

# The Dynamics of Early Modern Colonial Laws and Legal Literature

Programme – Conference 26-28 October 2022

Faculty of Law, University of Helsinki, Finland



Blueprint of the Port of Nuevitas (Cuba), 1828, John Carter Library.

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Organizing projects: CoCoLaw and GLOCALLAW

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## Introductory Guidelines

During the last decades it has become increasingly visible that the construction of a legal history centered on the figure of Europe has become insufficient. Developments within global history, comparative law, and postcolonial studies have revealed the complexity of the historical processes of normative production, drawing attention to a diversity of agents, and knowledge that circulates beyond the borders of the Western world. Thus, the scope and range of legal history is broadened, changing the very configuration of the discipline. In this context, the so-called “overseas world,” its various forms of administration and normative specificities, have gained relevance, with special emphasis on colonial law.

This conference seeks to explore how legislative strategies of early modern colonial empires affected each other, what they had in common, and how colonial laws emanating both from Europe and the colonies themselves developed into different directions. Conference papers will look at early modern colonial legal experience of the empires and colonies in multiple contexts: medieval inheritance of *ius commune* and legal pluralism; early modern transformations of legal orders, such as the growth of police regulation; and, not least, the local colonial realities and normativities. The intellectual context and its materiality will be another focus of attention, since the circulation of books, agents, texts, and documents is fundamental to understanding how legal arguments were fabricated and, at the same time, entangled.

The conference is organized jointly by two projects, *Comparing Early Modern Colonial Laws: England, the Netherlands, Portugal, and Spain* (Academy of Finland, University of Helsinki) and *Reading Law Globally: Local Readings of Foreign Legal Literature in a Globalized World (Seventeenth to Early Twentieth Centuries)* (Centre National de la Recherche Scientifique / France, Ghent University, University of Helsinki, Universidad Autónoma de Madrid).

CoCoLaw’s primary interest is in written laws. Laws applied in the colonies partly followed the medieval tradition of *ius commune* and (as for Britain) common law. This was the case of most civil, procedural, and criminal law. However, law in the colonies also followed the latest legal trends, and the growth of police regulation did not leave colonies untouched. In fact, CoCoLaw claims that police regulation formed the essence of what we normally conceive as colonial law. CoCoLaw charts the growth of police regulation at both imperial, regional, and local levels. GLOCALLAW, in turn, seeks to understand the local readings of foreign legal literature in a historical long-run perspective (seventeenth to early twentieth centuries). The project evaluates the function of legal literature in the circulation of rules and concepts in legal practice, especially in the Americas.

Both organizing projects, CoCoLaw and GLOCALLAW, set colonial laws in a comparative context. The projects systematically compare early modern overseas legal orders and their use of police regulation / legal literature with each other.

## **Preliminary Program**

### **Day 1**

13.00 – 13.15 Opening

13.15 – 14.45 Panel 1

15.00 – 16.00 Keynote 1: *Professor Thomas Duve* (Director, Max Planck Institute for Legal History and Legal Theory) - How to Analyze the Dynamics of Early Modern Colonial Laws?

16.00 – 16.15 Coffee

16.15 – 17.15 Panel 2

17.15 – 19.15 Panel 3

### **Day 2**

9.00 – 11.00 Panel 4

11.00 - 11.15 Coffee Break

11.15 – 12.45 Panel 5

12.45 – 14.30 Lunch

14.30 – 16.30 Panel 6

16.30 – 17.15 Coffee Break

17.15 – 18.45 Panel 7

### **Day 3**

9.00 – 10.00 Keynote 2: *Professor Andrea Slémian* (Universidade Federal de São Paulo) - Between Grace and Rights: Petitions in the Iberian-American World (18th century)

10.00 – 10.15 Coffee

10.15 – 11.45 Panel 8

11.45 – 13.15 panel 9

13.15 Closing of the conference

### **Panel 1 – Comparing Colonial Laws**

*Heikki Pihlajamäki* – University of Helsinki

The Dubious Existence of Colonial Law: Some Theoretical Viewpoints

*Nathaly Mancilla Órdenes* – University of Helsinki

The Relevance of the Official Correspondence in the Normative Production of the Ancient Regime: The Case of the Royal Extraction of Diamonds (1771-1808)

*Airton Ribeiro* – University of Helsinki

‘*Nostra Scientia Postulat Ingentes Bibliothecas*’: Colonial Conventual Libraries and Legal Knowledge

### **Panel 2 – Comparing Colonial Laws II**

*Henri Hannula* – University of Helsinki

Between Illicit and Legitimate Trade: Vrijburgers of Batavia Challenging the VOC-Monopoly in the Dutch East Indies in the Late 17th century

*Gustavo Zatelli* – University of Helsinki

Police Regulation on Colonial Ground: A Legal Comparative View of the British Empire in the 18<sup>th</sup> Century (Jamaica, Virginia, and Ireland)

### **Panel 3 – Multinormativity and Indigenous**

*Marie Annereau-Fulbert* – CEM, IIFL, UNAM, CDMX (México)

*Rafael Flores Hernández* – Center of Historical and Cultural Research in the State of Hidalgo

Zinacantán Territorial Practices and Legal strategies in relation to Land, Chiapas, Mexico (16th-19th centuries)

*Kaius Tuori* – University of Helsinki

Indigenous Property and Colonial Commerce: Inalienability Doctrine(s) and Equal Rights

*Romina Zamora* – Universidad Nacional de Tucumán

Early Legal Mestizaje. First Stage of Modern Colonial Law in Andean America

*Owen H. Jones* – Sinclair Community College

The Discourse of Local Law Under Spanish Hegemony and the Right to Adjudicate in K’iche’ Communities in Colonial Highland Guatemala

#### **Panel 4 – *Polizei* and Emergence of the Legal Administration**

*Ricardo Pelegrin Taboada* – Western Oregon University

The Colonial Control on Lawyers: Spanish Laws to Limit Number of Legal Professionals in Cuba

*Renzo Honores* – Instituto Internacional de Derecho y Sociedad

Maritime Law in the South Sea: Ships, Mariners, and Litigation in the Port of Callao, 1567-1587

*Adriana Luna-Fabritius* – University of Helsinki

Happiness and the Transformation of Spanish Imperialism After 1760

*Gustavo Cabral* – Universidade Federal do Ceará

On Letters and Laws: Books of Municipal Council in Portuguese America (18th century)

#### **Panel 5 – Circulation of Legal Knowledge and Religion, Cultural Translation**

*Boliá Doubai Sanchez* – Universidad Autónoma de Madrid

“Love the Lord Your God with All Your Heart”: Superstition, Idolatry, and Social Discipline in Manuals for Confessors from New Spain

*Luisa Stella Coutinho* – Max Planck Institute for Legal History and Legal Theory

“Cada Mulher Têm Mais Pequados do Que Têm Todos os Homens do Mundo”: Converting Japanese Women Adepts of Jōdō Shinshū Buddhism during the Christian Century in Japan

*Caio Cardoso Tolentino* – University of São Paulo

Canon Law and Criminal Procedures in Portuguese America: The Autos de Livramento-Crime of São Paulo’s Episcopal Court (1745-1800)

#### **Panel 6 – The Legal Vocabulary of Land Ownership and Land Rights in Early Modernity**

*Carmen Alveal* – Universidade do Rio Grande do Norte

Orientation of the Praxists and Problems Faced by Judges on Landmarks in Colonial Brazil (18th Century)

*Sarah Limão Papa* - Max Planck Institute for Legal History and Legal Theory

Judicial Conflicts over Land Rights in Northeast Portuguese America

*Alina Rodríguez Sánchez* - Max Planck Institute for Legal History and Legal Theory

Who Owns the Trees and Stones? Mediating Conflicts over Resources in the Mixtec Region in Sixteenth Century New Spain

*Jesus Bohorquez* – Universidade de Lisboa (Portugal)

The Ancient Title: Defining, Allocating, and Claiming Landownership in the Northern Spanish Andes (18<sup>th</sup> century)

### **Panel 7 – Colonial Projects, Regulation of Status and Social Inclusion**

*Marvin Messinetti* – Università del Salento

Slavery Regulation and Colonial Dynamics: Laws and Legal Studies Between Mediterranean Sea and Atlantic Ocean

*Nicolas Blum Fernandez* – University Scuola Superiore Meridionale Federico II in Naples  
TBA

*Gilberto Guerra Pedrosa* – Max Planck Institute for Legal History and Legal Theory

*Unitas Multiplex* of Colonial Projects? The Case of the Dutch Intrusion in the Iberian South Atlantic, 1580-1674

### **Panel 8 – Legal Books' Circulation and Cultural Translation**

*Michael Hoeflich* – University of Kansas

The Flow and Distribution of Foreign Books in the American Colonies and the New American republic - XVII and XIX centuries

*Laura Beck Varela* – Universidad Autónoma de Madrid

Old Law Books for New Catholic Nations: Reading Heineccius in Mexico (1773-1873)

*Bruno Rodrigues Lima* – Max Planck Institute for Legal History and Legal Theory

The Normative Translation of the Portuguese Ordinances by the Abolitionist Lawyer Luiz Gama (Brazil, 1850-1888)

### **Panel 9 – Legal Books' Circulation and Cultural Translation II**

*Maria Teresa Calderón* – Center for Historical Studies at the Externado University of Colombia

*Antonio Annino* – Università degli Studi di Firenze (University of Florence)

The Colombian Federalism. A Reading of Benjamin Constant

*Rodrigo Camargo Godoi* – Max Planck Institute for Legal History and Legal Theory

The Legal Novel in the Rio de Janeiro's Gazeta do Tribunais Feuilleton, 1843-1842

*Aman Kumar* – IFIM law school

Two Documents of Indian Colonisation