

16.2 Property rights over time

Room 104

Chair: TBA

16.21 José Vicente Serrão – Property rights, land settlement and land conflict in the colonial Americas: a comparative study

In this paper I intend to analyse, in comparative terms, the variety of solutions used by the different European-based empires (Spanish, Portuguese, Dutch, British and French) in dealing with property rights, patterns of settlement and conflicts over land in colonial Americas.

In this study I am especially concerned with some crosscutting questions, to be analysed in each imperial context, in order to reach some comparable results. Just some examples: what were the main legal institutions regulating land tenure and land use brought into play in each empire? How were the European institutional matrixes transposed to the imperial spaces, and how did they overlap, or merge, with local institutions and cultural foundations? Which was the coloniser's view on the pre-existing indigenous land tenure and property rights systems? To what extent were the native communities deprived of their lands? What was the effective economic impact of the property rights freshly brought in? How did they serve purposes of settlement in frontier areas? Were those property rights an instrument of exclusion, or else of inclusion of autochthonous communities? To what extent, and in which ways, did property rights step into the negotiation and conflict processes between imperial authorities, native communities and 'creole' communities?

José Vicente Serrão (b.1959), is Associate Professor of History at the Lisbon University Institute, Portugal. His fields of research and publication have been mainly the rural, economic, social and population history of Early Modern Portugal and Europe. More recently he is focusing his research and teaching on topics related to transnational, global and imperial history. He is currently coordinating two international research projects ('Lands over Seas: Property Rights in the Early Modern Portuguese Empire' and 'Territoriality and Conflict in Eighteenth-Century Portuguese America'). He was also member of the Management Committee of the recently finished 'Programme for the Study of European Rural Societies' (COST Program A35, 2005-2009).

16.22 Christopher Jessel – The structure of farming in England since 1970: a legal perspective

The paper discusses the influence of legal factors on farming practice in the last 40 years, principally in England but taking account of the growing influence of European and latterly world issues. At the beginning of this period farming was relatively small scale and operated through traditional farms, both owner-occupied and tenanted where farming was the principal activity. Forty years later farming structures are divided between part-time smallholdings, traditional farms, many still run by a family, and substantial agri-business. Many farms are operated under partnership or contract arrangements and the occupiers often diversify into other related businesses.

The paper considers business structures and sources of finance, the decline and reconstruction of the tenanted sector, the impact of environmental issues and planning law and the influence of taxation. One major influence concerns security of tenure and succession rights under the Agricultural Holdings Acts and the introduction in 1995 of farm business tenancies. Another is the Common Agricultural Policy, including intervention, quotas, the MacSharry reforms and the Single Farm Payment.

Christopher Jessel has been for 40 years a solicitor with Farrer & Co of Lincoln's Inn Fields in Central London until retirement in 2008. He practised in property law particularly agriculture and advised many landed estates including Crown, Church and Collegiate landowners as well as farmers both owner occupiers and tenants on the issues discussed in his paper. He is the author of *The Law of the Manor* and *Farms and Estates: a Conveyancing Handbook*. He has

recently been consulting editor to *Halsbury's Laws of England on Commons* and on *Open Spaces and Countryside*. He has been a regular speaker at legal conferences.

16.23 Martin Dackling – Landownership rights in twentieth-century Sweden: revitalising an old system?

This paper investigates the development of land ownership rights in Sweden during the first half of the twentieth century. Traditionally, historical research concerning landownership has to a great extent focused on the eighteenth and nineteenth centuries. In Sweden, landownership rights were 'unbedded' from social relations and other kind of restrictions during the nineteenth century, which in turn has been seen as a prerequisite for the development of a modern, capitalistic economy. The landowner was given extensive rights over land, at the expense of the owner's relatives. Landowning became based on individuals, not on families. The land market replaced inheritance and gifts as dominant ways to transfer land. At least, this is a common way to describe the development.

However, the tendency towards a free land market was challenged during the twentieth century. Instead there was a great interest in what was called 'the land question'. As a result of the debates, the state tried to regulate how the land was owned and how land was transferred. So far, there has been only little research on how this re-regulation of the land market was done and what effect it had on landownership. This project focuses on the conditions for landownership and transmission of land in Sweden during the period from 1850 to 1950. The results challenge the concept of modern landownership rights and indicate that some 'old' elements continued to play an important role for how landownership rights were practiced even in the twentieth century.

Martin Dackling is a Doctoral student in History at the Department of Historical Studies, University of Gothenburg, and working on a dissertation about landowning, the bond between land and family, and the invention of hereditary farms in Sweden during the late nineteenth and early twentieth century.