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Negotiating custom : colonial lawmaking in the Galle Landraad

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NEGOTIATING CUSTOM

NEGOTIATING CUSTOM

COLONIAL LAWMAKING IN THE GALLE LANDRAAD

PROEFSCHRIFT

ter verkrijging van
de graad van Doctor aan de Universiteit Leiden,
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volgens besluit van het College voor Promoties
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Nadeera Tharushi Seneviratne
geboren in Colombo (Sri Lanka) in 1980

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Cover illustration: Sri Lanka National Archives, Lot 1, nr. 6509, Galle Landraad Minutes, fol. 99r, 21 June 1766.

Maps: Suranjan Fernando

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Don't look for the thombos of other people's lands

(A retort in Sinhala)

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My closest friends at school and university in Colombo studied law while I studiously avoided it. As a child I was influenced by a mother who scoffed at the profession and claimed to have won the case for her lawyers when her tenants filed against her. When I worked at a newspaper I was advised not to become a court reporter as it would be very dull. My avoidance of all things legal followed me abroad: for my Master's at Leiden University, I resisted studying legal history on Alicia Schrikker's suggestion, citing not much more than my prejudices. But I was convinced by the autumn of 2010 when I started my PhD, and a few days at the archives were enough to reinforce the decision. I started off with a broad project proposal including all of the voluminous Dutch legal records in Colombo, but I knew I would seek out a way to focus on disputes involving peasants or *hoi polloi*. I focused on rural Galle as it was comparatively under-researched. I had hoped to be able to include the Galle land registers more comprehensively in my research, but as that would require more archival work I was forced to compromise. The importance of such a database for future research into these unique registers cannot be stressed enough.

Reading the testimony of eighteenth-century southern men and women, I developed an enduring interest in the law. I later read that Marie-Charlotte Le Bailly, whose work I found motivating in writing this thesis, also faced a plethora of friends who chose a legal path while she abstained. With misplaced satisfaction I say that we're both in good company though—Gananath Obeyesekere wrote in his preface that he also had to learn the law for his work on land tenure in Sri Lanka—an early and exemplary publication in the field of legal anthropology that I have drawn much inspiration from.

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A NOTE ON LANGUAGE

For ease of comprehension, proper names have been changed to their current spelling in Dutch and Sinhala where possible, but where there is doubt follow the eighteenth-century spelling in the original documents. Latinised forms such as Joan, Joanna and Joannes used in the sources were replaced in the text with Johan, Johanna and Johannes. Place names are standardised to the current anglicised form. The spelling of proper nouns in the transcriptions follows the original documents, with no attempt to standardise.

For the text, Sri Lanka was preferred over Ceylon as that is the name by which the country is known today. I have also used the terms ‘Sinhalese’ to refer to the people and ‘Sinhala’ for the language. I use a modern Sinhala orthography except when quoting a source in which diacritical marks had not been used. Sinhala, Tamil and Dutch terms are italicised the first time they are used, where they are explained in the text or footnote or in the glossary that follows this note. A word subsequently used often is not then italicised. For the plurals of non-English words I mostly use the plural forms in those languages. Galle refers to the district, Galle town refers to the fort. Land register, land registration, cadastre, cadastral registration all refer to the thombo registration. Council in this text refers to the Landraad, a term more appropriate than the word court with its modern-day sense. Other councils will be referred to more specifically, such as the Governor in Council in Colombo, and the Political Council in Galle. I have also used the words councillor or member instead of judge of the Landraad. Dutch and VOC were used interchangeably, though of course the VOC consisted of more than one European group identity.

Abbreviations used in the thesis are GL (Galle Landraad), SLNA (Sri Lanka National Archives), PLH (Principal Land Holder) and LHG (Land Holdings Group). Sources from the Department of National Archives in Sri Lanka are given as, for example, SLNA 1/2933 (which means lot 1 followed by the volume number), with a description of the volume, the folio number, a short title and date of the cited document. The dates of the reigns of kings follow K M de Silva’s *A History of Sri Lanka*.

Translations from seventeenth- and eighteenth-century Dutch for this research are the author’s own, with much-valued assistance from Lodewijk Wagenaar, Ton Harmsen and Albert van den Belt. Naturally, the responsibility for errors remains mine.

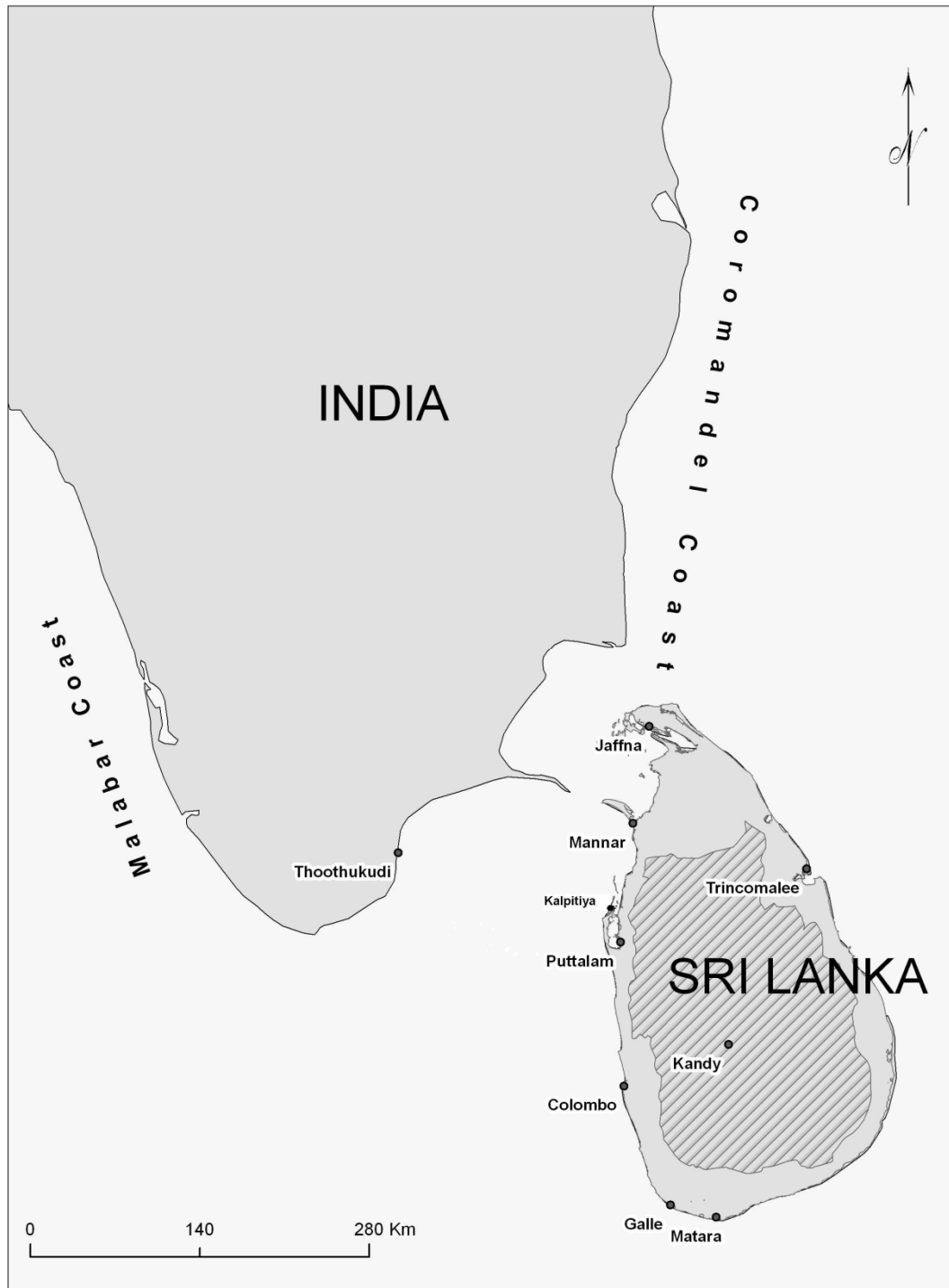
GLOSSARY

<i>accommodessan:</i>	Maintenance grants.
<i>amuna</i> (pl. <i>amunu</i>):	A measurement of sowing capacity in paddy equalling 40 <i>kuruni</i> which is approximately two acres (this may vary from region to region). An <i>amuna</i> of areca nuts ranged from 24,000 to 26,000 nuts. A <i>pela</i> is a quarter of an <i>amuna</i> .
<i>appuhamy</i> (pl. <i>appuhamu</i>):	An honorific usually for an elite member of the <i>goygama</i> caste.
<i>ārachchi:</i>	A minor village official.
<i>atapattu:</i>	Guard of higher functionaries.
<i>atapattu mudaliyār:</i>	<i>Mudaliyār</i> of the <i>dessave</i> .
<i>bellale:</i>	Dutch for <i>vellālar</i> , also used to mean <i>goygama</i> .
<i>binna:</i>	Marriage with uxrilocal residence.
<i>bode:</i>	Messenger.
<i>burger:</i>	Private citizens, or retired servants of the company.
<i>burgerij:</i>	Community of urban citizens who formed a militia.
<i>chando:</i>	Dutch for <i>durāva</i> , a caste group.
Chettiar:	A merchant community of south Indian origin.
Civiele Raad:	Civil Council.
<i>contra-interrogatorieën:</i>	(List of) counter-questions used in a judicial forum.
<i>dessave:</i>	European governor of a district in Dutch-controlled territory.
<i>dēvāla:</i>	Temple complex with shrines for deities.
<i>dictum:</i>	Written request.
<i>dīga:</i>	Marriage with virilocal residence.
<i>disāva:</i>	Governor or minister at court in Kandy.
<i>dessavony:</i>	A Sinhalese term for a province used by the VOC.
<i>durāva:</i>	Dutch: <i>chando</i> ; a caste associated with toddy-tapping.
<i>ekerobekāraya</i>	A peeler who had to deliver a <i>robe</i> (56 to 62 pounds) of cinnamon.
Gamsabhāva:	Village council.
<i>gerechtigheid:</i>	That over which one exercises a right (tax).
<i>gift ola:</i>	Deed of gift written on paper or palm leaf.
<i>guilder:</i>	Dutch currency equal to 20 stivers.
<i>goygama:</i>	Highest caste in the traditional hierarchy among the Sinhalese, numerically the largest and associated with farming.
<i>hakuru:</i>	An agricultural caste also associated with the production of jaggery.
Inlandse Boedelkamer:	A board that managed the estate of deceased natives.
<i>interrogatorieën:</i>	(List of) questions used in a judicial forum.
<i>kangān:</i>	Overseer.
<i>kaneelschiller:</i>	Cinnamon-peeler.
<i>karāva:</i>	A caste primarily associated with fishing. Tamil: <i>karaiyar</i> .
<i>kōrāla:</i>	Head of a <i>kōralē</i> .
<i>kōralē:</i>	Subdivision of a commandment or a <i>dessavony</i> .
<i>koop ola:</i>	Purchase deed written on paper or palm leaf.
Landraad (pl. Landraden):	Land, country, or district council.
<i>lascarin:</i>	Indigenous soldier who also served as guard and messenger.
Mahabadde:	Cinnamon Department.
<i>mahamudaliyār:</i>	An indigenous chief of the highest level; also referred to as gate <i>mudaliyār</i> .
Mahanaduva:	Great Court of the Kandyan Kingdom.
<i>mahavidāne:</i>	Headman of an organised caste or trade, a rank above an <i>ārachchi</i> and below a <i>mohandiram</i> .

Marallas:	Death duties; also annual travelling assizes of Portuguese and local officials under Portuguese rule.
<i>Marelleiros</i> :	Portuguese legal officers who were assigned regions over which they held Marallas.
<i>mayorāl</i> :	A <i>gamarāla</i> (village head) who traditionally organised the compulsory service of <i>rājakāriya</i> . He reported to the Landraad on land matters and provided victuals for visiting VOC commissioners and headmen.
<i>mohandiram</i> :	An indigenous chief below the rank of <i>mudaliyār</i> .
Moor:	Muhammadans of South India and Ceylon.
<i>mudaliyār</i> :	Highest rank of an indigenous chief in the low country.
<i>muttettu</i> :	Land granted by the monarch which the grantee cultivated with the unpaid labour of other cultivators.
<i>nanayakkāraya</i> , (pl: <i>nanayakkārayo</i>):	Permanent native commissioners who inspected gardens and fields.
<i>nainde</i> :	Husbandman who performed menial tasks as service.
<i>onderkoopman</i> :	Junior merchant, the lowest ‘qualified’ rank within the VOC.
<i>ondertrouwd</i> :	Someone who has given notice of marriage.
<i>ondertrouwen</i> :	To give notice of marriage, to grant the banns of a marriage.
<i>onecht</i> :	Illegitimate.
<i>opziender/opziener</i> :	Overseer (e.g. of a district; equivalent to <i>dessave</i> in Galle), also called superintendent.
<i>ottu</i> :	A tax of one-tenth of the produce.
<i>padu</i> :	An agricultural caste.
<i>paravar</i> :	A seafaring caste of south India that settled in coastal Sri Lanka.
<i>paravēni</i> :	Ancestral land.
<i>parra</i> :	A measure of grain equal to 40 Dutch pounds, thus 19.76 kilograms (1 pound being equal to 494 grams).
<i>pattangatijn</i> :	A headman of the fishermen, similar to a <i>mohandiram</i> .
<i>pattu</i> :	An administrative division within a <i>kōralē</i> .
<i>pela</i> :	A quarter of an <i>amuna</i> .
<i>plakkaat</i> (pl. <i>plakkaten</i>):	Proclamation with legal force issued by the Dutch Government.
<i>pottebakker</i> :	Potter.
<i>proberen</i> (<i>bewijzen</i>):	To prove.
<i>probatie</i> :	Proof.
<i>procureur</i> :	Process representative/solicitor.
Raad van Justitie:	Council of Justice.
<i>radā</i> :	Caste group traditionally associated with washing.
<i>rājakāriya</i> :	Obligatory service.
Ratasabhāva:	District-level tribunal in Kandyan Kingdom.
<i>ratmahara</i> :	Wasteland.
<i>recollement</i> :	Confirmation (judicial).
rixdollar (rd):	About 48 stivers. Dutch: <i>rijksdaalder</i> .
<i>rondvraag</i> :	Circulation of documents in the margin of which members of a council or college were asked to note their opinion, in order for the chairman to reach a decision.
<i>sabandar</i> :	A native revenue official of a district.
Sākki Balanda:	A coroner’s court in the Kandyan Kingdom.
<i>salāgama</i> :	A caste traditionally associated with cinnamon peeling. Referred to as <i>sjalia</i> by the Dutch.
Scholarchale Vergadering:	School Board.

<i>schrijver:</i>	Writer.
<i>sittuva</i> (pl. <i>sittu</i>):	Written judicial decree.
<i>soldijboekhouder:</i>	Bookkeeper of the personnel department.
<i>stiver:</i>	A former Dutch coin; twenty stivers equaled a guilder.
<i>tamblinjero:</i>	Drummer/tom-tom beater.
<i>thombo:</i>	Land register of Dutch maritime Sri Lanka.
<i>thombohouder:</i>	Thombo-keeper, the officer who maintained the thombo.
<i>timmerman:</i>	Carpenter.
<i>tombo:</i>	Land register of Portuguese maritime Sri Lanka.
<i>uliyam:</i>	Unpaid public work by Muslims and Chettians.
<i>vaandrig:</i>	An ensign.
<i>vāsagama:</i>	Lineage or ancestral name.
<i>vellālar:</i>	Highest caste among Tamils. See also <i>bellale</i> .
<i>vidāne:</i>	A minor indigenous chief with policing duties, also the administrative area under his jurisdiction.
<i>vidānārachchi:</i>	A revenue collector in charge of one or more villages
<i>visser:</i>	Literally, fisherman, but also a coastal social group known as <i>karāva</i> .
<i>vrijburger/vrijman:</i>	A European or Eurasian citizen no longer in company service.
<i>wasser:</i>	Washerman; Dutch for the <i>radā</i> caste.
<i>wibadde:</i>	A village-level official responsible for collecting paddy revenue from cultivators

MAPS



Map 1 India and Sri Lanka with the Kandyan Kingdom in the middle and coastal Dutch territory in the late eighteenth century.



Map 2 Galle District under Dutch rule shown in dark grey. The Hinidum Pattu border is tentative.