state their reasons and give witnesses without any delay".⁵⁷ It is their knowledge of local norms that empowers these elderly individuals to dispense justice effectively.

Within the Wolof communities, the predominant ethnic group in Senegal and widespread throughout Greater Senegambia, Almada emphasised the pivotal role of elders as custodians of order and actors in the administration of justice: "among these people in this nation, like the others we have discussed, there are judges, who are determined by the Kings with the elders, who are like judges, or by the governors of the places, always assisting with them the old and ancient men."⁵⁸ Similarly, on the Bijagós Islands in present-day Guinea-Bissau, people also "obey their elders".⁵⁹ By virtue of the roles they assumed, elders exercised direct influence over community decisions and the evolution of social interactions. In the region encompassing present-day Sierra Leone, as noted by the Jesuit priest Manuel Álvares in his memoir penned between 1607 and 1615, all people were "obstinate in following the example of their par-

56 Almada, "Tratado Breve dos rios da Guiné do Cabo Verde ...", 235–236. Original: "pelos velhos da terra, os quais são muito obedecidos de todas as nações dos negros e lhes dão sempre a mão".

57 Almada, "Tratado Breve dos rios da Guiné do Cabo Verde ...", 293. Original: "os juízos desta terra dos Casangas fazem-se como na Costa de que já tratamos, diante do Rei ou Senhor da terra, com alguns velhos que servem como desembargadores, e logo verbalmente dão suas sentenças; as partes alegam suas razões e dão testemunhas sem dilação nenhuma".

58 Almada, "Tratado Breve dos rios da Guiné do Cabo Verde ...", 262. Original: "entre estes desta nação, como os mais de que tratamos, há juízes, os quais são determinados pelos Reis com os velhos, que são como desembargadores, ou pelos governadores dos lugares, assistindo sempre com eles os homens antigos e velhos".

59 Almada, "Tratado Breve dos rios da Guiné do Cabo Verde ...", 316. Original: "dão obediência aos mais velhos".

ents; and so they say: I'm going where my father walked, fulfilling the journey of life".⁶⁰

Regarding the formalisation of normative proceedings, the Cape Verdean merchant André Donelha provided a significant account of the justice system in the village of Casão. In his memorial dedicated to the Governor of Cape Verde, Francisco Vasconcelos da Cunha, dated 1625, Donelha painted a vivid picture of the venue where justice was administered—the house of the *sandequil*, or Duke of Casão in Iberian terminology. The place was a “square house, made of adobes, very white, with a fence around it”,⁶¹ built in the Mandingo style in a predominantly Muslim region.⁶² More than 50 men patiently awaited their audience at the entrance, seeking a resolution for their disputes from the ruler and his aides. Guided by Gaspar Vaz, a Mandingo man acting as a local intermediary, Donelha made his way into the enclosure. As he moved among the litigants, he eventually reached the *sandequil*.

Within the audience area, Donelha recounted that “only the duke was in the house, sitting on a three-step platform”.⁶³ Then, “alongside him, on the second step, two old men were sitting, one on his right and one on his left, who were judges; on the first step were two other old men, one on one side, one on the other, who served as lawyers”.⁶⁴ The *sandequil* invited the foreign trader to sit directly opposite him, marking the commencement of the proceedings. Donelha vividly described the proceedings:

Two litigants entered, plaintiff and defendant, each bowing with his right hand on his chest and his turban in his left, without saying a word. An old man, the author's lawyer, spoke with his eyes on the duke; the defendant's lawyer soon replied; the plaintiff's lawyer and the defendant's lawyer spoke again, and they fell silent. The duke, very still, turned to the judge who was on his right and this one said what he thought, and he turned

60 Álvares, *Etiópia Menor e Descrição Geográfica da Província da Serra Leoa*, 63. Original: “são ferrados muito do exemplo de seus progenitores; e assim dizem eles: vou por onde caminhou meu pai, cumprindo a jornada da vida”.

61 Donelha, *Descrição da Serra Leoa e dos Rios de Guiné do Cabo Verde*, 150. Original: “casa quadrada, feita de adobes, mui alva, com um poial ao redor”.

62 Mark, “*Portuguese*” *Style and Luso-African Identity*, 51–53.

63 Donelha, *Descrição da Serra Leoa e dos Rios de Guiné do Cabo Verde*, 150. Original: “não estava na casa mais que o duque, assentado em um poial de três degraus”.

64 Donelha, *Descrição da Serra Leoa e dos Rios de Guiné do Cabo Verde*, 150. Original: “a par dele, no segundo degrau estavam assentados dois velhos, um à sua direita e outro à esquerda, os quais eram juizes; no primeiro degrau estavam outros dois velhos, um a uma parte, outro a outra, que serviam de advogados”.

to the other judge, who gave his opinion. The duke pronounced his sentence, without the lawyers or the parties saying a word. The parties, as they were, with their hands on their breasts, bowed. The winner went out through the door he had entered, telling how he had won; the loser went out through the opposite door and left. And two more went in, and the rest likewise, until the audience was ended.⁶⁵

Donelha's accounts illustrate how justice was efficiently administered in Casão in the early 17th century. This model, however, was not unique to this locale, as evidenced by the observations of Álvares and Almada. It exemplifies a system of justice grounded in local norms, passed down orally and presided over by the community's eldest members, who were renowned for their profound knowledge of local customs, often referred to as tradition. The legitimacy of the verdict is universally acknowledged because it hinges on the recognition of those who dispense justice as bearers of expertise in local norms. This underscores the institutionalised nature of how these societies resolved disputes, the roles allocated to those responsible for justice, and the accepted legitimacy of this process—recognised by litigants who sought these forums to address their concerns. Within this framework of normative institutions, grounded in local norms, one must seek the local interpretations of ownership, control and land concession in Senegambia.⁶⁶

5 Reframing Ownership Regimes

In 1610, Porto d'Ale (now Saly Portudal, Senegal) was under the administration of a Muslim *alcaide* (mayor). During this time, Jesuit priest Barreira visited the

65 Donelha, *Descrição da Serra Leoa e dos Rios de Guiné do Cabo Verde*, 152. Original: “Entraram dois litigantes, autor e réu, fazendo ambos cada um sua mesura, com a mão direita posta no peito e o turbante na da esquerda, sem falarem palavra. Falou um velho, advogado do autor, com os olhos para o duque; logo respondeu o advogado do réu; tornou a falar o advogado do autor, e o do réu, e calaram-se. O duque, mui quieto, virou para o juiz que estava a sua direita e disse o que lhe parecia, e se virou para o outro juiz, o qual deu seu parecer. O duque pronunciou sua sentença, sem os advogados nem as partes falarem palavra. As partes, assim como estavam, com a mão no peito, fizeram sua mesura. O vencedor saiu pela porta por onde entrara, contando como vencera; o vencido saiu pela porta contrária, e se foi embora. E entraram outros dois, e da mesma maneira os mais, até se acabar a audiência.”

66 As stated by António Correia e Silva, African powers remained largely independent of European ones during the period studied. Silva, “Cabo Verde e a geopolítica do Atlântico”, 11.

region, and he was warmly received by the local ruler. The *alcaide* embraced Barreira, “declaring that he was no less happy with [the visit] than the Portuguese”.⁶⁷ Porto d’Ale was a bustling commercial centre inhabited by Portuguese, English, French, and Dutch traders. It was a place marked by religious tolerance, where Barreira found the opportunity to conduct public sermons and even organise a procession.⁶⁸ As he noted, “because the King of that land and those who govern it and the natural inhabitants are Moors [i.e., Muslims], and [as] among them there are many Bexerins [preachers of the Koran], there was some human fears and opinions against [the procession]”.⁶⁹ Despite these reservations, Barreira went ahead with his plan, asserting that he was accompanied and respected by the Muslim community. His presence in the region was made possible by the local ruler’s permission, who benefited from the foreigner’s presence in his land. Barreira’s staying there, therefore, was a concession.

This story of local hospitality is also echoed in the account of Spanish Franciscan Mateo de Anguiano. When discussing the missionary work of Friar Serafim and his colleagues near Porto d’Ale, Anguiano mentions that the local ruler, after listening to the sermons of the religious, remained “determined in his sect of Mahoma”.⁷⁰ Despite this, this ruler “offered of his own free will to give them domicile in his court, lands to sow on and other things of the land.”⁷¹ Despite demonstrating the Muslim’s resistance to the proposal of converting to Catholicism, Anguiano exposes the local receptivity to foreign missionaries, who were granted housing and land to stay on and other facilities throughout the region.

Similarly, Donelha documented the open-mindedness of Wolof rulers in Atlantic coastal ports, including Porto d’Ale, regarding the presence of foreigners and religious diversity. In 1625, he stated that in that village lived “Por-

67 Annual Letter from Father Baltasar Barreira to the Provincial of Portugal, Brásio, *Monumenta Missionaria Africana, África Ocidental*, serie 2, vol. 4, 363. Original: “declarando que não se alegrava menos com [a visita] que os portugueses”.

68 Roteiro da Costa da Guiné (1635), Brásio, *Monumenta Missionaria Africana, África Ocidental*, serie 2, vol. 5, 288.

69 Annual Letter from Father Baltasar Barreira to the Provincial of Portugal, Brásio, *Monumenta Missionaria Africana, África Ocidental*, serie 2, vol. 4, 375. Original: “o Rei daquela terra e os que a governam e os moradores naturais são Mouros [i.e. muçulmanos], e [como] entre eles há muitos Bexerins [pregadores do Alcorão], não faltaram alguns temores humanos e pareceres em contrário [à procissão]”.

70 Anguiano, *Misiones Capuchinas en Africa*, 72. Original: “determinado em sua seita de Mahoma”.

71 Anguiano, *Misiones Capuchinas en Africa*, 72. Original: “ofereceu de sua própria vontade a dar-lhes domicilio em sua corte, terras em que semear e outras coisas da terra”.

tuguese Jews and Portuguese Christians, who are *lançados* there, to rescue [or trade in people], and French traders, but [the ruler] does not consent that there is a dispute about which of the laws [religions] is better”.⁷² This liberal approach by the ruler showcased the region’s acceptance of European presence and the coexistence of diverse religious practices, as the ruler declared that “each one should benefit from it, and live as they wish according to the law they have, and there should be no dispute, because they will be punished in his kingdom”.⁷³ The ruler, therefore, was lenient with the European presence, but demanded respect for the local free fair, where religious diversity was not allowed to be a problem.⁷⁴

In all these instances, the underlying reason for such hospitality, land grants, and rights extended by African rulers to European missionaries and merchants was primarily economic and aligned with local customs. It was not a case of European conquest along the African coast; rather, Europeans were reliant on the established local authorities. This pattern of relationship has been debated across the historiography based on what George Brooks called a sociocultural paradigm: the landlord-stranger reciprocity. Lost in antiquity, this pattern of behaviour guaranteed that “travelers were provided food, lodging, and security of possessions”.⁷⁵ On the other hand, Brooks continues:

[...] the behavior of strangers was conditioned by all of the foregoing; by the dread of spending a night in the bush bereft of the protection of a community; by dependence on hosts for food, shelter, access to commercial networks, land, and other resources; and by respect for the occult powers wielded by landlords through their associations with the spirits of an area, especially through the mediation of ancestors.⁷⁶

Considering the nature of this relationship, I do not agree that it is based on landlord-stranger *reciprocities*. Brooks’ statement, contrary to the concept of reciprocity that he bears, makes clear a *dependence* of strangers upon landlords. Even if those landlords profited from the benefits brought about by strangers,

72 Donelha, *Descrição da Serra Leoa e dos Rios de Guiné do Cabo Verde*, 128. Original: “judeus portugueses e portugueses cristãos, que andam lá lançados, a resgatar, e franceses, mas [o governante] não consente que haja disputa sobre quais das leis é melhor”.

73 Donelha, *Descrição da Serra Leoa e dos Rios de Guiné do Cabo Verde*, 128. Original: “cada um faça seu proveito, e vivam como quizerem na lei que tiverem, e não haja porfia, porque serão castigados no seu reino”.

74 Mark and Horta, *The Forgotten Diaspora*, 20.

75 Brooks, *Eurafricans in Western Africa*, 29.

76 Brooks, *Eurafricans in Western Africa*, 29.

there was only one direction in this relationship, which means the power was concentrated in the hands of the one with political control.

For instance, in 1610, Barreira reported a significant challenge faced by Portuguese traders: when a foreign trader died, the ruler of the territory where they had settled became the heir to their possessions. He noted:

When someone falls ill, if they understand that the disease is dangerous, they immediately surround the house, so that nothing is taken from it. And as soon as he expires, everything is immediately laid hold of, whether it be his, or belonging to absent people who had company with him. That's what happened to a rich man I met there, he died and was soon robbed not only of what he had at home, his own and parts of others, but because at that time a ship of his, which was very important, had arrived at the port, they soon seized it and everything it carried.⁷⁷

In 1625, merchant Donelha reiterated this narrative, noticing that “the *lançado* Christian and the Jew and the French who die, the king is his heir, and as soon as one of the said ones falls ill, if the illness is serious, then the mayor, who is called *falfa* there, surrounds his house and puts it under guard so that nothing can be taken from it”.⁷⁸ These accounts highlight that the permissions, land concessions and ownership rights of Europeans in African societies were under the local norm, which establishes that foreigners were dependent on rulers and these, in turn, were heirs of the former. Such a custom was under the watchful control of African rulers. The fact that the local ruler had the right to possess the goods of dead Europeans demonstrates how the territory control belonged to him. He had the right to welcome foreigners, grant them land for temporary use, be responsible for them and, finally, inherit the goods they left behind.⁷⁹

77 Annual Letter from Father Baltasar Barreira to the Provincial of Portugal, Brásio, *Monumenta Missionaria Africana, África Ocidental*, serie 2, vol. 4, 383. Original: “Em adoecendo algum, se entendem que a doença é perigosa, logo lhe cercam a casa, para que não se tire dela coisa alguma. E tanto que expira, imediatamente logo lhe lançam mão de tudo, ora seja seu, ora seja de ausentes que tinham companhia com ele. Assim aconteceu a um homem rico que eu ali conheci, morreu e foi logo esbulhado não somente do que tinha em casa, seu e de partes, mas porque naquele tempo acertou de chegar ao porto um navio seu, que importava muito, logo lhe lançaram mão dele, e de tudo quanto trazia”.

78 Donelha, *Descrição da Serra Leoa e dos Rios de Guiné do Cabo Verde*, 128. Original: “o cristão lançado e o judeu e o Francês que morre, o rei é seu herdeiro, e tanto que adoecem dos ditos, se a doença é grave, logo o alcaide, que lá chamam falfa, lhe cerca a casa e lhe põe guarda para dela não se tirar nada”.

79 Buono's discussion (Chapter 2 in this volume) on vacant inheritances and the treatment of the assets of deceased foreigners, shows how this was also a common doctrine in Europe.

This is a paramount point because what is at stake is the very nature of the Portuguese Empire. When the region of Greater Senegambia, described at the time as Guiné, was put under the administration of Cape Verde and requested as part of that empire, the control over properties owned by Portuguese subjects deceased on the coast was claimed by Portuguese institutions. As showcased by Zelinda Cohen, quoting a 1567 regulation, “it was the duty of the governors and treasurers of Cape Verde to appoint ‘an individual each year to go to the Rivers of said Islands, accompanied by another person acting as a scribe, to collect the estates of the deceased who had passed away in those rivers’”.⁸⁰ It is arguably acknowledged that Portugal was unable to impose any rule over African authorities. Moreover, it is clear now that such an empire could not control its own subjects’ properties either once they fell under local law.

These customs were not limited solely to Europeans traversing African territories. In the early 16th century, chronicler Valentim Fernandes recounted a technique employed in elephant hunting, elucidating the ceremonies that accompanied the triumph of successful hunters. This technique involved using a poisoned harpoon to wound the elephant and then tracking it to the location where it ultimately succumbed. However, a significant challenge arose in this practice: the elephant’s final resting place could often be situated at considerable distance from the site of the initial injury, potentially leading it into the jurisdiction of a different ruler. According to Fernandes, once an elephant had been wounded, “the black man follows it for a league, or two or more, to where it goes to die. And if the animal is going to another jurisdiction, the elephant might be taken, the hunter has to pay for it or they go to war for it”.⁸¹ In essence, this meant that if the elephant met its demise within the territory of another ruler, the hunter was obligated to remunerate that ruler for the rights to claim the killed animal on his land. Failure to do so could result in the elephant being seized or even trigger a conflict between the two groups.⁸²

Land ownership played a critical role in asserting control and rights over goods within that land. In the 1590s, Almada reiterated the report by Fernandes 100 years earlier, explaining that when hunting elephants, part of the meat of

80 Cohen, “Administração das ilhas de Cabo Verde e seu distrito ...”, 193–194. Original: “Aos provedores e tesoureiros de Cabo Verde competia ordenar ‘uma pessoa que em cada um ano vá aos Rios das ditas Ilhas com outra pessoa por escrivão, a fazer a arrecadação das fazendas dos defuntos que nos ditos rios falecerem’”.

81 Brásio, *Monumenta Missionaria Africana*, África Ocidental, serie 2, vol. 1, 735. Original: “o negro lhe segue uma légua, ou duas ou mais, até onde vai a morrer. E se vai ter a outra jurisdição, tomam-lhe o elefante ou o pagam ou põem guerra por isso”.

82 Freitas, *Desenterrando mortos e enterrando vivos em suas entranhas*, 91.

the slaughtered animal should be given to the king who had rights over the land.⁸³ Similarly, in 1610, Father Barreira complained about the way in which African laws disadvantaged foreigners. He said that “if any ship sinks off the coast, it is immediately taken for the king, with all the goods that it carries, and for the kings to do the same with those who are sitting in the village, it is enough for them to pretend they commit some guilt they call *chay*.”⁸⁴ The prevailing local understanding was that anything within a ruler’s territory became their property. Whether it was the possessions of a deceased individual, a sunken ship, or animals hunted within their domain, rulers had the rights to them.

In Greater Senegambia, adherence to local social norms was essential to secure ownership of various assets. Goods could be confiscated if foreigners committed (or were blamed for) crimes under the local customs, known as *chays*. Barreira lamented that it was sufficient for local rulers to accuse the Portuguese of wrongdoing and to seize their belongings. However, other sources suggest that foreigners often disregarded local customs. Almada narrated that, in the region of Rio Grande, present-day Guinea-Bissau, there were some birds as big as turkeys, which, “by the laws of the kingdom, cannot be killed, nor does anyone kill them, because there are heavy penalties placed on it.”⁸⁵ The reason for this was the local belief that “these birds are the souls of their ancestors”;⁸⁶ corroborating oral sources regarding the rights attributed to non-human agencies, seen above. Despite these prohibitions, Almada explains that “our people, finding them in hidden places, where they cannot be seen, kill and eat them.”⁸⁷ Although the hunting of these birds was prohibited locally, it was practiced by foreigners who did not recognise the legitimacy of the prohibition. However, once discovered, they were subjected to justice in accordance with the local regulatory regime. Perhaps it was *chays* like this that Barreira was referring to when he considered them feigning a crime.

83 Malacco, “Novas aproximações sobre o comércio, produção e uso do marfim”, 62.

84 Annual Letter from Father Baltasar Barreira to the Provincial of Portugal, Brásio, *Monumenta Missionaria Africana, África Ocidental*, serie 2, vol. 4, 383. Original: “se algum navio dá à costa, é logo tomado para el-rei, com toda a fazenda que nele acha, e para fazerem isso mesmo aos que estão de assento na povoação, basta fingirem alguma culpa que cometera a que chamam chay”.

85 Almada, “Tratado Breve dos rios da Guiné do Cabo Verde ...”, 328. Original: “por leis do reino, não se podem matar, nem ninguém as mata, porque há grandes penas postas sobre isso”.

86 Almada, “Tratado Breve dos rios da Guiné do Cabo Verde ...”, 328. Original: “são estas aves as almas dos seus antepassados”.

87 Almada, “Tratado Breve dos rios da Guiné do Cabo Verde ...”, 328. Original: “os nossos, achando-as em lugares escusos, donde não sejam vistos, as matam e as comen”.

From the point of view of local norms, based on common knowledge about the family lineages that had first occupied the land and subsequent rights arising from the establishment of social ties, there was no Portuguese land ownership in Greater Senegambia. Land could not be purchased and the right belonging to a family line could not be transferred. For this reason, Portuguese merchants were invariably subject to local government, which sometimes protected them and sometimes, legitimately under local norms, stripped them of their goods. In the first decade of the 17th century, Father Barreira said indignantly that, in Porto d'Ale, there was "a village of one hundred Portuguese who follow the law of Moses, and the king defends them from anyone who wants to stop them. This port is the most important for the rescue of [or the purchase of enslaved people by] foreigners".⁸⁸ If the protection of Portuguese Jews revolted the Jesuit, this did not happen when they were Portuguese Christians who were under the protection of the local sovereign, as in Bissau: "the king of Bissau shelters the Portuguese, and there they have houses and a large ransom [or trade]".⁸⁹

All these dynamics of use, control, and concession of land were under customs that are compatible with those expressed through oral traditions, as discussed above. At the beginning of the 17th century, Father Álvares described how the Mandingo presence had become naturalised in the region of the Gambia River, to the point that the territory began to be recognised as the land of the Mandingo, to the detriment of the indigenous people who had preceded them. In the writings of the Portuguese Jesuit, the distinction between Mandingo and Soninke (Sonequi in early Portuguese documents) was based on the legitimacy of land control. The Mandingo were newly arrived foreigners; the Soninke were those who already inhabited the region. However, the process of naturalisation of the Mandingo people made it confusing for Europeans to recognise who were the holders of rights over the land. Álvares narrated:

The land of the Sonequi heathen is today confused and is so connected with the Mandingo that it is named after them. But dealing specifically, it is the river of Gambia and that hinterland, which the common people call

88 Letter from Father Baltasar Barreira to Father João Álvares, Brásio, *Monumenta Missionaria Africana, África Ocidental*, serie 2, vol. 4, 165. Original: "uma aldeia de cem portugueses que seguem a lei de Moisés, e el-rei os defende de quem os quer impedir. Este porto é o mais importante para os resgates dos estrangeiros".

89 Letter from Father Baltasar Barreira to Father João Álvares, Brásio, *Monumenta Missionaria Africana, África Ocidental*, serie 2, vol. 4, 168. Original: "o rei de Bissau agasalha os portugueses, e ali têm casas e grande resgate".

Mandingo's, the very heritage of the idolatrous heathen Sonequi; because the Mandingo comes from Mande Mansa.⁹⁰

In other words, the Mandingo come from Mali, and they were not native at the coast. When explaining that the land was “heritage of the heathen Sonequi”, the Jesuit recognises the local custom based on oral traditions, which guarantees that the control of the land rests with the one who first occupied it. Social practice, however, seemed confusing to him, once the Mandingo, a people of foreign origin, had seemingly come to dominate the region. To better understand this transition, we need to go back to the previous section to remember that the first occupation of a space—to clean the bush—was the main way to legitimise the later domain. However, the establishment of social bonds, mainly through marriages with members of the family lineages that owned the land, allowed, generation after generation, control over the land to pass from one social group to another. In view of this, the fact that the sources demonstrate that the Mandingo people came to have control over the land reveals the impact of social dynamics in Senegambia.

It was in the second half of the 17th century that the trader Lemos Coelho explained what was going on, once again recognising the importance of oral traditions. On the Bintang River, a tributary of the southern bank of the Gambia River, Lemos Coelho observed that the Mandingo peoples dominated the territory and explained that such dominance derived from two facts: on the one hand, it originated from ancient migration accompanied by new links with the local population, through which the Mandingo became naturalised; on the other hand, it stemmed from the fact that the indigenous peoples had adopted the culture brought by the Mandingo, that is, they became Mandingo. Lemos Coelho reports: “from one side to the other [of the Bintang river], they are Mandingo, a nation that, coming from the land of Mandimança as local guests, became naturalised here, or the inhabitants of the land, taking their rites, also took the nickname of Mandingo, being all Mohammedans”, i.e., Muslims.⁹¹ In

90 Álvaro, *Etiópia Menor e Descrição Geográfica da Província da Serra Leoa*, 9. Original: “está a terra do gentio sonequi hoje confusa, e tão ligada com os mandingas, que deles se denomina. Mas tratando especificamente, é o rio de Gâmbia e aquele sertão, a que chama o vulgo de mandingas, próprio patrimônio do sonequi gentio idólatra; porquanto o mandinga traz sua origem de Mande Mansa”.

91 Lemos Coelho, Francisco, *Discrição da Costa de Guine e Situação de todos os Portos e Rios dela ...*, 117. Original: “de uma banda como de outra [do rio Bintang], são Mandingas, nação que vindo por hóspedes da terra de Mandimança se naturalizaram aqui, ou os povoadores da terra, tomando os seus ritos, tomaram também o cognominamento de mandingas, sendo todos mahometanos”.

both cases, it turns out that control over the land in the vicinity of the Gambia River, at that time, belonged to the Mandingo.

The processes of naturalisation of the Mandingo and the ‘Mandingusation’ of the natives resulted from the establishment of family ties between the newcomers and those already there. This was also the resource used by several Europeans to access goods, land, and commercial networks in West Africa: to marry, according to local customs, women from family lines that held political power in the region. There are already several cases documented by the historiography. Regarding the Portuguese presence, among the most famous are the rich merchants of Cacheu, Crispina Perez and Bibiana Vaz.⁹² These women’s marriages to European men or men of European descent gave them access to the Atlantic market and gave the husbands access to internal commercial networks and land belonging to the women’s family lines, in accordance with local law.

The wealth of West African elites derived precisely from their control over the land, exercised through the collection of taxes for the use of natural resources: land for planting or grazing, logging, hunting, fishing or drawing water from rivers. In the previous section, we saw how oral traditions explained the collection of taxes for the use of the territory’s resources. The written documentation supports these records.⁹³ However, we also saw that political power was not a despotic will played by local rulers. The existence of a court justice system based on orality and the elderly explains how the resources were locally distributed, including land and property rights related to land ownership. In 1610, Barreira considered abusive “the rights that [the Portuguese] pay for the goods they bring in or take out, and the rigor with which [local rulers] make some pay what others owe, with no other reason than being from the same nation”.⁹⁴ In 1731, the Englishman Francis Moore pointed out the need to pay tribute to land holders in Senegambia: if foreign traders refuse, “the king will not allow them to have either wood or water in their country”,⁹⁵ making everything more or less impossible. In highly fiscal political organisations, such

92 Havik, *Silences and Soundbytes*; Santos, “Mulheres africanas nas redes dos agentes da inquisição de Lisboa ...” 72–76.

93 Malacco and Gonçalves, “Entre Senegâmbia e Angola”, 66.

94 Annual Letter from Father Baltasar Barreira to the Provincial of Portugal, Brásio, *Monumenta Missionaria Africana, África Ocidental*, serie 2, vol. 4, 383. Original: “os direitos que [os portugueses] pagam das mercadorias que metem ou tiram, e o rigor com que [os governantes locais] fazem pagar a uns o que outros deviam, sem outro fundamento mais que serem da mesma nação”.

95 Moore, *Travels into the Inlands parts of Africa*, 20.

as the Senegambian States,⁹⁶ local control of land, territory, and political power were complementary spheres that fed back to one another.

6 Conclusions

At the beginning of this Chapter, we saw that Father Barreira lamented the vulnerability of Portuguese traders in African territories. Since many of them did not have social ties that would guarantee them protection under local law, the rulers acted with great liberality over their possessions. At the end of the 16th century, Almada was exasperated with the treatment received by the Portuguese who lived in the village of Buguendo, in present-day Guinea-Bissau, saying:

These blacks from the village of Buguendo were so mean to our people, and they treated them so badly that they couldn't suffer [more]. And a black man was not seen as an honourable man if he didn't take their hats off and give them some punches and slaps. And there were many blacks from the King's house called Reinaldos, and others Roldoes, and other names of this quality. And when they came to this village, they brought a squadron of black rogues and loafers in front of them, who came saying to our people: "Here comes Reinaldo, here comes Roldão", so that they would prepare for them and arrange what they would be given. And if they didn't have it, they treated the Portuguese very badly. And with all these things the blacks make them suffer.⁹⁷

A few years later, Barreira reported that when a potentate needed money, he sent one of his representatives to the Portuguese house to demand it. "This one comes with great accompaniment and enters their houses so freely and with such authority, as if the inhabitants of them were their slaves, with no one

96 Green, *A fistful of shells*, 16; chap. 7.

97 Almada, "Tratado Breve dos rios da Guiné do Cabo Verde ...", 304–305. Original: "Eram tão maus estes negros da aldeia do Buguendo para os nossos que os tratavam tão mal, que se não podia sofrer, E não se tinha por honrado negro que lhes não tomava os chapéus, e dessem bofetadas e pancadas. E havia muitos negros da casa do Rei chamados a uns Reinaldos, e outros Roldoes, e outros nomes desta qualidade. E quando vinham a esta aldeia traziam uma esquadra de negros velhacos e vadios de diante deles, que vinham dizendo aos nossos: "Lá vêm Reinaldo, lá vem Roldão", para que lhes fizessem prestes e aparelhassem o que lhes haviam de dar. E tanto que não havia[m] isto os tratavam muito mal. E com todas estas cousas sofriam aos negros".

to tackle them, or dare to deny what they ask or want”.⁹⁸ That is why, in 1684, Lemos Coelho recommended that other Portuguese or Cape Verdean traders who ventured along the African coast should realise that they were “guests and pilgrims, and that they are in foreign lands, which the blacks prevented them from controlling”.⁹⁹ And Lemos Coelho continued, elaborating what I called the “handbook about how to be a foreigner”:

Treat well the black who takes [you] as a guest, who is always one of the nobles of the land. Do not deny kings and their officials anything that you have, as it is in their power and will to ask or take from you, it is not discretion to go to extremes. In their disgusts and in their parties, visit them and accompany them, that in this way, wherever you live, you will preserve yourselves with love and quietness, and will take advantage of the interests of the land and will do business more comfortably, and will sleep your nights rested.¹⁰⁰

As demonstrated throughout this Chapter, Europeans in Africa found themselves guests in foreign lands. They were, therefore, as much subject to the local sovereigns as to the justice practiced in those lands, according to established customs. In view of this, the ownership regime that applied to them was not the one established by the law in force in Portugal. Rather, to understand the formation of the Portuguese empire in a global range, given the plurality of norms in force, it is essential to recognise how the law was applied in the lands where the Portuguese settled, through concessions by local powers. Those who controlled the land, understood both as a resource for production and as a political territ-

98 Annual Letter from Father Baltasar Barreira to the Provincial of Portugal, Brásio, *Monumenta Missionaria Africana, África Ocidental*, serie 2, vol. 4, p. 383. Original: “Este vem com grande acompanhamento, e entra pelas suas casas tão livremente e com tanta autoridade, como se os moradores delas fossem seus escravos, sem haver quem lhe vá à mão, ou se atreva a lhe negar o que pede, ou deseja”.

99 Lemos Coelho, Francisco, *Discrição da Costa de Guine e Situação de todos os Portos e Rios dela ...*, 92–93. Original: “hóspedes e peregrinos, e que estão em terras alheias, das quais os negros os privaram do domínio delas”.

100 Lemos Coelho, Francisco, *Discrição da Costa de Guine e Situação de todos os Portos e Rios dela ...*, 92–93. Original: “Tratem bem ao negro que [os] tomarem por hóspede, que sempre é um dos fidalgos da terra. Aos reis e seus oficiais não neguem coisa alguma do que tiverem, que pois está na sua mão e vontade pedir-lhe ou tomar-lhe, não é discrição chegar ao extremo. Em seus nojos e em suas festas, visite-os e acompanhe-os, que deste modo em qualquer parte que viverem se conservarão com amor e quietação, e se aproveitarão dos interesses da terra e farão o negócio com mais comodidade, e dormirão seus sonos descansados”.

ory, were those who *de facto* had legitimacy to apply justice and, hence, extend their power over foreigners' property rights, revealing the centrality of African agency within the so-called Portuguese Empire.

The ownership regime of Europeans on the African coast must thus be understood from the point of view of local norms, and no longer from European ones. Therefore, I consider it essential that studies on land ownership in the Portuguese empire advance toward understanding the local justice of the societies where this empire intended to establish itself. The history of European regimes is not the history of property laws. Local customs, as a way of interpreting laws, are fundamental. In Africa, the Portuguese were subject to a regime of possessions different from the one prevailing in Portugal. Although they also responded to the Portuguese Crown, and the metropolitan archives document this process well, the daily life in Greater Senegambia was permeated, in all aspects, by African customs. These findings demand that greater attention should be given to the regimes of norms experienced in African local contexts, instead of conceiving the European presence in Africa as a sufficient reason to universalise European justice as a norm that was applied to European subjects everywhere.

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