

## 11.6. Institutional encounters: European property rights in colonial contexts. Part II: Africa

**Panel organiser: Serrao, Jose Vicente, ISCTE-IUL Lisbon University Institute, Portugal**

Part of the European rural history has to be found elsewhere, in all those places around the world that became under the imperial and colonial rule of some European powers between the 15th and the 20th century. This European colonial venture was not, of course, a single process, involving a variety of countries, chronologies, motivations and opportunities. The societies, institutions, economies and natural environments the Europeans found overseas, from North America to Australasia, were extremely varied too. But all the European empires were forced to face, at some point and to some degree, the need to regulate property rights over land resources. Very often, that issue arose at first as a mere response to pressing situations, like the need to take possession and re-allocate native lands to in-coming settlers, or the urgency to replace structures of power and tax-collecting left empty by the transfer of sovereignty to the European authorities. However, the rule over land and the regulation of property rights soon became a permanent and powerful tool of political and social control, of sovereignty claiming, of economic policy, of fiscal extraction, etc. On the other hand, seen 'from below', the reception and re-appropriation of these policies by the social actors on site generated very dynamic and complex processes of negotiation and conflict, for the colonial societies actually encompassed multiple interests, among them the pre-existing indigenous communities, with their own cultures, systems of social organization, institutions and property rights. The aim of this panel is to discuss the diversity of solutions adopted in dealing with property rights and the institutions regulating and enforcing them across the European overseas empires. How and what for were they conceived and how were they received and eventually re-arranged by the social players? To what degree did the European institutions change when transposed to colonial contexts? How did they shape the agrarian economies and the rural societies submitted to colonial rule? How did they survive the collapse of the European empires and to what extent did those processes influence the post-colonial economies and societies of these countries? These are some examples of questions addressed by the papers included in this panel, which is particularly concerned with the interaction between European and native institutions across time and space. It is a double panel, geographically organized, Part I being devoted to Asia and Latin America, Part II to Africa.

**Chair: Serrao, Jose Vicente, ISCTE-IUL Lisbon University Institute, Portugal**

Thursday, 22 August 2013 // 1430 – 1630 // Session 11 – Room A 022

### 11.6.1. Explaining the diversity of property rights regimes in the Tropics within the British Empire, 1850-1950

**Byerlee, Derek, Independent scholar, Washington, USA**

Property rights regimes governing the expansion of commercial agriculture in the tropics have varied widely between and within colonial empires. This presentation will illustrate the diversity within the British Empire from 1850 on. I will show a divergence from full recognition of indigenous customary rights in Ghana/Nigeria to full freehold favoring settlers in Kenya, with intermediate options such as medium term leasehold for plantations in Malaysia combined with recognition of some indigenous rights. These differences in turn led to quite different agrarian structures and development outcomes. However, policies often evolved over time sometimes favoring customary tenure and sometimes alienating indigenous rights. The political economy underlying these changes will be explored.

### 11.6.2. Endogenous Colonial Institutions: lessons from fiscal capacity building in British and French Africa, 1880-1940

**Frankema, Ewout, Utrecht University, Wageningen University, Netherlands**

Taxes constitute the financial backbone of a state. In this paper we explore the role of exogenously imposed metropolitan policies and endogenous economic and political conditions on the process of colonial state formation in British and French Africa through the lens of colonial taxation. Using colonial government budget accounts we construct PPP-adjusted comparisons of per capita government revenue, analyze the source composition of taxes, and compare per capita tax pressure. We find that local geographies and indigenous responses to commercial opportunities were key in the design of local colonial tax systems and that typically 'British' or 'French' tax policy blueprints are hard to decipher. All colonial administrations in Africa shared a preference to tax international trade

and only resorted to direct taxes (head, poll, cattle or hut taxes) when the potential for taxing trade and consumption was limited. Forced labor programs occurred where alternative revenue opportunities were limited, although once in place, the French tended to maintain the *corvée* much longer than necessary.

### 11.6.3. How European concepts of marriage and land ownership excluded rural women in Kenya from accessing and owning property

**Chabeda-Barthe, Jemaiyo, University of Geneva, Switzerland**

The British colonial land policy began when Kenya became a crown colony in 1920 and all the land was assumed to belong to the crown. The acquisition of African lands took place through the Crown Land Ordinance of 1915 and imposed English tenure of land. In 1932, the Kenya Land Commission was appointed and charged with the responsibility of appropriating land to Kenyans and British settlers in accordance to the British colonial laws. By 1954, the Kenyan guerilla freedom army Mau Mau demanded the land back and many were killed by the British. In 1963, Kenya attained independence but continued with the land policies left by the colonialists. This paper will concentrate on women's property rights in Kenya within the context of British colonial institutions. The British overlooked indigenous customary tenure systems and applied western concepts on the institution of marriage and land reform. The two forms of property within the colonial context that this paper will address are Land ownership and Matrimonial property. The colonial policy of individualization transformed land from a shared form of property to individual ownership through registration. Land was registered in the man's name. Also, the colonialists assumed that marriages are monogamous and imposed the Married Women's Property Act of 1882 onto Kenyan courts as the only avenue for married women to access matrimonial property. Since the majority of rural marriages were polygamous the Act hindered many women from accessing and owning matrimonial property.

### 11.6.4. The „registro de inmuebles“ as a tool of colonization in the Spanish Protectorate of Northern Morocco (1912-1956)

**Marchán, Jesús, Universitat Pompeu Fabra, Spain**

The Spanish protectorate in northern Morocco was a very expensive colonial enterprise. The difficulties involved in the 'pacification' of the small area occupied (about 20.000 km<sup>2</sup>) in comparison to the metropolitan territory (about 505.000 km<sup>2</sup>) were enormous. The main objectives of the Spanish authorities was to obtain economic benefits from the exploitation of Moroccan natural resources. One such activity was agricultural colonization. Therefore it was necessary to introduce a new system of property to develop it, in the context of a new and colonial judicial organization. The purpose was to modernize both the Moroccan justice, considered backward, savage and cruel, and the Moroccan property regime, criticized by the Spanish colonialists as delayed and insecure. Thus, Spanish colonialism introduced a new legislation that aimed to promote the development of agricultural colonization. Thanks to this 'legal colonization', Spanish settlers could easily acquire land in northern Morocco. In the Sherifian empire existed various types of properties that were inalienable. With these reforms, adapted protectorate agreements were intended to promote the mobilization of Moroccan lands. In this paper we will discuss some points that led to the establishment of the Registro de inmuebles (a property registration) in Spanish protectorate of northern Morocco, the legal basis for agricultural colonization, and the new legal status that was granted to the different types of properties that existed in Morocco to encourage their mobilization to achieve the metropolitan agricultural purposes.

#### Participants

##### Byerlee, Derek

Derek Byerlee (Australian) is an independent scholar based in Washington, DC, USA. He is a Fellow of the American Association of Agricultural Economists and has published widely on the economics of agricultural development. More recently his interests have turned to agricultural economic history, with a particular focus on social and environmental outcomes of land expansion on the frontier during the first period of globalization, 1850-1929, both for settler and plantation agriculture.

##### Chabeda-Barthe, Jemaiyo

Jemaiyo Chabeda-Barthe is a PhD candidate whose research interest is on gender, ethnic conflict and land reform in Kenya. She holds a Masters in Development studies from the University of Witwatersrand in Johannesburg, South Africa. She has worked for United Nations Development Programme in Kenya from 2004 to June 2010 and conceptualized and initiated the Communication for a development project to raise awareness on Gender empowerment and Agriculture. In 2012 she worked as lead researcher for a Community Based Child Protection Mechanism project for the Columbia Group for Children in Adversity.

##### Frankema, Ewout

Ewout Frankema obtained his PhD from the University of Groningen in 2008 and worked as an assistant professor at the Social and Economic History Group of Utrecht University. In 2012 Frankema was appointed as full professor and chair of the Rural and Environmental History Group at Wageningen University. His research focuses on a deeper understanding of the long-term economic history of developing regions

(Africa, Latin America, Asia) connecting the fields of socio-economic history, colonial history, rural history, neo-institutional economics and environmental history. He is currently working on an ERC project on historical living standards in Africa.

##### Marchán, Jesús

Member of the Research Group on Empires, Metropolis, and Extra-European Societies (GRIMSE), having as main fields of research: Empire, Agricultural Colonization, Economic History and Social History, especially in Morocco, Spain and Catalonia. He obtained an FPI Fellowship for his PhD studies from the Spanish Government for the period 2007-2011, and the grant 'Fons Bibliografic de la Cambra de Comerç de Barcelona' (2008) for his first research on the agricultural colonization of the Spanish Protectorate of Northern Morocco. He has developed teaching activities in the Pompeu Fabra University since 2005.

##### Serrao, Jose Vicente

Associate Professor of History at the Lisbon University Institute, former member of the MC of the 'Programme for the Study of European Rural Societies' (COST A35, 2005-2009) and co-founder of Rural RePort (Portuguese-speaking Network of Rural History). 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 was focusing his research and teaching on topics related to transnational, global and imperial history, currently leading two international research projects on property rights, territoriality and conflict in the Portuguese Empire.