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# TREES, TENURE AND CONFLICT: RUBBER IN COLONIAL BENIN

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ABSTRACT. Tree crops have changed land tenure in Africa. Planters have acquired more permanent, alienable rights, but have also faced disputes with competing claimants and the state. I show that the introduction of *Para* rubber had similar effects in the Benin region of colonial Nigeria. Planters initially obtained land by traditional methods. Mature plantations were assets that could be sold, let out, and used to raise credit. Disputes over rubber involved smallholders, communities of rival users, would-be migrant planters, commercial plantations, and the colonial state, which feared rubber would make land unavailable for food crops.

## 1. INTRODUCTION

Institutions matter. Evidence from cross-country regressions, historical narratives, and case studies have all shown that institutions established in the past are important drivers of economic outcomes in the present (Acemoglu et al., 2001; Dell, 2010; Greif, 2006). Secure and well-defined property rights in particular are held to have been instrumental in creating the conditions needed for modern economic growth (Acemoglu and Johnson, 2005; North and Thomas, 1973). Property rights over land have been shown to shape investment (Goldstein and Udry, 2008), labor supply (Field, 2007), long term policy choices (Banerjee and Iyer, 2005), the environment (Libecap, 2007), and violence (André and Platteau, 1998). Within Africa, land tenure is becoming more important with time as population growth makes land more scarce, as farming systems evolve, and as markets in land have become more widespread (Holden et al., 2009). It is important, then, to know how land tenure develops in response to new technologies. In this paper, I explain how the introduction of *Para* rubber shaped land rights and land disputes in the Benin region of Nigeria during the colonial period, from 1897 to 1960.

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I use oral, archival, and secondary sources to show how the introduction of Brazilian *Para* rubber affected land tenure in mid-Western Nigeria. While my focus is on the former Benin Kingdom, I draw on the experiences of other rubber-producing areas of the former Bendel State, especially Ishan (Esan) and Warri. My archival sources are taken from the United Kingdom and Nigeria, and consist mostly of government reports, correspondence, and court transcripts of land disputes.<sup>1</sup> I also use 57 semi-structured interviews with former farmers, rubber tappers, traders, and laborers who were active in the rubber industry during the late colonial period as sources.<sup>2</sup> Finally, I am able to rely on a handful of printed reports and other secondary sources for information and context.<sup>3</sup> I find that the introduction of rubber increased farm sizes and spurred both sale and rental markets, though the commercialization of land was gradual and not universally accepted. Rubber also led to conflicts within communities, between members of local communities and migrants, between these locals and large-scale commercial planters, and with the colonial state.

I contrast Benin with other studies of tree crops in Africa. In a recent review, Colin and Woodhouse (2010) find that market transactions in land are becoming more common in Africa, especially in frontier areas or where there is in-migration. State policies restricting spontaneous evolution have, however, limited market development. Rental transactions generate intra-family tensions, but the meaning of these transactions is generally agreed upon. The meanings of sale transactions are, however, contested; kin and heirs will dispute a sale if they are not consulted, and sales will be later interpreted by various parties as, for example, the establishment of a patron-client relationship, the establishment of the seller's right to sell, a grant of the right to plant trees with no right to transfer the land, or a contract in which the purchaser retains social obligations. Land markets as a result remain "embedded" in politics and society. Monetized payments for land often fail to reflect market value. Tree crops in particular have precipitated

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<sup>1</sup>Specifically, I rely on records taken from the National Archives of the United Kingdom (NAUK) in Kew, the National Archives of Nigeria in Ibadan (NAI), and from the archives of the Oba's Palace in Benin City (OPA).

<sup>2</sup>These interviews were conducted in two stages. The first 27 were collected by Joseph Ayodokun and myself during August 2008. The remainder were conducted by Monday Egharevba and Amen Uyigwe between September 2008 and April 2009 using questionnaires I provided. These were conducted in Edo, English, Igbo, Kwale, Pidgin, and Urhobo, with the help of interpreters. English transcripts of these are available on request. Because of the time period of the study, many respondents were young during the late colonial period, and gave answers about their parents' rubber farms. The "farmers" sub-sample consists of 23 interviews.

<sup>3</sup>Particularly valuable are: Anschel (1965), an agricultural economics dissertation on the industry as it was in the early 1960s; Blanckenburg (1965), a report for the government on rubber farmers in three villages in 1963; Bradbury (1957) and Bradbury (1973), anthropological accounts of Benin based on fieldwork in 1956; Egharevba (1949), an early nationalist statement on "customary" law; Rowling (1948), a government report on land tenure in the Benin Province; Upton (1967), who surveyed eleven farmers in each of three villages in Asaba; Usuanlele (2003), a dissertation on deforestation in colonial Benin, and; Ward-Price (1939), a report on Yoruba land tenure that contains a short section on Benin, based on interviews with major chiefs.

disputes, especially where rights have been given to in-migrants. Colonial and post-colonial states discouraged African cultivation of permanent crops through marketing boards, and have tried to suppress markets in land.

Benin presents both similarities and differences. As in these cases, rubber in colonial Benin encouraged sale and especially rental transactions, as well as sharecropping arrangements between peasant farmers and migrant rubber tappers. Sale in particular was not universally accepted, and these transactions did create tensions within communities. There are, however, several differences. That migrants in the rubber industry were itinerant tappers, rather than settler planters, limited the extent of conflict with Nigerians from outside Benin. No marketing board for rubber was ever established to pay prices that discouraged farmers. This was not an institutionalized means by which the colonial government discouraged planting. Rather, the colonial state feared that “permanent crops” such as rubber limited the land available for food, and actively discouraged planting towards the end of the Second World War. Legislation sought to restrict tree crop planting directly, but was successfully evaded by many local planters and used instead to exclude those from outside the community.

I proceed as follows. In section 2, I describe the “baseline” pre-colonial economy and land tenure system of Benin. In section 3, I briefly outline the “treatment,” giving an overview of the introduction of rubber in colonial Benin. In section 4, I describe the first set of outcomes of interest – how rubber shaped the acquisition of land. I outline how planters acquired land for planting rubber, and show that these transactions were not final, with local authorities sometimes attempting to change the terms over time. In section 5, I outline the effect of rubber on land rights and markets, the second set of outcomes of interest. I show how rubber increased the size of land holdings, the permanency of land rights, and the alienability of land rights, though each of these changes was uneven and faced resistance. I look at the final set of outcomes, land disputes, in section 6. Rubber opened up new conflicts within communities, between the people of Benin and outsiders from both Benin and other parts of Nigeria, with commercial plantations, and with the colonial state. In section 7, I conclude.

## 2. RURAL LAND TENURE IN PRE-COLONIAL BENIN

In the Benin kingdom, then, where land is plentiful, the land tenure system is very simple and such control as is exercised over the land is designed to add to the numbers of the village community rather than to secure exclusive rights over its resources (Bradbury, 1973, p. 182).

Before it was conquered by Britain in 1897, the Edo-speaking Kingdom of Benin was one of the major states of the West African forest zone. The present dynasty of Obas (kings) of Benin dates to roughly the thirteenth century (Egharevba, 1936). Between 1897 and 1914, no Oba was in place, and British rule in Benin was more or less “direct,”

FIGURE 1. Colonial southwestern Nigeria



Source: Willink Minorities Commission. Downloaded from [www.waado.org](http://www.waado.org).

as Benin was part of the Central Province of Southern Nigeria (Bradbury, 1973). Alongside the unification of Northern and Southern Nigeria in 1914, the position of Oba was restored, and Benin was subject to “indirect” rule as part of the Benin Province of colonial Nigeria (see Figure 1). The colonial history of Benin has been detailed by Igbafe (1979).<sup>4</sup> After Nigeria’s independence in 1960, Benin was part of the Mid-Western Region (later renamed Bendel State) from 1963 to 1991, and has been part of Edo State since then. The principal food crops of pre-colonial Benin were yams and maize, and its main exports were beads, slaves and pepper before the kingdom became closed to

<sup>4</sup>See also Ryder (1969) for Benin’s pre-colonial relations with Europeans, and Osadolor (2001) for the military history of the Benin Kingdom.

trade during the nineteenth century (Ryder, 1969). During the colonial period, palm oil was its principal export until rubber supplanted it during the Second World War.

In this section, I outline pre-colonial land tenure in Benin. I argue that Edo land tenure was a reflection of the underlying abundance of land in the region – supporting both Bradbury’s quote above and the more general narrative presented by Usuanlele (1988). I describe the limited administrative rights of chiefs, communal ownership of land not under cultivation, locals’ freedom to clear land belonging to their community, the lack of permanent rights and land markets, the relatively permissive rights granted to “strangers” from outside the local community, the limited role of tree crops in the pre-colonial economy, and the relative absence of land disputes.

In pre-colonial Benin, all land was said to be “owned” by the Oba, but in reality he had few powers over land outside Benin City itself. Ward-Price (1939, p. 113) commented that the “Oba of Benin is the ‘owner’ of all the land in his district, though his powers over the plots allotted to his subjects are restricted by the principles of justice and reasonableness.” Egharevba (1949, p. 77), similarly, suggested that the land was “communal or considered as belonging to the people as a whole,” and that the king’s role was that of a trustee, who could make grants of land on behalf of these people. At the West African Lands Committee (WALC) in 1912, despite there having been no recognized Oba for fifteen years, the chiefs who testified agreed that all land belonged to the Oba, who administered it through chiefs or community heads and was entitled to yearly tribute from all subjects. User rights depended on village membership, since control over the surrounding country was apportioned to Bini settlements (Rowling, 1948, p. 3).

While higher chiefs could receive services and tribute and were to be informed of the settlement of new persons, real ownership of land was at the level of the village, with the *odionwere* (often the oldest man) and senior *edion* (elders) exercising actual power over its use and allocation (Bradbury, 1973, p. 181). Blanckenburg (1965, p. 13) wrote that, while the Oba had superior ownership, land “has long been controlled by the village head and the elders’ council.” In many cases, no boundaries between villages were recognized (Bradbury, 1957, p. 44). The *odionwere* was responsible for handling “petty or routine” land questions within the community, though appeal could lie to the Oba (Ward-Price, 1939, p. 114). Each year, those holding land gave a present, generally some produce, to the chief; Ward-Price (1939, p. 114) suggested that failure to do so could result in eviction, but compliance was almost universal. Similar principles held in neighboring regions, and survived into the colonial period, albeit with modifications favoring those given power under indirect rule. In 1942, for example, the Etsako council in Kukuruku (Afenmai) Division declared that, according to “local custom,” land was communal to the village and held on its behalf by the Village Council. Families or individuals might

hold occupancy rights in certain areas, and only the Village Council could grant leases and collect rents.<sup>5</sup>

With land communal to the village, any member of the community could begin farming land without asking permission of anyone else, so long as no one else was farming towards the same spot. This was also true in neighboring Ishan (Anschel, 1965, p. 79). Bradbury (1973, p. 154) describes this process in more detail. New plots in forest or bush fallow were selected in January, cleared in January or February, and planted in March at the beginning of the rains. Plots were first used for yams with maize inter-planted in rows, and women planted other vegetables around the stumps. In the following year, land was planted with maize and cassava before it was left fallow again. The limitations over this right to take land reported by Rowling (1948, p. 4) were a) over another's permanent crops, even if these were few or neglected, b) over land that had been farmed in roughly the past 8 years, c) across the path another individual had declared the intention of farming, and d) on a block of land allocated for permanent crops to a stranger. So long as only food crops were grown, Blanckenburg (1965, p. 15) guessed that individual families farmed between three and seven acres of land annually, according to their size. This system worked, he argued, because land was abundant. Plots were used for only two years, then left fallow for fifteen or twenty. Even as late as the 1950s some "virgin" forest remained around two of his study villages.

The rights gained by clearing and farming were temporary, as no rights were recognized over fallow. Ward-Price (1939, p. 115) wrote that most farmers cultivated for one season only and then moved to new site. When the cultivator expressed no intention to return, this extinguished any claim over the land. He noted that families did not retain areas permanently, as did the Yoruba; land for food crops was held communally, "as if the whole of the people were one large family." Fallow land, then, reverted to control of the community, and was not likely to be re-cleared for some years (Bradbury, 1957, p. 45). This is not to imply that *farming* was communal to the village – only the ownership of land for cultivation. This did not reflect a pre-modern African communal ethic, but rather the more mundane abundance of land. In 1927, the population density was estimated at 25 per square mile.<sup>6</sup> In Ishan, the pattern was similar; any person could clear the bush of his own village or ward, which was the landowning group, and this would revert to the community when its fertility was exhausted (Bradbury, 1957, p. 76).<sup>7</sup>

With no permanent interests in land at a level below that of the village, sale markets for land itself were absent and temporary transfers such as pledging or rental were either rare or nonexistent. Lugard (1914, p. 51) noted that "no individual rights exist or

<sup>5</sup>NAI, Kukudiv 5 BP 455/C - Land Tenure in Kukuruku Division: 11 Nov, 1942: DO (District Officer) Kukuruku to Resident, Benin.

<sup>6</sup>NAI, CSO 26 09125: Assessment Report, Benin. 4 March, 1927: Resident to Secretary, Southern Provinces.

<sup>7</sup>A different view was told to the WALC, that clearing forest created a perpetual claim, but Rowling (1948, p. 3) rejected this as probably incorrect, as he could find no supporting evidence in Ward-Price (1939), nor any claims based on this argument in the court records he examined.

can exist for consideration, except such rights as may exist from clearing or cultivating the soil." Ward-Price (1939, p. 115), similarly, suggested that crops could be sold in the ground, "but there is no idea of a 'sale' as regards the land." Referring to land used for houses, Egharevba (1949, p. 78) suggested that the "system of land rent [i.e. fixed fees paid by strangers to quarter heads] was unknown in Benin before the advent of Europeans." Services had to be rendered to the king and individuals were expected to contribute to public works, "but the payment of money for a certain piece of land was not known." In his study villages, Blanckenburg (1965, p. 15) was told that pledging and mortgaging of farms did happen before introduction of rubber in his villages, but sale was not allowed.

Edo from outside a particular community required permission of either the *Enogie* or *odionwere* to settle; gifts given to these chiefs recognized their political supremacy, but were not rent for the land. Ward-Price (1939, p. 115) suggested that a non-Edo must receive the permission of the *Enogie*, who would direct him to either the Oba, *Edaikan* or *Iye Oba*. The *Enogie* could deny him permission to farm without cause, and it would be exceptional for the Oba to overrule him. For an Edo stranger, permission of the *Enogie* was needed, but would not be denied. Bradbury (1973, p. 181-182) found in 1956 that little control was exercised over the use of land by long-established residents. Rather, it was the strangers who cultivated palms temporarily, settled in the villages or in neighboring "camps," or who wished to use land without settling were required to obtain permission from the *odionwere*. They presented him with palm wine and, in 1956, small sums of money, which he should share with the other *edion*. These gifts were small, only a few shillings normally, "for land [was] not a scarce commodity." Strangers would make gifts out of their produce every year, and were expected to contribute to annual offerings and, formerly, the yearly tribute made to the Oba. Once settled, the stranger was free from disturbance. Ward-Price (1939, p. 115) wrote that, once food crops were planted by a native or stranger with the *Enogie's* permission, the planter was secure so long as he acknowledged the Oba as his administrative head. He could sub-let his farm, but was not permitted to sell a house or the land that had been assigned to him if he left the community. Such land would revert to communal ownership.

Tree crops were only a minor feature of pre-colonial land tenure. Those that grew wild were communal, with no individual rights recognized over them. According Rowling (1948, p. 9), no exclusive rights existed at all over wild produce, even on land under cultivation.<sup>8</sup> Any village member could reap them, though stranger Edo would have to pay tribute. Any village member could plant trees wherever he could "find a suitable unoccupied spot on the land belonging to his own village area," without permission, though excepting a few planted kola and deliberately scattered palms, tree crops were

<sup>8</sup>Bradbury (1957, p. 24) agrees that palms were communal, but argues that the farmer's permission would be needed to reap from a tree on a farm under cultivation. He also noted that close periods were declared at intervals to allow trees to recuperate "and these [were] usually followed by a general assault on the fruit."

a colonial introduction (Ward-Price, 1939, p. 116).<sup>9</sup> If any objection were raised, appeal would lie to the *Enogie* and “perhaps” to the Oba (*ibid*). A non-villager Edo would need permission of the *Enogie*, who could refuse if he felt the land would be needed in the future, though refusal was unlikely (*ibid*, p. 116). Planted trees were individually and securely owned (Bradbury, 1957, p. 24), and the trees could be sold, though in theory the land was not sold with them. Ward-Price (1939, p. 116) suggested permission of the *Enogie* was needed, but he would not refuse “as chiefs are always anxious to increase the number of people on their land.” Even if trees were planted illegally, it was considered wrong to destroy crops in the ground. In a 1941 case, the defendant was charged with utilizing quarter land to plant rubber, but judgment was given in his favor because it was against “Native Law and Custom” to destroy a growing plant.<sup>10</sup> In a 1940 suit, similarly, the defendant was found to be owner of the land on which he had planted his rubber, but was ordered to pay £40 and costs to the plaintiff for cutting down the latter’s trees, “because it is against customary rule to destroy growing plants.”<sup>11</sup>

With low population densities, land was abundant in pre-colonial Benin, and disputes over it were uncommon. These focused on the political power that came with controlling settlement, and were not concerned with land as a scarce productive resource. In 1918, the Resident wrote to the Colonial Secretary that, “I have to inform you that this Province had always been singularly free from Land Disputes. This is probably due to the fact that the population is less dense than in other Provinces.” In cases where had seen disputes arise, he reported that “there has been little difficulty in effecting a settlement.”<sup>12</sup> In 1926, the Resident claimed that, according to Benin custom, land in dispute between two Edo-speakers was “liable to be confiscated as far as they are concerned and given by the Oba to any other Bini [Edo]; the disputants receiving sites elsewhere.” I have not seen this claim made elsewhere, but it is indicative of a situation in which peace was more valuable than land. Bradbury (1957, p. 45), even later in the colonial period, argued that “litigation over the ownership of land as such is non-existent outside Benin City except in a political context where, for example, two *enigie* dispute their common boundaries.” The other exception, he noted, was disputes over permanent crops.

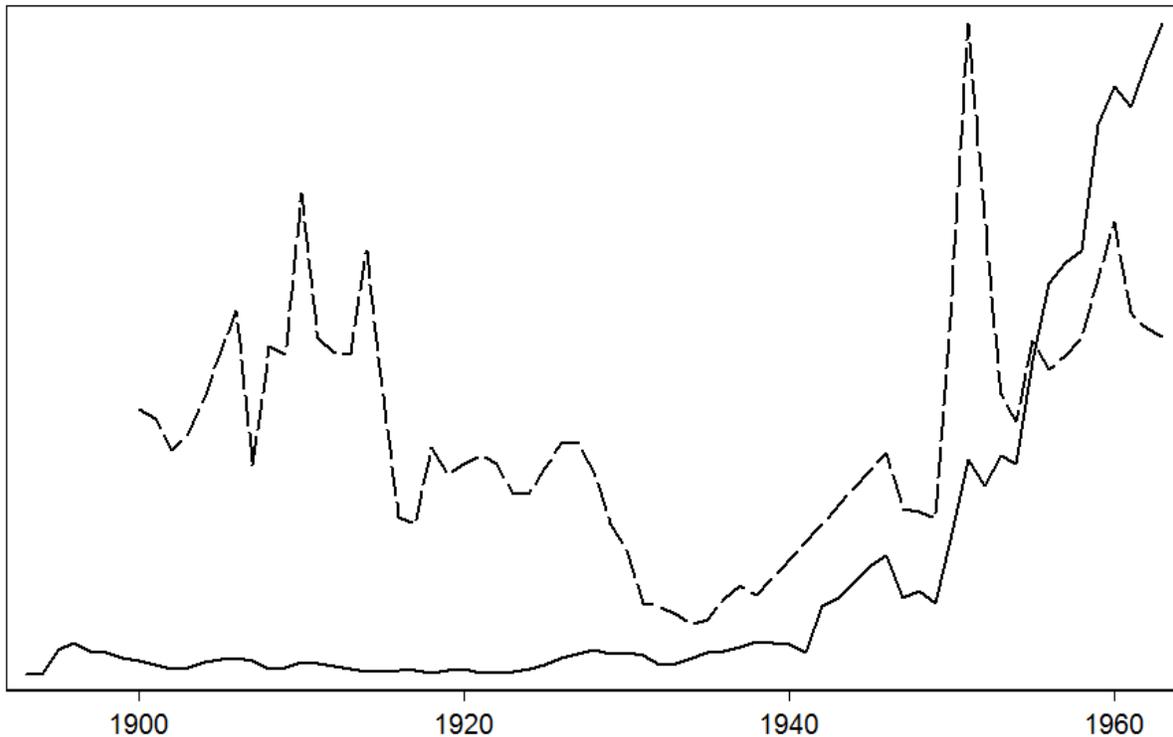
<sup>9</sup>Bradbury (1957, p. 24) writes that the most important older tree crops were kola, oil palms, and coconut. Kola and coconut were planted, owned and inherited by individuals. All men and some women had kola, planted along the main paths and used for hospitality and ritual. Coconut palms were generally close to houses and men had one or two. Other fruit trees were individually owned but rare.

<sup>10</sup>NAI, Ben Prof 8/1/5 Civil Record Book 1934-1935: Medoim of Illah v. Ezediumo of Illah (1941), Illah Native Court 2/41.

<sup>11</sup>NAI, Ben Prof 8/1/5 Civil Record Book 1934-1935: EHK Obosi of Illah v. Ageture of Illah (1940) 69/40. The transcript shows that Chiefs Asiene and Obi Amayo dissented – one for a lower fine and the other in favor of the defendant. The judgement was appealed, but if I have found no record of the outcome.

<sup>12</sup>NAI, Ben Dist 2/3 BP 446/1916 Land Disputes, Procedure in dealing with: 4 Feb, 1918: Resident Benin to Secretary, Southern Provinces.

FIGURE 2. Nigerian rubber exports and prices over time



Source: Ansel (1965). The solid line is tons of rubber exported, while the dashed line is prices per ton. Both series are normalized to their maxima and so have no units.

### 3. THE SPREAD OF RUBBER IN BENIN

In this section, I briefly outline the history of rubber in Benin. Brazilian *Para* rubber was introduced to Nigeria in 1895 (Ansel, 1965). During the first years of colonial rule, most of Benin's rubber exports were collected from the local *funtumia*, which grew wild throughout southern Nigeria. The colonial government, fearing that these were being destroyed through over-tapping, encouraged the creation of "communal" plantations of *funtumia*, and distributed *Para* seedlings. Some 2250 of these communal plantations existed around Benin in 1911 (Christy, 1911). In 1917, a list of *Para* plantations in Benin province, excluding those with fewer than 20 trees and "small private plantations of which there is no record" listed 269 plantations that had been established in 1914 or 1915, averaging 68 seedlings each.<sup>13</sup> During this early period, the first expatriate plantation was established by Miller Bothers at Sapele in 1901.

For a variety of reasons, these efforts were abandoned in 1921 (Fenske, 2010). Nigerians, however, continued to plant rubber. In 1926 and 1927, 30,703 lbs and 18,980

<sup>13</sup>NAI, BP 175 1917: Para Rubber Plantations: 11 Aug, 1917: Resident to Assistant Superintendent of Agriculture.

lbs were exported from the province, most of it shipped at 1s per lb by James Thomas of Sapele. From 1934, an international quota scheme kept world rubber prices high, but did not restrict Nigerian exports (Bauer, 1946). Along with a growing fear that land would be expropriated for forest reserves and colonial taxes that had to be paid in cash, this spurred Nigerian smallholders to plant more rubber, and exports rose from the mid 1930s on (Usuanlele, 2003). It is difficult to uncover the details of the farms established during this period. A collection of warning letters sent to smallholders between 1942 and 1944, warning them that if they did not tap their plantations the government would take these over, gives an (admittedly atypical) sample of 369 plantations.<sup>14</sup> These averaged 474 trees each, ranging from a minimum of 10 to a maximum of 5400. Blanckenburg (1965) reported planting densities of 300-500 per acre, so this is consistent with these farmers typically having one acre planted but untapped. 90% of these were less than 10 years old, though a handful were planted more than twenty years prior. The villages mentioned most as homes of these plantations were Iguoriakhi (32), Okha (19), Idokpa (11), Igbekhue (11) and Ebazogbe (10).

The loss of Malaya to the Japanese in 1942 pushed British authorities to encourage rubber production in their African colonies. Price controls, compulsion and propaganda were used to encourage rubber production and collection in Benin, and planting continued (see section 6). In Ishan division, for example, it was reported in 1942 that 35 new planters had established 37 acres of rubber, and that there were 188 acres of rubber in the division.<sup>15</sup> In 1943, one official estimated that 1323 farmers had 605 acres of mature rubber in Ishan, with roughly another 1,000 acres planted to young trees.<sup>16</sup> In Kwale-Aboh, Lamb estimated that the acreage under rubber had expanded from 660 acres before 1937 to 7067 by the end of 1944.<sup>17</sup> I have not found comparable estimates for Benin Division, but in 1944 eighteen African-owned rubber plantations employed a sufficient number of workers to be the subject of an inquiry by the Commissioner of Labour into working conditions.<sup>18</sup> By 1948, it was estimated that 25% of the division was planted to rubber (Usuanlele, 2003, p. 161).

Despite negative propaganda and active restrictions by a government that feared the international market would collapse after the end of the Second World War, Benin farmers continued to plant rubber, pushed in part by high prices during the Korean War. Rubber became ubiquitous. Bradbury (1957, p. 24) reported that rubber and cocoa

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<sup>14</sup>NAI, BP 2287: Rubber Farms Taken Over by the Government.

<sup>15</sup>ID 727 Vol 2: Annual Reports Ishan Division 1961: Agricultural Department (Ishan Division), Annual Report for 1942.

<sup>16</sup>NAI, ID 744: Unsigned minute, dated 23/6 1943: List of African plantations. Also see NAI, ID 744 23 June, 1944: Minute to Allen from Executive.

<sup>17</sup>NAI, WP 149 rubber production: 5 Sept, 1945: Agricultural Officer to Resident, Warri.

<sup>18</sup>NAI, BP 1273: Rubber Industry Benin Province: 14 April, 1944: Commissioner of Labour to Secretary, Southern Provinces.

were the main sources of monetary income in the region. These were grown on small-holdings or plantations. Most Edo householders had a few hundred rubber trees. Extensive plantations were owned by wealthy individuals, mainly titled men from Benin city who employed paid labor, largely of itinerant Ibo tappers. Anschel (1965, p. 87) extrapolated from his own small survey, in which 72.4% of farmers owned rubber, to estimate that in the early 1960s 113,500 farmers owned slightly more than 1.2 million acres of rubber in mid-Western Nigeria. This was triple any prior estimate, since these had been extrapolated from exports and assumed no untapped acreage. Exports peaked during the first half of the 1970s, and the industry has since declined.

There are four confounding treatments that hit Benin during the colonial period, whose effects may be mis-attributed to rubber: population growth, forest reservation, commercialization of palm produce, and the social and political changes that were direct consequences of colonial rule. While it is not possible to “control” for these, since my sources are almost wholly qualitative, I restrict my focus throughout this paper to changes that were directly attributed by participants and observers to rubber, or to disputes explicitly stated to concern *Para* plantations, wherever possible.

#### 4. HOW LAND WAS ACQUIRED FOR RUBBER PLANTATIONS

In this section, I contrast the methods by which rubber planters in Benin acquired land with other cases of tree crops in Africa. In much of the continent, acquisition of land during the early spread of tree crops was relatively free, though this became more restricted as land became scarce. In Benin, this was also the case, as many early planters acquired their plantations by clearing forest, in some cases claiming no permission was needed.

Throughout Africa, land for tree crops has often been obtained initially under “customary” relationships, with few cash transfers taking place. Where land was sold early on, these transactions gave rights to the buyer with fewer restrictions than in later periods. In the Oumé District of Côte d’Ivoire, cocoa plantations in Gban and Guro areas initially belonged to District and Village Heads whose ties with colonial power gave them access to forced labor. In the late 1940s, Bwale migrants went to these “big men” and acquired land under the local patron-client system of *tutorat* (Chauveau and Colin, 2010). In the area around Djimini-Koffikro in southwestern Côte d’Ivoire, by contrast, there were no existing settlements in the 1920s. There, the first settlers acquired the authority to regulate the arrival of newcomers, receiving only a gin or palm wine in return, without establishing any power relation or hierarchy. Clearing forest created “uncontested individual right[s]” (*ibid*). Similarly, Berry (1975) found that early cocoa farmers in 1930s Ife, in southwestern Nigeria, obtained land for small presents, worth less than £1 per acre in cash, and a promise to pay *ishakole* tribute annually for symbolic purposes. In Asante, Austin (1986) finds that land was initially acquired by migrants using traditional legal forms not previously used for commercial agriculture. Chiefs extended

the principle previously used for gold and kola that the stool should receive a third share of output. This was “the first agricultural rent in Asante history.” When forest land in Ghana seemed inexhaustible, the chiefs of Akim, Akwapim and Ashanti alienated land to stranger farmers for a lump sum or a proportion of the developed land (Robertson, 1982).

As the value of tree crop plantations rose, these terms were changed; later planters paid more for land in cash and social obligations, and those who granted land to early planters sought to change the terms of the original arrangements in their favor. As forest became scarce in southern Ghana around 1950, authorities demanded regular tribute or rent rather than permitting outright sales. Distinctions between citizens, labor migrants and land migrants became sharper. Over time, the *abusa* sharecropping contract gave fewer proprietary interests to these tenants, who become more strictly “laborers” (Robertson, 1982). In the Oumé District of Côte d’Ivoire, Gban and Guro landlords began to ask for cash payments in addition to the original “duties of gratitude” after migrants’ plantations began to mature in the 1950s. Migrants then turned to heads of smaller family groups for land transfers (Chauveau and Colin, 2010). In Ife, when cocoa began to bear, *ishakole* was raised generally to 1 cwt of cocoa per year, though since price was low at that time, this was not intended to extract economic rents (Berry, 1975). This later spread to Ondo. As the monetary value of *ishakole* rose, non-cash obligations fell. It became less common for Ife and Ondo planters to work without pay for the landowner. The landowner-tenant relationship became distinct from that of village head and stranger. The Modakeke community in Ibadan, similarly, was compelled by the customary court to begin paying *ishakole* during the late 1940s. In Asante, the colonial government had converted the shares paid by farmers to a (then low) fee of 1d per tree in 1913, but with the low prices that prevailed between 1916 and 1933 this burden became impossible to enforce. By the 1930s, northern migrants had begun to form share-cropping arrangements in which the worker received a third of the mature crop, and creditors began to acquire plantations through foreclosure of five-year pledges (Austin, 1986).

In Benin, the pattern was similar. Smallholders generally acquired land for rubber freely, by planting trees on their farms after they were done cultivating food crops, instead of leaving them fallow. Generally, no permission was needed for this. Rowling (1948, p. 5) stated that a Bini was “free to plant as he will,” while a stranger would be given a block of land with the intention that he would plant it over successive years. In Ishan, Rowling (1948, p. 18-19) found no limitations on permanent crops, and if a protest was raised that farmland was getting short, no legal sanction existed to restrict planting. In the three villages he studied, Blanckenburg (1965, p. 14) found that rubber was planted on plots used for food crops during the second year of use, along with cassava and minor crops. Of the 11 farmers Upton (1967, p. 11), surveyed in each of his three Asaba villages, 100%, 100% and 73% stated that extra land was available for food

crops, while 100%, 100% and 53% stated that it was similarly available for tree crops. The most commonly stated means of acquiring land for tree crops was that it was “freely available” in the first two, and that one would ask the head of the family in the third.

My respondents, similarly, often stated that they acquired land by clearing forest, and that no permission was needed from anyone. For example:

Those days the land is available and free and it is free for anyone that can cultivate it. So my father were part of those who come here very early so they have land that they open from virgin forest.<sup>19</sup>

Or, another:

My father has been here for a very long time where ever you are able to cultivate first when it was a virgin forest becomes yours and my father is also a son of the soil so we are native of this village... No they don't have any permission since you are a member of the community, you are free to open new land and plant any crop. You know the people are very few then but the land is very large then.<sup>20</sup>

Yet others stated that the *odionwere* had to be informed that an individual was cultivating a particular area, though not necessarily what was being planted,<sup>21</sup> or that all that was needed was to “buy the elders drinks so that they would pray for you.”<sup>22</sup> The extent of land taken, then, was limited by the ability to recruit labor; one respondent told me that, since his friend's father had more sons than his own father, his friend's father's plantation was larger.<sup>23</sup>

Examples from court cases similarly give evidence that payments were small, though they do not support the view that no permission was needed. In 1942, the plaintiff in a civil suit told the court that he had bought a plot of land from Evbuomwan and four others around 1933. Knowing that he might plant permanent crops, he gave them 5s and some tobacco as consideration. Evbuomwan testified that he had sold the farm with approval of the village head.<sup>24</sup> In another suit from 1958, the plaintiff told the court that he had acquired land in 1925 at Oregbene, roughly 3 miles from Benin, from the elders in return for “kola nuts and drinks,” and then planted rubber and coffee on the plot.<sup>25</sup>

This discrepancy between the oral and court evidences may result partly from strategic use of the colonial courts. While it is possible that the courts simply recorded explicitly for the first time the implicit understandings that were unknowable to outsiders in the past, statements made in court could also be used to claim rights to land or crops

<sup>19</sup>Interview: Joseph Agunjiharoni.

<sup>20</sup>Interview: Samuel Edosomwan.

<sup>21</sup>Interview: Pa Abifade.

<sup>22</sup>Interview: Chief Thomas Emegue.

<sup>23</sup>Interview: Moses Igbineveka.

<sup>24</sup>OPA, Benin Civil Court 1942 No. 138, #129/42 S.A. Obaseki of Benin v. Isibor of Benin.

<sup>25</sup>OPA, File 35/58, J.J. Idehen v. J.E. Edokpolor.

that could now be recognized by the appointed authorities. Increasing use of courts may signal both changes in what is considered “allowed,” as well as worries about creeping land scarcity (discussed below).

As fears arose that land was becoming scarce, and as the value of these plantations became apparent, village authorities would sometimes attempt to extract rents, both from new planters and from those with existing plantations. In addition, colonial, provincial, and local authorities made efforts to restrict planting – these will be dealt with in section 6. Dibia Afam, a farmer in the Asaba Division, found that he had been able to acquire land freely for planting rubber during the late 1930s and early 1940s, but once his farms matured his relatives demanded he pay them £1 annually.<sup>26</sup> Attempts were made especially to strategically evict stranger planters – these will be discussed in section 6. Further, the existing system of land tenure, which did not recognize rights in fallow, made replanting difficult. Anschel (1967, p. 8) believed that, since land did not belong to the planter, but rather to “the Oba, to a Chief, to a village, etc. and could even, at some time, be taken away from him” farmers would go to another patch of forest farther away from the village rather than replanting an aged rubber farm.

## 5. THE IMPACT OF RUBBER ON LAND RIGHTS AND MARKETS

In this section, I contrast the impact of tree crops on land rights and markets in Benin with the rest of Africa. Rubber increased Edo farm sizes, an effect that persists into the present. Rights over rubber were more permanent and less communal than the interests that existed over fallow before colonial rule. Plantations were let out temporarily, particularly to Ibo tappers that the government worried lacked incentives to maintain the health of the rubber trees. Sales existed, and prices rose as plantations became more valuable, but the legitimacy of sale was questioned and created land disputes. A more enduring legacy of rubber, then, has been the increasing prevalence of inheritance as a means of acquiring land.

In other parts of Africa, tree crops have led to more individualized holdings and greater commercialization of land transfers during the generation of the original planter, but due to inheritance systems and labor arrangements that give proprietary interests to multiple claimants, these become more restricted with time (Berry, 1988). For Amanor (2010, p. 106), this is part of a larger “frontier process” throughout West Africa, typified by four phases. First, scarce labor prompts chiefs and landowners to sell large tracts of land. Second, labor becomes available, and migrants work the land. Lease and sharecrop replace sales and are incorporated into invented custom. Third, land becomes scarce; conflicts emerge between youth and labor as youth cannot clear new land. Fourth, migrants go elsewhere and youth no longer work on family farms, since there is no guarantee of inheritance. Farming becomes individual, and sharecropping supplants lineage land relations. Tree crops drive individualization of tenure initially.

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<sup>26</sup>NAI, Ben Prof 1 BP 203/706, “Dibia Afam, petition from.”

Planters control the disposal of output, and may alienate their farms by lease, gift, mortgage or sale. In principle, these rights do not extend to the land itself, but in practice they often do (Berry, 1988). Besley (1995) refers to African tenure systems as “Lockean,” arguing that investments such as tree crops create rights in land. Quisumbing et al. (2001) quantify this effect in Ghana; 20-25% of a plot must be planted with cocoa before it is transferred to the planter as a gift within the extended family. Berry (1975) finds that southwestern Nigerian tenants were seen as owners of the trees they planted, if not the land, and could not be evicted unless they refused to pay *ishakole* or committed a serious crime. Kobben (1963) reported that Bete and Dida coffee planters in Côte d’Ivoire began to think of the land as theirs, once it had been removed from the control of the segment elder for an indefinite length of time. Despite matrilineal inheritance, coffee and cocoa plantations were given to sons as bequests and transfers *inter vivos*.

Trees also spur land markets, but these remain socially embedded and the prices paid do not fully reflect productive value. Land is transferred through a wide range of transactions, including sales, inheritance, leases, pledges, and sharecropping arrangements. Patrilineal migrant cocoa farmers in southern Ghana, at first adopted the Krobo *huza* system of land purchase, which was initially used during the mid-late nineteenth century to acquire land for food crops and oil palms. Groups of potentially unrelated individuals bought land that was then sold to each member. Members could sell to whoever they wished (Hill, 1997). In the Oumé District of Côte d’Ivoire, early transfers were “sale in the classical sense, subject to manifestations of respect and gratitude,” but now the death of a *tuteur* leads to renegotiation and demands for more cash. Buyers ask for written receipts. These do not specify any obligations of gratitude, but these duties remain important in securing the migrant’s legitimacy (Chauveau and Colin, 2010). Around Djimini-Koffikro, conversely, pioneers had not acquired land by inheritance, and rights they gained were complete, outside the *tutorat* system. Since 1975, however, land has become family property through inheritance and the number of transactions has fallen (*ibid*). In Nigeria, Berry (1975) found that landlords in Ibadan who granted land to planters demand permission be asked of them before a sale and collected *ishakole* from the buyer. She found that *ishakole* did not rise over time in Nigeria, but that the costs of acquiring cocoa farms did. Oluwasanmi (1966, p. 43-44) reaches an opposite conclusion, arguing that *ishakole* did rise over time, without giving the payer greater rights or fewer obligations. In Cameroon, Guyer (1984, p. 68) noted that land borrowers had initially been secure in their rights. With population pressure, however, original owners and their heirs would attempt to reclaim the land on the grounds that tree planting violated the original agreement. The idea of “sale” of land was not fully accepted. Kobben (1963) found in Côte d’Ivoire that land markets were most developed along roadsides; strangers there paid higher prices, but were better able to resist demands for annual “gifts.”

In Benin, the spread of rubber led to increased acreage. Rubber increased the permanency of land rights, creating *de facto* ownership of the land under it. Rubber plantations could be alienated temporarily, by rental, pledge, or sharecrop, or permanently by sale or inheritance. Disputes arose especially from the sale of rubber plantations. The alienability of these plantations was not immediate, and plantation owners' rights were contested by other community members. In the remainder of this section I outline each of these impacts in turn.

During the 1920s, one colonial officer estimated that the typical Kwale farmer farmed no less than one acre and in most cases about two acres.<sup>27</sup> In Benin Division, there was not much variation in farm size, and where it existed, it was compensated for by closer planting. He measured fifty farms to get an average of 1.39 acres "for a man and his wife." He guessed the typical income of this unit at a bit over £23/7. The colonial government believed, wrongly, that rubber farms were roughly the same size as these. One report in 1959 suggested that rubber took up "approximately 300,000 acres mostly in units of one or two acres."<sup>28</sup>

Blanckenburg (1965, p. 16), by contrast, measured seven rubber farms in his study villages and found them all to be much larger than what prevailed before British rule. His farmers had, on average, 13.7 acres planted to rubber and 5.5 in food crops. He also cited unpublished work by Oluwasanmi, whose survey of 150 farms found that 21% were under 5 acres, 46% were between 5 and 11 acres, 25% were between 11 and 20 acres, and 8% were over 20 acres. Ansel (1967, p. 3), similarly, reported that an FAO survey had found 19.1% of rubber holdings in 47 villages of Benin Division were above 20 acres, while 41% were greater than 10, and 71.8% were greater than 4. In his own sample, farmers averaged 13.8 acres of rubber in 4.4 plots (Ansel, 1965, p. 87). In the three Asaba villages Upton (1967, p. 11) studied, the eleven farmers in each averaged 8.52, 18.61 and 12.78 acres of rubber.

This growth in size was facilitated by the practice, mentioned above, of planting food farms to rubber when before they would have been left fallow. Several of my respondents stated that their plantations had been built up gradually. For example:

I did not acquire all the land at once. What we did was to plant part of our farmland with rubber each year. This piecemeal type of planting continued until we finally felt that we had planted enough rubber.<sup>29</sup>

This suggests that rubber increased farm size for technological reasons; in a land-abundant environment, labor limited the acreage that could be cleared or cultivated in any given season, while depletion of soil fertility kept food crops under cultivation for

<sup>27</sup>NAI, CSO 26 09125 Assessment Report on Benin Division by Nevins, DO.

<sup>28</sup>NAI, AR8 A1b: Annual Report of the Ministry of Agriculture and Natural Resources (Extension Services Division); 1958-59.

<sup>29</sup>Interview: Chief J.O. Igbinovia.

only one or two years. Rubber could continue to bear for many years, and it was possible for smallholders to profitably tap it using either their own children or by employing sharecroppers.

Usuanlele (2003, p. 103-4) adds a political economy explanation. As chiefs abused their positions in order to convert communal lands into private holdings that they could lease to traders and others, individuals responded by also attempting to appropriate communal land for their individual use and the inheritance of their children. Planting rubber was one means of gathering as much land as possible. Planters' interest groups, such as the Institute for Home Benin Improvement, Benin Citizens, Benin Community, and the Benin Progress League pushed during the 1930s for the privatization of communal land, demanding title deeds and deeds of conveyance for those who had acquired land through forest clearing. The colonial government never granted these demands (*ibid*). Usuanlele (2003, p. 105) adds that farm sizes increased during the depression of the 1930s, as incomes fell but tax demands did not, inciting expanded cash crop production. These larger farms of rubber farmers have persisted into the present; recent surveys have given average rubber holdings of 5.73 acres (Agwu, 2006) and 14.01 acres (Mesike et al., 2009).

In contrast to the lack of recognition of rights over fallow land in pre-colonial Benin, rights over rubber plantations were more permanent. Blanckenburg (1965, p. 14) reported that fallow land no longer reverted to the community. In his study villages, farmers were only entitled to cultivate land they had used previously, or virgin bush. Rowling (1948, p. 4), similarly, noted that Ward-Price (1939) had found no recognized rights in fallow during the early 1930s, but was told by the Oba after the Second World War that "whatever the position of old, when land was plentiful and strangers few and when no one therefore bothered over claims to fallow, the spread of permanent crops which have enchanced [sic] the value of land as well as growing fears about shortage, are leading to insistence upon them," adding (p.6) that "the rights secured by planting cocoa, rubber, kola, in a few cases oil or bamboo palm are the only ones which appear to have permanency." Rowling (1948, p. 26) noted that the pattern was similar in Agbor, while Bradbury (1957, p. 76) made similar observations in Ishan.

Land ownership became less communal, and effectively gave the owner of the plantation exclusive rights over the land under it. Blanckenburg (1965, p. 14) noted that ownership of the land was true in practice, though not in theory, and that the family had become the landholding unit. Bradbury (1973, p. 154) referred to rubber plantations as "individually owned." Egharevba (1949, p. 79) highlighted the development, writing that a "change is, however, coming over the whole system of land [t]enure. More and more, the right of each man to ownership of his land is being recognized (as in Yorubaland) and this is largely due to the permanent crops put down." Unlike other cases in West Africa, joint inheritance was less prevalent, and in particular Benin had a tradition

of primogeniture. Inheritance, then, had less power to convert individual holdings into family property. According to one respondent:

You could have a plantation that is up to 15 to 20 hectares, which probably started as about five or ten acres from the original farmer who planted the rubber initially and as time went by it start to get into near by forest and crop land and as long as the initial owner of the rubber was alive he claim ownership of the rubber trees. But if such a person die and the children have to inherit they must sub divide the plantation and that is very common so you could have a plantation that is own by one person but subdivided into individual children as owner.<sup>30</sup>

Rubber plantations could be, and were, rented or sharecropped out mostly to Ibo tappers, since smallholders frequently had more acres under rubber than their family labor would allow them to exploit. For example, the plantation under dispute in a 1946 civil suit had been rented since about 1937, and the rent since 1943 had been £15 pounds per year.<sup>31</sup> The defendant in another suit claimed that a 1,000 tree plantation had been rented out to the plaintiff around 1936 for £7 per year.<sup>32</sup> Other rentals mentioned in court records give a price per year per tree – 2d in 1939,<sup>33</sup> 3d in 1937,<sup>34</sup> or 2d during the late 1940s.<sup>35</sup> The Benin Native Authority also owned plantations that it rented out – in 1929 it reduced the rents on a plantation let out to Omoregie to £2/10 for two years.<sup>36</sup> In Agbor in 1946, eighteen plantations totalling 17,407 trees were let to the Bata Shoe Company at 4d per tree. The Obi of Agbor assembled the owners together to be paid by the company clerk.<sup>37</sup> Osagie (1988, p. 55) noted that rentals also occurred in Esan. In 1960, some farmers were renting plantations to tappers at 1s 6d per tree per year. He cites one example of 172 trees let out at 6d per tree for one year, with a promise that the rent would double if the rubber were “roughly tapped.” Similar to a lease was a pledge, in which the use of the rubber would pass to the creditor until the principal was repaid. In a 1938 suit, the plaintiff claimed to have pledged sixty trees to the defendant for £3, but the court refused to believe sixty trees could be used to raise a loan of this size.<sup>38</sup>

The disputes that arose from these transactions, as in other parts of Africa, centered more on conditions and on non-payment than on their legitimacy. In a 1949 suit, for

<sup>30</sup>Interview: Albert Oburoh.

<sup>31</sup>OPA, Benin Native Court #315, 1945-46: #252/46 Ayi Belo of Benin v. Amadasun of Benin.

<sup>32</sup>OPA, Benin Native Court 1938-39 #212, 178/39, Ikehen of Benin v. Ihabowa (?) of Ologbo.

<sup>33</sup>OPA, Benin Civil Court Record Book 1941 #15, #179/1940, Amadasun of Benin v. A.B. Suberu of Benin.

<sup>34</sup>OPA, Benin Native Court 1938-39 #212, 521/39: Joseph Obazie of Benin v. A Wilkey of Benin.

<sup>35</sup>OPA, Benin Native Court 1949 #206, 841/49, Ojo Osagie of Benin v. Avibayor Oniawe of Benin.

<sup>36</sup>NAI, Ben Dist 1 14 24 29 Oba's Judicial Council: Minutes of Council Meeting 10/12/1929.

<sup>37</sup>NAI, BP 1273: Rubber Industry Benin Province: 30 Aug, 1946: DO Asaba to Resident Benin.

<sup>38</sup>OPA, Benin NC 1938-39 #212, #2561/38 Ikunde Erebor of Benin v. Eregbowa of Benin.

example, the plaintiff claimed the defendant had tapped an additional 200 trees not included in their agreement.<sup>39</sup> These conflicts were, however, bound up with other transactions and social considerations. In one 1940 case,<sup>40</sup> the defendant owed a little over £5/3 for a 620 tree plantation, but the plaintiff claimed he had only paid £2. The defendant hired laborers to tap the plantation. In April, the plaintiff demanded an advance that he could use on bride-price in taking a wife. The defendant claimed he had no money, and so the plaintiff took away his tools. The defendant then loaned £26 to the plaintiff through his eldest son. The defendant's workers, however, began to desert because of the lack of work. The defendant claimed that the plaintiff had wasted six months at this, which was why he had been unable to pay the balance. The court was sympathetic to this, awarding the plaintiff only £1/8.

In addition to rentals, many smallholders let their plantations to Ibo tappers on a share system, whereby each party would receive one half of the value of the rubber sold. A major concern of colonial officials was that sharecropping arrangements did not give tappers an adequate incentive to maintain the health of their rubber trees. The Production Officer in 1945 complained that "a lot of time [had] been wasted training men, who leave within a few weeks generally because of some dispute between the Tappers and the Owner regarding remuneration."<sup>41</sup> A 1959 report by the Ministry of Agriculture claimed that, in the past, rubber had been properly tapped, but that the increasing role of migrant tappers had undermined this:

The main concern of these itinerant tappers is the maximum of profit in the short term for the minimum of expenditure of time and effort. The trees have been dreadfully mutilated, maintenance is neglected and the farms are consequently liable to have fires through them during the dry season...The majority of farms have been almost completely ruined by bad tapping.<sup>42</sup>

Further, the report claimed that the tapper could make more money by investing his time in tapping, rather than preparation, producing less valuable crepe with what could have been made into first-grade sheet rubber. This concern was inherited by post-colonial officials – Amobi et al. (1983, p. 25) described "the absentee landlord and share cropping arrangements which does not [sic] provide for either proper exploitation of the rubber trees or reinvestment in the improvement of the old and low yielding plantations" as a "serious problem."

Rubber plantations could be, and were, bequeathed and sold. Rowling (1948, p. 8) noted that, in the past, a son would inherit only standing crops and the right to continue in an area under cultivation; even the Oba recognized that by 1948 this had changed.

<sup>39</sup>OPA, Benin Native Court 1949 #206, 841/49, Ojo Osagie of Benin v. Avibayor Oniawe of Benin.

<sup>40</sup>OPA, Benin Civil Court Record Book 1941 #15, #179/1940, Amadasun of Benin v. A.B. Suberu of Benin.

<sup>41</sup>NAI, WP 149 rubber production. 23/4/1945: Production officer to residents Warri and Benin.

<sup>42</sup>NAI, AR8 A1b: Annual Report of the Ministry of Agriculture and Natural Resources (Extension Services Division). April-March 1958-59.

Blanckenburg (1965, p. 20), similarly, noted that in the past it was not useful to inherit farm land. At the time of his survey, rubber was among the inheritance to be divided. On principle, the largest share was inherited by eldest son and rest shared among the other children. Farmers he spoke with saw rubber plantations as savings for their children, and this was one motivation for the increase in farm size (also, Usuanlele (2003)). One petitioner during the 1930s wrote to the District Officer in Benin City that, in an inheritance dispute, he had sued for his late father's cocoa trees, pear trees, thatches and rubber trees, and had won all but the "most valuable one – the rubber trees."<sup>43</sup>

Even before rubber became widespread, Ward-Price (1939, p. 116) noted that permanent crops could be sold to a "native" of the Benin Division, and the land "of course" went with the crops, though the *Enogie* "should be informed." Once planted, Bradbury (1957, p. 45) found that permanent crops could be alienated by sale, pledge or mortgage. Rowling (1948, p. 6), similarly, reported that an Edo was "free to do what he likes with crops of all kinds," and could sell, pledge or mortgage these, though there were restrictions on alienation to a non-Edo. The Ekiador Central Court in 1940 upheld that consent by Village Council or *Enogie* was not needed for sale to a "freeborn man of the village... There are so many people who sell their plantations ... there is no need to inflict trouble on anybody who sells his property when in need (*ibid*)." The transferee would commonly insist on having the transaction reported in order to protect his interests in the future. Anshel (1965, p. 80) believed that sale of land was becoming most common "where outside influences [were] strong," such as near the main roads. Egharevba (1949, p. 79) stated that, should a "non-native" wish to leave the district, he was free to sell to a "native of the soil."

Rowling (1948, p. 6) also reported that "true mortgage," i.e. a transaction with a foreclosure date, existed for rubber farms alongside the "African pledge or usufructuary mortgage," described above. These, he noted, usually involved written agreements. For example, one writer petitioned the District Officer in 1941 that he had loaned his friend £15 to buy three plantations, which was to be repaid via the sale of rubber sheets. It was agreed that, should the friend fail to repay, the plantations were to become his. This happened, and he had successfully sued for the plantations at the Benin Native Court.<sup>44</sup>

The common reasons for sale identified by Blanckenburg (1965, p. 15) were to raise money for payment of bride price, building of a house, or for the education of children. Purchasers were mainly farmers short of land, and plantations with high yielding trees were less frequently sold than low-yielding or young, untapped farms. He argued that the price paid depended on supply and demand as well as on the personal relationship between parties and characteristics of the plot. From primary and secondary sources, I have collected nineteen examples of plantations in which I know both the price paid and (roughly) the year of the sale. These are reported in Table 1. While the sample size

<sup>43</sup>NAI, Ben Prof 1 BD 65 Vol 11: Petition Benin Native Court: Osionwanwri to DO, Benin c. 1936.

<sup>44</sup>NAI, Ben Dist 1 BD 28 Vol 11 Oba's Court Appeals; 22 Nov 1941: Petition by Guobadia.

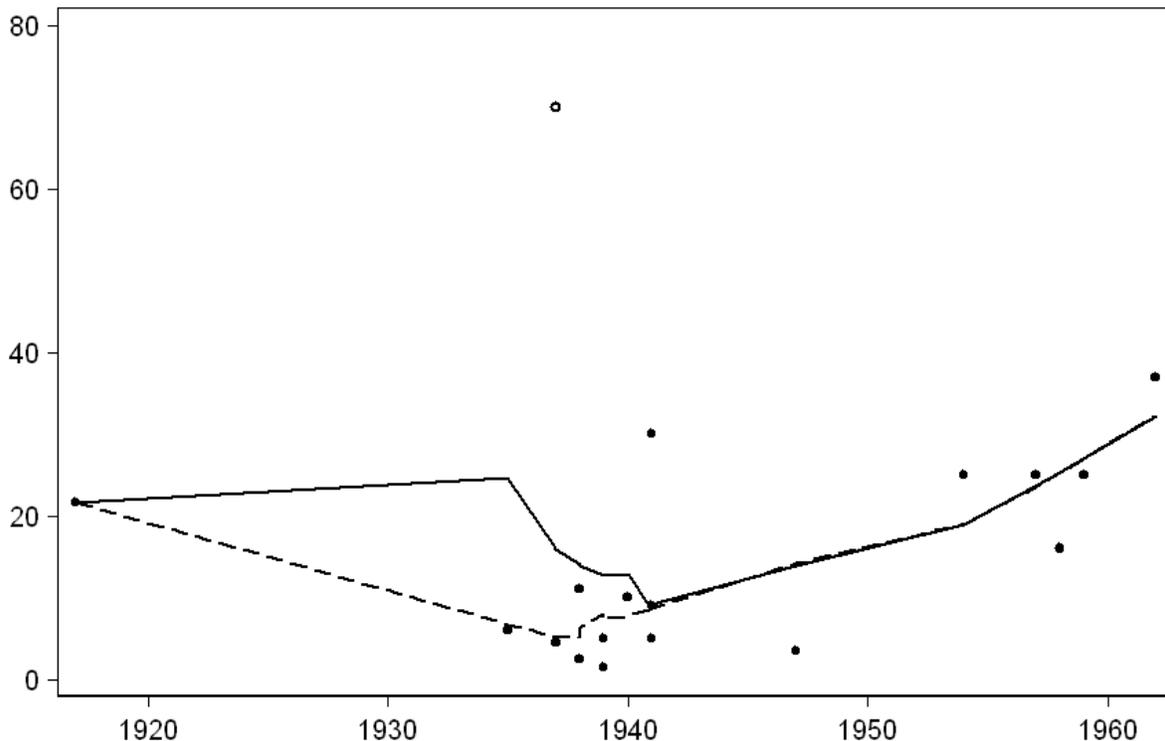
makes inference difficult, I have reported in Figure 3 the results of a locally weighted regression of the price per plantation on the year of sale. The results are consistent with the interpretation that, from the beginning of the Second World War on, the sale prices of plantations were increasing in Benin alongside the value of these farms.

TABLE 1. Sales

Year	Price (£)	Source
c. 1917	21.67	NAI, Ben Prof 8/1/3 Civil Judgment Book 1911-1921: Erumuse v. Obaseki (1921) #4/21.
c. 1935	6.00	OPA, Appeal Civil Record Book #244, No number or parties, from 13/1/44.
c. 1937	70.00	OPA, Benin Native Court #315, 1945-46: #252/46 Ayi Belo of Benin v. Amadasun of Benin.
1937	4.50	NAI, Ben Dist 1 BD 28 Vol 11 Oba's Court Appeals: 31 May, 1944: Edebiri to DO, Benin City.
1938	2.50	NAI, Ben Dist 1 BD 28 Vol 11 Oba's Court Appeals: 23 Nov, 1941: ? to DO, Benin Division.
c. 1938	11.00	NAI, Ben Prof 8 1 9 Civil Record Book 1936-1938: Obaze of Benin v. Osague of Benin (1938) 58/38.
1939	1.50	OPA, Benin Civil Court 1942 No. 138: 425/42 J.C. Edebiri of Benin v. Okhuasuyi of Benin.
c. 1939	5.00	OPA, Appeal Civil Record Book #244, No number and parties, from 133/1/44.
1939	1.50	NAI, Ben Dist 1 BD 28 Vol 11 Oba's Court Appeals: 31 May, 1944: Edebiri to DO, Benin City.
c. 1940	10.00	NAI, Ben Dist 1 BD 28 Vol 11 Oba's Court Appeals: 28 Aug, 1942: Idahosa of Benin to DO, Benin Division.
c. 1941	5.00	NAI, Ben Dist 1 BD 28 Vol 11 Oba's Court Appeals: 22 Nov 1941: Petition by Guobadia.
c. 1941	30.00	NAI, Ben Dist 1 BD 28 Vol 11 Oba's Court Appeals: 28 Aug, 1942: Idahosa of Benin to DO, Benin Division.
1941	9.00	OPA, Benin Criminal Court 1941, #4/41 B, #1667/41 - Omorodion Ekegbian of Benin v. Osazuwa of Benin.
c. 1947	3.50	OPA, Benin Civil Court Record Book 1941 #15, Eubakhaubokun of Benin v. G.O. Ugbouenbon of Benin.
1954	25.00	OPA, Court Proceedings Record Book 1954-55 #52, #843/54 A Izenbokun of Benin City v. Igberiohene of Benin City.
c. 1957	25.00	OPA, File A201/57 Hamilton v. Ayevbomwan Okundaye.
1958	16.00	Osagie (1988), p. 55.
1959	25.00	Blanckenburg (1965).
c. 1962	37.00	OPA, Civil A 74/62 - Anthony Eweka v. Omoruyi Amayo.

*Notes:* "c." given when a participant states the land was sold, for example "about four years ago." If several plantations are sold at once, I treat it as one observation and take the average price.

FIGURE 3. Plantation prices over time



*Notes:* The points represent the raw data reported in Table 1. The solid line is the result of a locally weighted regression with a bandwidth of 0.8 of the sale price on the year of sale. The dotted line reports the same locally weighted regression omitting the outlier of £70.

Conflicts arose especially from sales. As in other parts of Africa, many of these involved the family members of the original seller attempting to reclaim land that had been lost. One petitioner wrote to the District Officer in 1941 that he had purchased a plantation of 412 trees in 1938 for £2/10, and had since added more rubber and put identifying marks on these. When the seller Omonomose died, another man, Omomwenkhiuwu, claimed the property; the petitioner asked that he be made to swear *juju* (i.e. take an oath) to support his claim.<sup>45</sup> Another petitioner in 1937 complained that his father, the Oshodi, had bought a plantation from Ije, and that he had completed the purchase price after his father's death. "The present boom in rubber prices," however, had "caused the family of Ije to make a try to wrest the rubber plantation from [him]." They sued for eviction in 1937, and the petitioner won, but then another relative sued him to cease tapping operations. He wished for the District Officer to cancel the summons, entering a plea of *res judicata*.<sup>46</sup> The defendant in a 1954 suit had bought her plantation land from one Igbinovia in 1947, with another Fakaukun present as witness. After she deserted her

<sup>45</sup>NAI, Ben Dist 1 BD 28 Vol 11 Oba's Court Appeals: 23 Nov, 1941: Letter to District Officer.

<sup>46</sup>NAI, Ben Prof 1 BD 65 Vol 13: Petitions Benin Native Court. 30 Jan, 1937: Chief Ezoumunoglu to District Officer.

husband, Fakaukun attempted to take advantage of this and sold the plantation to M.C. Ishola Coker, who sold it to the plaintiff for £25 in 1954. The court found no evidence Fakaukun had ever owned the farm, and decided for the defendant.<sup>47</sup>

Other disputes highlighted questions about who had the right to sell. Trees alone did not confer sale rights. Social status also mattered, as in Berry (1989) or Goldstein and Udry (2008), because claims had to be pursued in social venues. In a 1938 suit, one witness told the court that the land was “sold with consent of families. I am head of family and nobody could sell land without my consent.”<sup>48</sup> Idahosa of Benin petitioned the District Officer to review a case in 1942, in which he claimed that Chief Iyamu falsely pretended to have bought a plantation from Idahosa’s father for £10 and then re-sold it for £30 while their dispute was in court. The petitioner argued that he, not his father, had planted the trees and that he had a document showing he had even rented out the plantation before the dispute. In a 1944 suit, the defendant claimed to have bought a plantation off the plaintiff’s father for £2/10 the year before, and had a document to support this. The lower court, District Officer and Resident, however, all felt he needed the permission of the Oba and *odionwere* to make the sale, while also noting the signature on the document suspiciously matched that of the writer.<sup>49</sup>

The view that rubber plantations could be freely sold was not immediately obvious to the people of Benin, and plantation owners’ alienation rights were contested by other community members. I classified 23 of my respondents as “farmers,” though most had worked as children on a parent’s farm during the colonial period. When asked if they or their father could sell land, eight avoided the question and answered that their father would never sell land. Four more similarly evaded the question by responding that he had not sold any. Two responded yes, and four more made the distinction that trees could be sold, but not land. One told me that:

No we don’t sell land in our culture, all a father will desire is to pass his land to his children as inheritance.<sup>50</sup>

48 of 78 rubber farmers in Ansel’s (1965) sample said they could sell their land without asking permission, and 29 said they may not sell without seeking permission of village elders. One did not reply. Blanckenburg (1965, p. 15) found it hard to find information about sales; only two general informants at Owe confirmed their existence, none of the nine farmers there said they knew anything about sales, and the topic was “not discussed openly.” At Okuor, the subject was similarly taboo. Only one young farmer declared he had bought three rubber plantations. After the first sales at Okuor, the elders’ council prescribed that land should be sold only within the family, but this was not

<sup>47</sup>OPA, Court Proceedings Record Book 1954-55 #52, #843/54 A Izenbokun of Benin City v. Igberioghene of Benin City.

<sup>48</sup>NAI, Ben Prof 8 1 9 Civil Record Book 1936-1938: Obaze of Benin v. Osague of Benin (1938) 58/38.

<sup>49</sup>OPA, Benin Divisional Court 1944 #130, A235/44 Edeoghomonwan of Ogbeson v. Awotu of Ogbeson.

<sup>50</sup>Interview: Osatohanwen Amadin.

observed. At Ova, the “best located” of his three villages, the topic was more frankly discussed, with sales dating back to roughly 1944. In Ishan, Rowling (1948, p. 19) reported that attempted sale or mortgage could result in eviction. None of the three villages Upton (1967, p. 15) studied had land sales; none of the farmers he interviewed believed it was “right” to sell land (p. 65), because it was not customary, because it belonged to the community, because it was inherited, and because there was not enough land.

Because the social disapproval of land sales remained, the more persistent change in land alienation caused by rubber has been the replacement of land acquisition through forest clearing with acquisition by inheritance. This is apparent from modern surveys. Of 23 of my interviewees classified as “farmers,” 10 stated that they or their parent had cleared the land from virgin forest, 3 had obtained it freely or from the community, 6 had inherited the land, one had acquired land through a mixture of inheritance and clearing, and the rest either did not know, did not answer, or listed other methods. Agwu (2006), by contrast, in a recent survey of 50 rubber farmers, found that 76% acquired their land through inheritance, 16% through rental, and 8% through purchase. While not defining the terms clearly, Osemeobo (1987) surveyed 300 farmers in Bendel state, finding that 49.6% near forest reserves and 56.3% away from these reserves possessed land under “individual” tenure, under which sale was permitted, while 50.4% near reserves and 35.5% away from reserves held land “communally,” with no right to sell. The remaining 8.2% away from reserves had borrowed their land.

## 6. THE IMPACT OF RUBBER ON LAND CONFLICT

In this section, I contrast the impact of disputes over rubber in Benin with those that have followed from tree crops in other parts of Africa. I deal with four types of land conflict in turn – conflict within communities, conflict with outsiders, conflict with commercial plantations, and conflict with the colonial state.

**6.1. Conflict within communities.** Conflicts within communities elsewhere in Africa have largely followed from the embedded nature of land markets, and have focused in particular on grants made to outsiders. In Benin, the early communal plantations were a source of inequality that bred conflict. Observers noted that disputes over tree crops were a problem. Despite farmers efforts to demarcate their boundaries, disagreements arose over boundaries and inheritance. These were caught up in other social conflicts, and the courts were only one venue in which these might be resolved.

In the rest of Africa, tree crops have led to disputes within communities. Many of these have arisen because land markets have remained “embedded” in local politics and social relationships. More generally, Berry (1988) argues that there are several mechanisms of acquiring rights in tree crops that do not extinguish previously existing rights. These lead to multiplication of rights, and so over time the distribution of land depends on individuals’ abilities to exercise claims rather than on formal rules. Participants draw on social relationships, including descent, marriage, ethnicity, and patron-client

ties to defend their rights. Berry (1989) found that a Yoruba cocoa farmer's heirs may have rights that conflict with those of his wives, sharecroppers, or children who worked the farm during his lifetime, on the understating they were getting "equity" in return. Planters invest in reaffirming their kinship ties, so that they can claim their descendants' earnings, while also training them for non-agricultural work. Guyer (1984, p. 68) found that child heirs in Cameroon would often come of age to find that the land had been left to a trustee, who in turn had rented it to a borrower who had planted it with trees, and now had a valuable claim over the property. Women are largely excluded. Their ownership of trees is low, except in Akan communities, where they still own a low share of all acreage (Berry, 1988). Quisumbing et al. (2001), similarly, find that women help to plant trees as an investment in marital stability; failing to help establish a cocoa farm can be grounds for divorce. The right to transfer land to outsiders has been disputed. In the Oumé District of Côte d'Ivoire, these conflicts were largely between the village or district heads who were the early grantors and the heads of smaller family groups who made later transfers (Chauveau and Colin, 2010). In both Ife and Ibadan, hunters claiming jurisdiction over large forest areas came into conflict with traditional authorities – in Ife the traditional ruler was successful, while in Ibadan these authorities lost to hunting interests (Berry, 1975).

In Benin, one early source of tension created by rubber was the appropriation by chiefs of the benefits of the colonial-sponsored "communal" plantations. Even before the colonial government abandoned them, one third of the receipts from these plantations were paid to the paramount chiefs of each village (Lugard, 1914, p. 52). An assessment report from the late 1920s stated that receipts from rubber were a key revenue source for the Edo chiefs.<sup>51</sup> Rowling (1948, p. 9) noted that plantations laid down by the local government were later handed over to local communities; these were leased to strangers, tapped collectively, or in some cases leased by an individual villager for tapping. Sums realized were divided by the elders, who gave a share to the *Enogie*. Bradbury (1957, p. 45) stated that "the most prominent chiefs and other influential men" were encouraged to make rubber and oil palm plantations after the capture of Benin City, and many "acquired *de facto* rights in considerable tracts of land," adding that the communal plantations "were eventually converted to individual ownership." Some of the most substantial owners of early private plantations were chiefs – in 1919 the Obaseki had a plantation of two plantations of more than 10,000 trees each, while the Oba also had several thousand mature *Para*.<sup>52</sup> Usuanlele (2003, p. 102) notes that many of the early successful planters were chiefs, traders, and employees of the Government and expatriate companies. They had privileged access to salaries, allowances, commission, contracts, bribes, extortion, labor exactions, and profits from trade.

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<sup>51</sup>NAI, CSO 26 09125 Assessment Report on Benin Division.

<sup>52</sup>NAI, Ben Prof 2/6 BP 480 19: Agricultural Department Report.

Colonial reports frequently state that most disputes revolved around tree crops, including rubber. Rowling (1948, p. 5), for example, argued that food cultivation led to “remarkably little friction ... what litigation there is concerns permanent crops.” He made similar observations for Ishan and Kukuruku (p. 18). All recorded instances of trespass involved permanent crops (p. 6), usually on land under or reserved for the plaintiff’s trees. Courts recognized that tree crops were different; while they would not order uprooting of food crops in a trespass case, they would do so for rubber (p. 7), though they punished claimants who did so on their own initiative. This was also true in Agbor (p. 27).

Respondents, however, frequently stated that they had not had disputes over their rubber plantations, because they were careful to use fire-resistant trees to demarcate their boundaries.<sup>53</sup> According to one interviewee:

According to the tradition of the land in this Imasabor village nobody has boundary dispute because our fathers used life trees to mark their boundaries except now that greed is setting into people in other community because they have people in power would try to shift the boundary we share with them but within our community it can’t happen.<sup>54</sup>

In spite of these precautions, disputes did occur over rubber, and often concerned boundaries. In a 1936 case, the plaintiff (the *Enogie*) claimed that he had been driven out by the defendant eight years before. On finding the bush cleared the year before the case went to court, he had left a *juju* (magical object) in the farm until the defendant’s father begged him to remove it. The plaintiff then planted rubber in the plot, while the defendant planted yams. The year of the suit, the defendant cleared an adjoining portion and planted rubber, telling the court that he was a “son of the soil,” and that there were pineapple and kola trees to mark the boundary.<sup>55</sup>

Inheritance was also a source of trouble. In a 1947 suit, the plaintiff told the court that his father had three rubber plantations, which along with a goat and £4 were given as bride price to the defendant. Since his father’s death, the defendant had been “troubling” the plaintiff with *juju*, though she claimed to have planted the farms herself and registered her name as owner. The court found for the plaintiff on the grounds that the property had not been shared on his father’s death.<sup>56</sup>

As with the disputes that existed over sales, conflicts over rubber within communities were embedded in social relations. In an otherwise unremarkable dispute over a rubber plantation from 1944, the plaintiff stated that she believed the defendant bore malice towards her because his daughter had married her ex-husband.<sup>57</sup> Similarly, the plaintiff in a 1946 case told the court that, after the death of their mutual father nine years

<sup>53</sup>Interview: Richard Nmbinje.

<sup>54</sup>Interview: Moses Igbneweka.

<sup>55</sup>OPA, Obajere Native Court 1936 (No. 282), #204/36 Chief Iduseri of Ogheghe v. Ebose of Ogheghe.

<sup>56</sup>OPA, Egbede NC 1946 # 310: #10/47 Azalakian of Ebue v. Ehigiamusoe of Ebue.

<sup>57</sup>OPA, Appeal Civil Record Book #244, Case A 223/44 Edegbe pf Benin v. Inomwan of Benin.

before, the defendant had inherited three of his rubber plantations. On learning that he was born to a different father, she sued to recover these. The defendant replied that “[h]e was my father before he died,” and claimed to have paid £4 of his adoptive father’s debts, while the plaintiff had only paid £3. He could not prove this, and so the court awarded compensation to the plaintiff for rents he had collected. After an unsuccessful appeal, he petitioned the District Officer for a review on the grounds that his expenses in maintaining the plantations had not been considered, and that twelve years of “filial duties” to his late adoptive father had gone uncompensated.<sup>58</sup> Another respondent told of her experience:

[T]here was an enterprising young man who wanted to marry my elder sister, who is the eldest daughter of my father and my father said he prefers his daughter living beside him so he gave the guy some part of the land but my sister refused to marry him so the guy claimed the land and kept it and just before he died the guy people divided the land and said it belonged to their family and we just resolve the issue three month ago since 1967 eventually they took about 25% of the land including the rubber trees we just [in 2008] resolved the issue of the land.<sup>59</sup>

Courts were only one venue in which these cases were resolved. One respondent described a dispute that involved his father:

When my father brush the forest he too also brush the forest by my father side and they both planted rubber on their farm after many year the man said the boundary is not where it was before, claiming that part of my father’s farm was his own, the argument was later settle because they see that the kind of rubber trees in my father’s farm is different from his own because my father planted budded rubber and he plant rubber seedling... We have *odionwere* in this community the matter got to the *odionwere* and the community make peace between both of them.<sup>60</sup>

Individuals, then, had to navigate local politics to press their claims. Samson Odia petitioned the District Officer in 1937, writing that he had sued two persons for damages to his rubber plantation on land they claimed. When his first case was dismissed, he appealed to the Oba, who sent inspectors he considered unsuitable. When he asked that chiefs be sent instead, he was upbraided. He found the two defendants discussing the inspection with Chief Oliha at his house; though the Iyashere had awarded him £10, Chief Oliha “being already prejudiced” upset this.<sup>61</sup> The other parties, for their part,

<sup>58</sup>NAI, BD 430 285: Petition re: Oba’s court civil case.

<sup>59</sup>Interview: Mary Nwa. The original transcript states 1957, but because of references to the civil war in the full description, I assume 1967 was meant.

<sup>60</sup>Interview: Felix Igbini.

<sup>61</sup>NAI, Ben Prof 1 BD 28 Vol 6: Oba’s Court Appeals: Petition of Samson Odia, 25 March 1937.

claimed that they objected to the Iyashere “alone” agreeing to award £10 to the plaintiff on his swearing an oath, against the objections of other chiefs.<sup>62</sup>

**6.2. Conflict with outsiders.** In much of Africa, tree crops have been developed by migrant planters, who have competed with locals for land. In Benin, migrants who entered Benin throughout the colonial period were a source of both rent and resentment, but few of these came to plant rubber. The stranger planters that did exist had more limited rights than locals and faced opportunistic eviction. The ethnic dimension of these conflicts was muted, but in some cases invoked strategically. Most tappers were migrant Ibo, and conflicts with these communities focused on assimilation and political control, not land.

In the Oumé District of Côte d’Ivoire, urban returnees have been pressuring family heads to recover land transferred to migrants since the 1980s (Chauveau and Colin, 2010). By contrast, outsiders in the Yoruba cocoa belt did not face discrimination (Berry, 1975). In Liberia, prohibitions on tree planting by renters or ‘borrowers’ are strong, for fear they will use improvements as evidence of a permanent claim. Unruh (2009, p. 429) suggests that this fear is a disincentive to making grants, and so land goes uncultivated and strangers go without land. Berry (1989) argues that many migrants to tree crop-growing regions acquired rights to plant or harvest trees in exchange for labor on established farms. Though these are “economic” relationships, they also entail subordination and dependence and aspects of “patron-client” ties. Sales to these strangers have been reinterpreted later as customary tenancies, and descendants of landowners and planters have disputed over ownership of the land. Robertson (1982), for example, writes that *abusa* contracts in Ghana are fundamentally ambiguous; suppliers of land see it as a form of labor hire, while suppliers of labor view it as a land lease.

In Benin, non-Edo entered Benin for a variety of reasons unrelated to rubber. Rowling (1948, p. 9-11) suggests that, in the early days of colonial rule, temporary occupation by strangers began with Sobos<sup>63</sup> collecting palm produce. They paid dues that were shared between “the village” and the Oba. Tensions arose when they sought land for farming; several complaints were received in 1930 of Sobos who had come to Benin to harvest palms, but had then taken out farming permits without seeking permission of the Oba.<sup>64</sup> Though they were a source of rent, Edo people resented them for their habit of marrying Bini women.<sup>65</sup> Further, the rents they paid often had no correlation with the area they were granted, and in some areas these strangers were disliked for having established virtual monopolies over palm produce (Meek, 1957, p. 192-5).

In rubber, it was not generally the case that non-Edo strangers were planters, though many wealthier Edo planters were chiefs, traders, and colonial employees resident in

<sup>62</sup>NAI, Ben Prof 1 BD 28 Vol 6: Oba’s Court Appeals: 25 March 1937: Igiebor and Iyigue to DO Benin City.

<sup>63</sup>This is a colonial term that joined the Urhobo and Isoko together.

<sup>64</sup>NAI, BP 10 30 Petitions Benin Division 1930.

<sup>65</sup>NAI, Ben Prof 2/8 BP 10/21A - Correspondence with the Oba of Benin.

Benin City (Usuanlele, 2003), and later Lagos, Ibadan and Kano (Udo, 1975, p. 79). This is a contrast with other African experiences with tree crops. In some parts of the Benin Province, strangers were barred altogether from planting. One respondent told me that:

In our village a non-native or foreigner are forbid[den] from planting rubber or oil palm... No it's not the Oba that made the rule but the community that made the rule to protect and guide the future generation. That if you allow the non-native to permanent crops by the time they had gone those people will start claiming ownership of the land. The only way to prevent dispute in the future is to prevent them from planting permanent crops.<sup>66</sup>

For strangers that did plant, their rights were not the same as those of locals. For example, when a stranger grantee died, the Oba would insist on primogeniture and not the stranger's custom of inheritance (Rowling, 1948, p. 10). A stranger could be denied permission to cultivate unoccupied land without cause, and could be evicted for planting permanent crops without permission (Ward-Price, 1939, p. 117). Even by the late 1930s, the Oba and Council were "inclined to be chary" about applications by strangers to plant permanent crops, because they could not be sure of their willingness (or their heirs' willingness) to recognize their authority, and were concerned about keeping enough land available for future generations (*ibid*). Strangers could not sell their permanent crops to other strangers (*ibid*). Rowling (1948, p. 10) found that opinion was "rigid" that non-Edo must not have unqualified rights in land and must hold their land from the Oba. The defendant in a 1942 case, who was accused of attempting to sell his rubber plantation to a non-Edo, pleaded guilty on the grounds "because I am hungry." The court reminded him that it had been prohibited to sell to foreigners "so as to avoid land disputes and confusion."<sup>67</sup> Non-Nigerians were not allowed by Government policy to hold permanent interests in land. One Leacock, an employee of the Public Works Department, was discovered in 1928 to have planted rubber near the Ogba Water Works as a foreigner without permission or lease. The Native Authority sued him in the Provincial Court, and received judgment for the plantation, which they began to lease out for £1 per year from 1929.<sup>68</sup>

Disputes exist where these stranger-planters were opportunistically evicted or threatened with eviction. Two 1941 cases<sup>69</sup> concerned the position of strangers in Ekhör. Some five years before, strangers had planted rubber there, paying initial fees of either 2s or 4s 6d to the *odionwere*. When the Oba and District Officer ordered that strangers could not plant permanent crops without permission from the *odionwere* (see section 6.4), some

<sup>66</sup>Interview: Muraina Bakare.

<sup>67</sup>OPA, Ehor Umagbae Court of Appeal 1941-42 #176, #37/42 Gbinoba Odionwere of Okemuen v. Alue of Erhunmwusee Camp.

<sup>68</sup>NAI, BD 207 154: Petition re: rubber estate.

<sup>69</sup>OPA, Egbede NC and Civil Record Book 1941 No. 174A: #229/41 Oke of Ekhör v. Okuoghae of Ekhör and No. 174A: #228/41 Oke of Ekhör v. Osakhuawonmwun of Ekhör.

of the local Ekhor complained, threatening these strangers. They responded by grouping together to pay 10s each additionally to the *odionwere*. In a separate case from 1936, one petitioner complained to the District Officer that he was being evicted from Obajere after eleven years.<sup>70</sup> He claimed that Guobadia, the scribe of the Oba's court, had already convinced the Obajere people to divide his rubber plantation in two, taking half. "Not content with that," the petitioner wrote, "he started worrying me to leave Obajere saying I was not born there and could therefore have no land interest there. By his instigation the Obajere people rooted some of my rubber trees and he himself planted some rubber trees at the entrance of my plantation." The Obajere people demanded presents of 6s and 10s, but Guobadia ordered them to return the petitioner's money "as he did not wish them to soften" towards him. As land scarcity became more apparent throughout the colonial period, these demands became more insistent. In a 1957 suit, the complainant claimed that he had lived in Ugbeka for ten years when the first of the accused returned from Benin, asking one of the plaintiff's witnesses to quit his farming plot, since it had belonged to his father. He then recruited five others to help him destroy the plaintiff's rubber and cassava crops. The plaintiff's witness took out a civil action, but "to avoid trouble," the plaintiff told the court "he kept quiet and repented to the police." He suggested that the *odionwere* had sent the accused to destroy the crops.<sup>71</sup>

The ethnic component of land conflict was not prevalent in Benin, but it existed when the disputants felt they could profit by highlighting it. The plaintiff of a suit from the 1930s sued the owner of a rubber plantation in the Magistrate's Court; the case was transferred to the Native Court, at which point he wrote to the District Officer that he did not want the case to be heard there, on the grounds that he was "an ISHAN and the Defendant a Benin and under all circumstances, there will not be justice in the Native Court."<sup>72</sup> One complainant from 1944 wrote to the Resident that he was a native of Evbronogbon-Jesse, whose father had been one of the settlement's founders. Evbronogbon had recently been transferred from the jurisdiction of Benin City to Jesse in Warri Province. Chief Umayan, a council member at Jesse, then led a campaign to stop him from tapping his rubber unless he paid £10 in yearly rent.<sup>73</sup> The Jesse Council denied that his father had founded the settlement, and directed the District Officer to a Native Court case in which he had admitted their claim.<sup>74</sup>

Most migrants in the rubber industry, however, were itinerant tappers. They were mostly Ibo, with some Urhobo. Disputes with these strangers focused less on land and more on their failure to assimilate, and their supposed evasion of taxes and rents. Udo (1975, p. 34) wrote of the period after independence that Edo migration was "essentially

<sup>70</sup>NAI, BD 153 Petitions Obajere NC: 27 Oct 1936: Osaze to DO Benin.

<sup>71</sup>OPA, Native Court of Appeal, Benin City 1958-59, A 255/57 L.G. Police (?) v. Osagie and Others of Obagie Village in Ugbeka.

<sup>72</sup>NAI, Ben Prof 1 BD 65 Vol 11: Petition Benin Native Court: 24 Oct, 1936: Sado to DO.

<sup>73</sup>NAI, WP 149 rubber production: 4 Dec, 1944: Chief Ireto Olutse to Resident Warri.

<sup>74</sup>NAI, WP 149 rubber production: 19 June, 1944: Jesse Chain Council to DO Jekri-Sobo.

internal, being concerned with the expansion of rubber which foreigners are not normally permitted to cultivate, although many migrant farmers operate rubber farms as share-croppers while many others have had rubber estates pledged to them by bankrupt indigenous farmers.” The ethnic diversity of migrants in the Benin lowlands was greater than in any other region of absorption, and migrants were specialized ethnically (p. 79). The Ishan cultivated food crops, the Ibos tapped rubber, and the Urhobo and Isoko harvested palm fruits “although an increasing number of them now take part in rubber production.” Tappers lived in small camps by the farms. In Ogwashi-Uku of Asaba Division, where migrants were Ibos and Isokos, locals felt that they

“live out in the bush, adopt wasteful farming methods, create trouble, evade tax and are not amenable to control...they lead an unassimilated life of their own, buy, sell and lease house property, take up farms in the nearby bush, ignore the chiefs and are still not amenable to control” (Udo, 1975, p. 128).

The people of Akuku-Atuma village demanded that all migrants leave in 1946, while Okpanam village accepted a limited number on the condition that they lived in the community and not in the bush. During a dispute between five villages of Ogwashi Uku during the early 1950s, the Ibo migrants played their different landlords against each other to evade rent payments (p. 131).

**6.3. Conflict with commercial plantations.** In Benin, government policy limited the extent to which locals and expatriate plantations competed for land, though these conflicts were not wholly absent.

Elsewhere in Africa, the granting of concessions for tree crops to expatriate firms and other large plantation interests has fueled corruption and taken land from local communities. Modern concessions in Liberia, including rubber, have been used to pursue a “very broad set of rights” that may have nothing to do with the original proposal. Areas granted are often larger than the area developed, other users are excluded, and local communities question their legitimacy (Unruh, 2009, p. 429). In Ghana, Amanor (1999) studies the ambivalence of the local population to the GOPDC palm oil concession. While many have lost land to the project, and some youth have turned to illicitly harvesting palm fruits from its grounds during the night, other farmers are eager to become out-growers on its periphery.

In Benin, government policy was generally opposed to European concessions, and the acquisition of land by aliens was tightly regulated. This makes Benin comparable to other “peasant” colonies, such as Ghana, in which the bulk of cash crop exports was produced by Africans. In 1898, Bleasby, the African Association, and Miller Brothers all applied for concessions in the Benin area. The High Commissioner worried that they would attempt to work these as fast as possible, drain them, and then move elsewhere, and so rejected them (Udo, 1965, p. 358). Miller Brothers’ two thousand acre plantation near Sapele was the first “plantation” in Southern Nigeria, started in 1905. While Palmol

began operating in the Cross River area in 1907, both of these were on land leased from the African owners in districts Udo (1965, p. 364) felt were still sparsely populated in the 1960s. Lever was turned down in his applications for plantations and monopoly concessions of palm oil. Oluwasanmi (1966, p. 38-39) summarizes the laws that regulated land acquisition; the most important for concessions was the Native Lands Acquisition Ordinance, which forbid any alien from acquiring “any interest or right in or over and lands found within the protectorate from a native” except under an instrument approved by the government. The growth of large plantations then, required changes in policy during the 1950s. 36 of 44 plantations existing in Southern Nigeria in 1962 were established after 1952 Udo (1965, p. 364), though five of the exceptions were between Benin City and Warri.

Though only roughly 5% of Nigeria’s production of 60,000 tons of rubber in 1961 came from large plantations (Udo, 1965, p. 367), those that did exist competed with locals for land, and faced concerted opposition. In 1930, I.T. Palmer, a Yoruba, applied for a lease of 640 acres near Umutu on the north side of the Ethiope River. The local chiefs and people, mostly locals and Kwale settlers, were strongly opposed to this on the grounds that it would reduce the land they had available for farming. They did not, however, oppose his lease of the existing plantation of 33 acres. The Resident, Warri, felt that the Kwale settlers would be particularly hurt due to the shortage of land in their home district. The Resident, Benin, refused to support Palmer’s application.<sup>75</sup> Similarly, the Benin Farmers’ Union (a buying ring formed during the 1930s to negotiate prices with companies and the state) held a meeting in 1953 with representatives of the Rubber Trade Association of London in order to oppose the proposal for a 4,000 acre farm at Usonigbe. They claimed that it created the appearance of “competition between the Government and us farmers and thereby leading to the ultimate rejection of the production from our existing plantations.” They charged that plantations owned by the United Africa Company and the West African Institute for Oil Palm Research had been previously advocated as feeders for existing farmers, but that these plans were later changed and permanent plantations established.<sup>76</sup> The most significant encroachment on lands available for rubber, then, came not from these plantations, but from forest reservation, as discussed in the following section.

**6.4. Conflict with the colonial state.** Disagreement over policy concerning concessions and plantations was only one venue in which Benin planters and the colonial state came into conflict. In much of Africa, both colonial and post-colonial states have sought

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<sup>75</sup>NAI, BD 36 1929 Palmer Application for Lease of Rubber Plantation. 2 April 1930: Resident to Assistant Commissioner of Lands, Southern Provinces.

<sup>76</sup>NAI, BP 1273: Rubber Industry Benin Province: 20 Nov, 1953: Director of Marketing and Exports to Resident.

to restrict the evolution of land markets. In Zimbabwe, the inalienability of “Communal Lands” was enshrined in post-independence land legislation, justified by a discourse of inalienability under African tradition. Many of the differences between white and African tenures were consequences of segregation under colonial rule, and not based on pre-colonial practices (Chimhowu et al., 2010). In Nkandanzovu, in southern Zambia, the state does not support land markets, and this particularly disadvantages women who cannot muster the social connections to keep these transactions secret and avoid punishment by customary authorities (Sitko, 2010). In the Oumé District of Côte d’Ivoire, the state relied on political support from migrants, and so banned land fees; Gban *tuteurs* overcame this by raising the cash components of symbolic gifts (Chauveau and Colin, 2010).

In the remainder of this section, I outline the points at which Bini planters came into conflict with the colonial state. I describe the state’s efforts to limit the venues in which land disputes could be heard, and hence the ability of claimants to defend their rights over land. Forest reservation restricted rubber planters large and small. The Permanent Crops Order of 1937 restricted planting, but was ultimately resisted by the Edo. It was also undermined by a shift in wartime priorities, which led to violations of plantation owners’ property rights. Post-war attempts to revive limits on rubber planting were ultimately unsuccessful.

In Benin, the state took active steps to keep land disputes out of the formal legal arena. In particular, colonial officials hoped to exclude lawyers from these cases. A 1916 circular noted that only the Resident had the power to try cases where rights over land or title were involved, but that it was not “the intention that all land disputes should be referred to the Resident for trial.” The District Officers were thus given instructions on how to handle land disputes.<sup>77</sup> Land disputes settled out of court were to be specially recorded, and priority should be given to the family or community heads over Native Courts to settle disputes between individuals amicably. The same should apply for inter-community disputes, though victors were encouraged to take action in the Provincial Court to give their claims a legal basis. Where possible, assistance of “independent and responsible chiefs” was to be obtained, and the Resident could revise or rescind any particular section of a District Officer’s decision. Further letters made it clear that the government felt that land disputes were unnecessarily overwhelming the courts, and were being endlessly appealed. The Secretary, Southern Provinces complained in 1917 that:

The position is unfortunate. It seems that the only way of putting a stop to the litigation before the Supreme Court on land cases is to withdraw the right of appeal in civil cases. If the evil continue so great as it used to be it may be necessary to consider this.<sup>78</sup>

<sup>77</sup>NAI, Ben Dist 2/3 BP 446/1916 Land Disputes, Procedure in dealing with: 4 July, 1916: Resident to District Officers.

<sup>78</sup>NAI, Ben Dist 2/3 BP 446/1916 Land Disputes, Procedure in dealing with: 21 Feb, 1917: Secretary, Southern Provinces to Resident Benin.

A 1917 memorandum outlined the procedure for dealing with land disputes. If land was worth at least £50, an appeal could be taken from the Provincial Court to the Supreme Court. In such an appeal, a legal practitioner could not be employed unless the Chief Justice was satisfied the appeal involved a question of law in which the court needed to be assisted by legal argument. In lower courts, legal practitioners were not permitted.<sup>79</sup> The struck out portions of a 1925 draft memorandum on land policy complained that the “legal fraternity” with their “touts” created land disputes in order to profit from them. It had originally been hoped that the creation of the Provincial Courts would put a stop to this, but it was soon found that every case could be carried to the Supreme Court on appeal.<sup>80</sup> Participants in intra-family disputes who took their claims to court were often chastised that the matter should have been settled “at home.”<sup>81</sup>

Colonial authorities pursued an extensive programme of forest reservation, supported by both Oba Eweka (1914-33) and Oba Akenzua II (1933-79); these reserves covered some 67% of Benin Division by 1937 (Usuanlele (2003, p.112-145), von Hellermann and Usuanlele (2009)). These reserves interfered with the efforts of rubber planters, who under “customary” rules would have been permitted to plant anywhere in the Division. One farmer wrote to the Resident in 1945, asking for an inquiry and a stay of execution on an order to destroy his rubber plantation in the Okomu Forest Reserve. Though he had been convicted of farming illegally in the Native Court, this had been annulled by the Oba’s Court, only to be reinstated on review of the District Officer, despite the latter’s recognition that the trees were now twelve years old, that forestry authorities knew of the planting, and that “prosecution should have been taken early.”<sup>82</sup> In 1952, the Resident, Forestry Officer, the District Officer, and the Vice President of the Benin Divisional Court engaged in a series of letters about seven persons convicted of keeping illegal rubber plantations in the Ogba Forest Reserve. While the Forestry Office demanded that the Native Courts issue orders that the plantations be destroyed, Chief Olaye, the Vice President of the court, resisted. He believed that this was the responsibility of the Forest Officer. The District Officer, for his part, thought that the court did have this authority, and found it “difficult to understand why this problem arose in the first case.”<sup>83</sup> While this is not conclusive evidence that Olaye was protesting the law, it is suggestive. It also shows that reserves hurt planters’ interests.

These restrictions did not impose only on the powerless; in 1921, the Commissioner of Forests refused an application from the Oba to extend his rubber plantations in the Ogba and Ologbo Forest Reserves, on the grounds that further clearing would restrict

<sup>79</sup>NAI, Ben Dist 2/3 BP 446/1916 Land Disputes, Procedure in dealing with: 15 June, 1917: Resident to District Officers in Benin Province.

<sup>80</sup>NAI, CSO 26 16272 Native Ideas of Land Tenure and Permanent Crops.

<sup>81</sup>For example, see NAI, Ben Prof 1 BP 203/706, “Dibia Afam, petition from.”

<sup>82</sup>NAI, BD 24 Vol 1: Benin Native Administration Forestry Prosecutions: 13 April, 1945: Letter to Resident.

<sup>83</sup>NAI, BD 24 Vol 1: Benin Native Administration Forestry Prosecutions: 25 May, 1954: Forest Officer to District Officer, 12 March, 1954: Chief Olaye (Vice President) to Forest Officer, and 1 May, 1953: District Officer to Forest Officer.

water flow into the Ogba River.<sup>84</sup> The United Africa Company, similarly, found that the government would not consider a rubber plantation in Sapoba Forest Reserve during 1937. The District Officer felt that, since the Oba had given the land to administer on behalf of the people of Benin, “he would be guilty of a gross breach of trust if he leased it to a firm for the purpose of a rubber plantation.” Further, he stressed that the Agricultural Department believed rubber was a “speculative” crop, and could not recommend it.<sup>85</sup>

African employees of the colonial state used their powers over farmers under forest reservation for self enrichment. Daniel Ijirigho wrote to the District Officer in 1941, to complain that a Native Authority agricultural assistant had in September come to Idale, a village under the control of Usonigbe, and “corruptly demanded” and received £2.8/- from the rubber planters “in the name of the Government.” The planters sued him at the Usonigbe Village court, where he was found guilty. He successfully appealed in the Oba’s court, but Ijirigho believed this decision lacked substance and asked for a review by the District Officer. Similarly, Oliha of Usen was charged in the Usen Native Court in 1940 with “unlawfully making local forest guard to himself.” According to the local chief, he had undertaken “on his own power to make forestry rules for himself without the consent of the Oba.” The court found that he, along with a chief who had ruled that no palms could be felled without his permission, had conspired to make laws that cheated the people, and fined them each £5.<sup>86</sup>

In November 1937, the Native Authority passed a Permanent Crops Order (PCO) that restricted planting of all tree crops, including rubber. Rowling (1948, p. 6) suggests that the Agricultural Department, fearing that tree crops such as rubber were locking up land needed for food crops, pushed an “unwilling” Native Authority to take this action, but Usuanlele (2003, p. 146-147) argues that Akenzua’s own letters show his opposition to the appropriation of communal lands for private plantations. A 1940 circular from the District Officer to the various village councils outlined the operation of the PCO.<sup>87</sup> No one was to plant any tree crops in the land of any village without the permission of the Village Council. Applicants were to obtain a signed and witnessed form from the *odi-onwere*, who would submit it to the Oba for approval. He chastised the Village Councils “not to allow too much of your land to be used for permanent crops (rubber, cocoa, or oil palms). If you do, your farm land will be spoiled, and if the prices of rubber and cocoa and oil and kernels are very low, you will have neither money nor food.” Though it was too late to drive away any planters who had begun operation before enactment of the PCO, he counseled the Village Councils that anyone who had planted since 1937 could

<sup>84</sup>NAI, BP 10 1921 Oba’s Rubber Plantation in Ogba Forest Reserve.

<sup>85</sup>NAI, BD 680: United Africa Company Ltd: 26 April, 1937: DO to Resident.

<sup>86</sup>OPA, Usen Native Court 1939-1941 (No 306): #73/40 - Central Court Usen v. Oliha of Usen.

<sup>87</sup>NAI, BP 1470 Vol 2: Permanent Crops in the Benin Division: 21 Oct, 1940: Circular from District Officer, Benin.

be instructed to apply for a permit, and that those who did not could be prosecuted, fined, and ordered by the court to leave the land.

When it was first proposed, many petitions were received from the villages objecting to the order, mostly in response to what the District Officer believed was “false propaganda” emanating from Benin Community, that the PCO was a scheme to collect information that would be used to collect taxes. Once this was quashed, the order became popular, and the central council was satisfied, excepting Benin Community, which wished for control by committee that would ignore the Native Authority and Village Councils.<sup>88</sup> Usuanlele (2003, p. 107) notes that, in the first few months of its operation, hundreds of applications were received and approved, with the permits being treated as titles by the farmers.

Despite this promising start, however, the PCO never became an effective means of regulating total rubber planting, nor is there any reference to the successful use of permits as titles after the initial period. The PCO was unevenly enforced, and used mostly against Edo strangers, especially those resident in Benin City. Rowling (1948, p. 6) noted that the PCO had no teeth. Few people had bothered to obtain a permit, so that planting by local men went on (and, as far as he could tell in the late 1940s, still went on) unrestricted. Blanckenburg (1965, p. 19), by contrast, believed the PCO was effective until the end of the forties. Though it was not annulled formally, it was forgotten in practice by the 1950s.

In 1941, complaints were received from “certain city dwellers” about the PCO, that it did not “operate impartially and that while it is applied rigorously to themselves villages evade its provisions.”<sup>89</sup> The District Officer recognized that there was “no doubt” that the PCO was “being widely evaded by the village people....evasion results from inertia, fear that plantations will be taxed or curtailed. The solution appears to be for aggrieved city dwellers to make specific complaints.”<sup>90</sup> The “real complaint” of the city dwellers he argued, was not against the PCO, but “against their exclusion from village lands for the purpose of planting permanent crops.” His view was that an object of the order should be to prevent too much land from being used for tree crops, but that this not been used, as permits were issued automatically on recommendation of the Village Councils. He recognized that enforcement would require a costly and possibly corrupt staff of inspectors. The Acting Resident disagreed that the restriction of land under trees had been ignored; he noted that he and the Oba had been receiving complaints recently from villages adjacent to Benin that land for farming purposes was in short supply, and

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<sup>88</sup>NAI, BP 1470 Vol 2: Permanent Crops in the Benin Division: Permanent Crops Order Benin Division (Memo by DO). See also Usuanlele (2003, p. 148).

<sup>89</sup>BP 1470 Vol 2: Permanent Crops in the Benin Division, Minute (n.d. - 1941): GCW to Resident.

<sup>90</sup>NAI, BP 1470 Vol 2: Permanent Crops in the Benin Division: Permanent Crops Order Benin Division (Memo by DO).

that the main causes were the expansion of Forest Reserves and the establishment of food crop farms and tree crop plantations by residents of Benin City.<sup>91</sup>

At a meeting in 1940, the Commissioner of Forests noted to the Resident, District Officer, Senior Agricultural Officer and Oba that permits under the PCO had been issued to individuals covering land enclosed in Forest Reserves, even though this was not allowed under the order. These persons could be, and in some cases were, prosecuted.<sup>92</sup> In 1941, the Agricultural Officer highlighted another problem with the Ordinance – a backlog of applications for permits from many “keen” planters of palms and rubber.<sup>93</sup> The Oba had told him that this was due to the difficulty in getting the representative of the Village Council to come to Benin City in order to confirm consent. The Acting Resident, however, argued that it was not necessary for a representative to come to Benin City in every case.<sup>94</sup>

After the loss of Malaya to the Japanese, British policy reversed, and the the government prioritized rubber production at the expense of planters’ property rights, confiscating and renting out untapped smallholder farms. The Residents of the various provinces to were enabled in 1942 to order the tapping of trees or vines that were not being tapped.<sup>95</sup> If this rubber had an owner, then the Resident or a designated “competent authority” could serve notice of its intention to authorize another to exploit it, giving the owner two weeks in which to show cause why this authority should not be exercised. Compensation was to be paid only in the amount the authority saw fit. For the owners of rubber farms, these notices often came as a shock. One owner complained that the person who told the Resident that his rubber was not being tapped did so maliciously.<sup>96</sup> Another informed the Resident that he was, in fact, tapping his rubber, but was told in reply that the three young boys he employed were insufficient, when eight to ten men would be needed for full production. He was instructed that his trees “must be made to yield the maximum possible and unless you ensure this the Agricultural Department will do so.”<sup>97</sup> In other correspondence, the Resident made it clear that tapping would not be held up simply because the estates of deceased owners were still pending.<sup>98</sup> Others complained that their farms had been turned over to alternative tappers with no notice

<sup>91</sup>NAI, BP 1470 Vol 2: Permanent Crops in the Benin Division: 2 April, 1941: Ag Resident to SWP.

<sup>92</sup>NAI, BP 1470 Vol 2: Permanent Crops in the Benin Division: Notes of Meeting Held in Resident’s Office on 6 July 1940

<sup>93</sup>NAI, BP 1470 Vol 2: Permanent Crops in the Benin Division: 30 April, 1941: DO to Resident.

<sup>94</sup>NAI, BP 1470 Vol 2: Permanent Crops in the Benin Division: 2 May, 1941: Acting Resident to District Officer.

<sup>95</sup>NAI, ID 744: No. 33 of 1944: Regulations Made under the Emergency Powers (Defence) Acts, 1939 and 1940.

<sup>96</sup>NAI, Ben Prof 1 BP 2287: Rubber Farms Taken Over by the Government for Alternative Tapping. 8 Jan, 1943: Obasadesuwa (?) to Resident.

<sup>97</sup>NAI, Ben Prof 1 BP 2287: Rubber Farms Taken Over by the Government for Alternative Tapping. 14 Dec, 1942: Chief Obazogbon to Resident and 17 Dec, 1942: Resident to Chief Obazogbon.

<sup>98</sup>NAI, Ben Prof 1 BP 2287: Rubber Farms Taken Over by the Government for Alternative Tapping. 24 Feb, 1943: Acting Resident to Broderick.

given.<sup>99</sup> The Agricultural Officer, for his part, found that individuals served with notice would begin tapping their rubber, only to soon abandon it.<sup>100</sup>

The wartime experience of Ishan was similar. In 1942, the people of Egoro clan informed the District Officer that there were untapped *funtumia* on the Kukuruku side of the district boundary, and requested permission to tap them. The people of Erra on whose land the trees stood were told they must either tap them or give permission to the Egoro.<sup>101</sup> Similarly, the Ekpoma people were given permission to tap rubber in the Erra district, and the Uzen clan was given similar rights in Jagbe, on the grounds that the inhabitants were not tapping the *funtumia*.<sup>102</sup> At Ujogoa, farmers refused to show their farms to the rubber production assistants, though under pressure they admitted that their holdings were of considerable size. The Agricultural Officer felt the assistants should be accompanied by a Native Authority or Government policeman “to give them some authority. As members of the African staff of the Agricultural Department they have none at all.”<sup>103</sup> A letter to the District Officer suggested that labor shortages explained why so many farmers were leaving their rubber untapped, despite the high wartime prices maintained by the government. With many young men sent away as army recruits, others having gone to work the large estates around Benin, Sapele and Sapoba, and available labor being diverted to food production after the failure of the last season’s yam crop, Ishan farmers in 1943 were not able to obtain labor at 10s per month, the wage they stated they would be willing to pay.<sup>104</sup> Owners of rubber plantations in Ishan were notified that, as in Benin, if they did not tap their trees, the government would take them over.<sup>105</sup>

While many farmers were unable to exploit their rubber due to the high cost of labor, it is generally clear that planting continued throughout the war. Figure 2 shows that quantities produced rose during and after the war. Estimates of planting in Ishan and Kwale have been cited above. In 1946, the Resident complained that the declining quality of Nigerian rubber was “chiefly due to the increasing number of very small planters producing rubber, and the Beni practice of letting out their small rubber plantations to strangers.”<sup>106</sup>

<sup>99</sup>NAI, Ben Prof 1 BP 2287: Rubber Farms Taken Over by the Government for Alternative Tapping. n.d. Chief Osula to Resident.

<sup>100</sup>NAI, Ben Prof 1 BP 2287: Rubber Farms Taken Over by the Government for Alternative Tapping. 13 Mar 1944: Agricultural Officer to Resident.

<sup>101</sup>NAI, ID 744: 21 Aug, 1942: DO Ishan to DO Kukuruku and 21 Aug, 1942: DO Kukuruku to Agricultural Officer Ishan.

<sup>102</sup>NAI, ID 744: 3 Dec, 1942: Do Ishan to DO Kukuruku.

<sup>103</sup>NAI, ID 744: 8 May, 1944: Agricultural Officer to DO Ishan.

<sup>104</sup>NAI, ID 744: 25 May, 1943: Letter to DO Ishan.

<sup>105</sup>NAI, ID 744: 10 June, 1945: DO Ishan to Native Authorities.

<sup>106</sup>BP 1273: Rubber Industry Benin Province. 2 Aug, 1946: Resident BP to Secretary, Western Provinces.

Towards the end of the war, the colonial authorities believed there was no future for Nigerian rubber, and wavered on whether actions should be taken to discourage or restrict planting. In 1943, the Oba and Council decided to forbid all rubber planting after the end of the 1943 season. The District Officer sent a memo to all councils telling them that “this restriction of rubber planting is for your own good, in a few years’ time the price of rubber will again be very low, and if you have used all your farm-land for rubber you will have neither money nor food ... Tap all the rubber you can now, and save some of the money to make palm plantations after the war.”<sup>107</sup> Chief Oloton of Izekagbo camp in the Ekiadolor area wrote to the Resident in March 1944 asking permission to plant rubber, since he had planted other crops and found “the soil is not good for it except rubber.” The District Officer attached a note to his letter telling the Resident that he had already refused a permit.<sup>108</sup> By 1944, the government believed that those who had already planted rubber during the war would do well in the next few years, but that those who were considering it at that point were gambling.<sup>109</sup> The planting ban was lifted again in 1944 (Usuanlele, 2003). A policy of actively restricting planting was considered, but later abandoned in favor of a general reduction in prices and propaganda discouraging planting.<sup>110</sup> The government then diverted its efforts to improving the quality of Nigerian rubber.

The end of the war did, however, re-open discussion of the PCO in the Benin Division. In 1946, the Agricultural Officer noted the difficulties in enforcing the order when members of the extension staff were required to combine duties of “policeman” and “farmer’s friend.” As far as he could tell, the Forestry Department’s relationship with the farming community was problematic. He suggested that a uniformed corps of inspectors be created.<sup>111</sup> Four of the thirteen agricultural inspectors were subsequently converted to inspectors of permanent crops.<sup>112</sup> The government also considered using the PCO to appropriate land illegally planted to rubber in order to test the ability of the land formerly planted to rubber to grow food crops. The Secretary, Western Provinces, however noted that a retrospective use of the act would be “to use it for a purpose different from that for which it was intended.... The proposal, if applied, would act most unfairly on the few unlucky individuals, out of many offenders, who would be penalized for offences years old.” Further, the PCO of 1937 made no provision for confiscation or destruction of trees when the order was contravened.<sup>113</sup> The matter was later dropped, in part because the

<sup>107</sup>NAI, BP 1470 Vol 2: Permanent Crops in the Benin Division: 16 Oct, 1943: DO to All Councils Benin Division.

<sup>108</sup>NAI, BP 1470 Vol 2: Permanent Crops in the Benin Division: 3 March, 1944: Chief Oloton to Resident.

<sup>109</sup>NAI, BP 1273: Rubber Industry Benin Province: 28 September, 1944: Acting Secretary to Resident.

<sup>110</sup>NAI, BP 1273: Rubber Industry Benin Province: 4 Nov, 1945: Chief Sec to Gov to SWP.

<sup>111</sup>NAI, BP 1470 Vol 2: Permanent Crops in the Benin Division: 1 June, 1946: Agricultural Officer to Resident.

<sup>112</sup>NAI, BP 1470 Vol 2: Permanent Crops in the Benin Division: 22 June, 1946: DO to Resident and 17 Sept, 1946: DO to Resident.

<sup>113</sup>NAI, BP 1470 Vol 2: Permanent Crops in the Benin Division: 31 July, 1948: SWP to Resident.

agricultural assistants were not prepared for data collection.<sup>114</sup> While the resident still supported experiments in 1951, he recognized that the high price of rubber resulting from the Korean War would make purchase of plantation land difficult.<sup>115</sup> In 1951, the Resident noted that no information on the work of the Permanent Crop Inspectors had been received since 1949, and that it was not clear whether any attempt was being made to enforce the PCO.<sup>116</sup>

Planters continued to resist the PCO. According to one respondent:

Then there was no much policy from the British except the one that was meant to restrict farmers from planting more rubber because they were afraid people are no more planting food crops and that plantation land are taken over the hand that should have been use for arable farming. Some times they send forest guards to see if people were planting rubber but the farmers too are using their own wisdom to hide their young plantation... Some farmers usually cut off the leafy portion of the young tree once they heard the government agent are coming they usually come yearly for the inspection.<sup>117</sup>

In Warri Province new Permanent Crops Orders were in fact implemented towards the end of the war, based on the PCO in Benin. In 1944, the Senior Resident, Warri, wrote that the “position in regard to the growth of rubber is somewhat alarming. Large areas have been laid down in rubber and it is not too much to say that, except in the Western Ijaw Division, practically every farmer has some land under rubber.”<sup>118</sup> The Native Authorities had been informed of the risks lying ahead, and had been invited to take action. The Aboh and Kwale Native Authorities had made rules prohibiting any planting of permanent crops without their permission and a countersignature of the District Officer, reserving the best yam-growing land for food crops. The Itsekiri Native Authority had made a similar rule. The Western Urhobo Native Authority had an order under discussion, while the Western Ijaw Native Authority thought that, with so little dry land in their area, it would not be necessary. The Urhobo Native Authority, by contrast, felt that with little land under rubber such a rule would not be necessary, though the Production and District Officers did not agree. The Resident believed that his counterpart in Benin was of the view that “all rubber planting should be prohibited there” (*ibid*). Other restrictions were put in place after the war over tree planting in Ora, in all the Ika clans, and at Ogwashi-Uku (Rowling, 1948, p. 19-33).

These efforts were motivated by a fear that land for food crops was becoming scarce. Rowling’s (1948) report is an illustrative example. He estimated (p. 3) that, in 1946, Benin

<sup>114</sup>NAI, BP 1470 Vol 2: Permanent Crops in the Benin Division: 17 July, 1950: Resident to Secretary, Western Provinces.

<sup>115</sup>NAI, BP 1470 Vol 2: Permanent Crops in the Benin Division: 11 May, 1951: Resident to DO.

<sup>116</sup>NAI, BP 1470 Vol 2: Permanent Crops in the Benin Division: 2 Aug, 1951: Resident to DO.

<sup>117</sup>Interview: Samuel Edosomwan.

<sup>118</sup>NAI, WP 149 rubber production: 24 Nov, 1944: Memo by Senior Resident Warri.

Division had a population density of 62.75 persons per square mile; subtracting forest reserves and a conservative estimate that 5% of the Division was unsuited to agriculture, however, gave an estimate over 100. A family needing 2 to 3 acres in food crops each year, with 1 to 2 years of cultivation and 8 to 25 of fallow, would need 25 acres total to support them; this suggested to him that 425 acres out of every square mile should be reserved for food crops. Blanckenburg (1965, p. 19), similarly, noted that fallow periods in the villages he studied had fallen below ten years, and in some cases had disappeared completely. In addition, the government began to worry that land planted to rubber would not support food crops unless it were left fallow before planting.<sup>119</sup> Udo (1975, p. 34), by contrast, believed that the “Edos of Benin still have vast areas of sparsely settled as well as uninhabited forest land which is well-watered and suitable for tree crop production.”

PCOs after the Second World War were once again unevenly enforced. The Resident believed that, while Aboh and Kwale had made passed the first restrictions on planting, they did not enforce them until April, when a food shortage scared the Native Authorities into pursuing forty convictions in the second half of the year.<sup>120</sup> The District Officer for Aboh reported in 1946 that “very large numbers of people” had planted “enormous quantities of rubber (for a fee paid to the Okparuku etc), without any reference to the District Officer.”<sup>121</sup> He argued that inadequate staff made it impossible to keep the position in check; he recommended abolition of permits and a complete ban on rubber planting. In Kwale, it was reported that the District Court was resisting prosecution of illegal planters, arranging that cases would be adjourned *sine die* until the present District Officer, “who knows about all the tricks in the case” went on leave.<sup>122</sup> The District Officer guessed that ten times as many individuals as had received permits had been planting surreptitiously, hiding their plantations by leaving a large strip of bush between these and any major path or stream so that they could not be seen by officers on bicycles, automobiles, or canoes.<sup>123</sup> Matters had not been helped when a count of rubber plantations was extended to reserved areas, and taken by the planters there as if it were registration. One inspector was driven out using violence by a planter in the prohibited area at Abedei on the grounds that the District Officer’s staff were defying Government orders that all land was to be planted with rubber, and that they were trespassing on his private land. The District Officer in Kwale, like his counterpart in Aboh also advocated a full ban on further planting.

Agents of the Forestry Department again were accused of corruption. They had not been trained to serve as police, and the Agricultural Officer believed this system was

<sup>119</sup>NAI, BP 1470 Vol 2: Permanent Crops in the Benin Division: 26 June, 1948: Acting Resident to Secretary, Western Provinces and 3 Oct, 1950: Makinde to Deputy Director of Agriculture.

<sup>120</sup>NAI, WP 149 rubber production: 3 June, 1946: Resident Warri to Senior DO Urhobo.

<sup>121</sup>NAI, WP 149 rubber production: 6 May, 1945: DO Aboh to Resident Warri.

<sup>122</sup>NAI, WP 149 rubber production: 26/4/45: NA Agricultural Assistant to DO Kwale.

<sup>123</sup>NAI, WP 149 rubber production: 31 May, 1945: DO (Kwale?) to Resident Warri.

“pernicious.”<sup>124</sup> H.I. Aikhionbare, a permanent crops inspector in Benin, was suspended in 1947 until the police investigation of charges of extortion and official corruption were made known.<sup>125</sup> In 1945, an inspector in the Warri Province was charged with accepting a bribe. Though he “got away with it” when called before the authorities, he was relieved of his duties, admitting that he had been let off lightly.<sup>126</sup> As one respondent put it:

In the late 1940s and early 1950s if you plant rubber government will come and destroy the plantation and later the law was soften and when the forest inspector come our people usually [t]ip them with money so that they will close their eye to your plantation and go away. You were not also allow to destroy certain tree because you rent to farm and to plant some crops then you have to go to the ministry to obtain permission but some were just planting secretly.<sup>127</sup>

Throughout the colonial period, the state put obstacles in the way of rubber planters. In spite of these, Benin farmers resisted, planting *Para* when they felt it was a good economic or social investment, and leaving it alone when the cost of labor made it unprofitable.

## 7. CONCLUSIONS

As in much of Africa, the introduction of *Para* rubber as a tree crop in colonial Benin increased the permanence of land rights, weakened communal control over land, and spurred both temporary and permanent market transfers of land. Rubber increased the size of farms. Disputes came as the consequence of rentals, pledges and sales. The former focused more on terms and conditions, while the latter often involved attempts by sellers’ families to reclaim land that had been lost, or to contest who had the right to make a sale. Social acceptance of sales was not immediate or widespread, and the more profound change in land tenure was a shift from acquisition by clearing to acquisition by inheritance.

Rubber led to disputes over land. Within communities, these focused on chiefly expropriation of the benefits of the communal plantations, boundaries, and inheritance. These disputes were socially embedded, and courts were only one venue in which they were pursued. Stranger planters faced fewer rights than Edo-speakers, and were opportunistically evicted, but their presence was minimal relative to other cases of African tree crops. Rental and sharecropping of rubber plantations to Ibo tappers did lead to tensions, however, and colonial officials worried that these contracts did not create good incentives to preserve the health of the trees. Commercial plantations competed with

<sup>124</sup>NAI, WP 149 rubber production: 27 June, 1945: Agricultural Officer to DO Kwale.

<sup>125</sup>NAI, BP 1470 Vol 2: Permanent Crops in the Benin Division: 11 June, 1947: Acting DO to Resident.

<sup>126</sup>NAI, WP 149 rubber production: 27 June, 1945: Agricultural Officer to DO Kwale, 10 Aug, 1945: Resident Warri to DO Aboh, and 30 Aug, 1945: DO Aboh to Resident Warri.

<sup>127</sup>Interview: Muraina Bakare.

locals for land, though these were less of an imposition than Forest Reserves. The colonial state sought to keep land disputes out of the court system. The state frequently came into conflict with planters by creating forest reserves, restricting planting, and undermining planters' property rights during the Second World War.

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## APPENDIX A. LIST OF INTERVIEWS

TABLE 2. List of “farmer” interviews

Name	Date	Place	Ethnicity
Joseph Agunjiharoni	Aug-08	Iguelahor	Edo
Richard Nmbinje	21-Aug-08	Near Agbor	Eka
Benson Ajayi	13-Aug-08	Imasabor Village	Agbor
Muraina Bakare	21-Aug-08	Benin City	Edo
Osatohanwen Amadin	Aug-08	Obayanton	Edo
Samuel Edosomwan	Aug-08	Igueriakhin	Edo
Moses Aganmuonyi	Aug-08	Iguelahue	Edo
Pa Abifade	Aug-08	Igueari-Ahie	Edo
Patrick Nwoyin	Aug-08	Nberi Village	Ikah
Festus Asien	Aug-08	Obayanton Village	Edo
Chief Clement Ogene	21-Aug-08	Utagbon-Unusedeli Ndoka West	Kwale
Chief Thomas Emegue	20-Aug-08	Umusedeli Kwale (Ndoka West)	Ukwani
Albert Oburoh	6-Aug-08	Rubber Research Institute of Nigeria	Itsekiri
Moses Igbineweka	13-Aug-08	Imasabor Village	Edo
Raphael Imagbe	5-Aug-08	Rubber Research Institute of Nigeria	Edo
Friday Avwunu	Aug-08	Igueladidi	Urhobo
Felix Igbinigie	13-Aug-08	Imasabor Village	Edo
James Ojiminwe	Aug-08	Umusedeli Kwale (Ndoka West)	Ukwani
Mary Nwa	19-Aug-08	Rubber Research Institute of Nigeria	Ibo
Alfred Agbori	8-Dec-08	Benin City	Edo
Friday Ebohon	Sep-08		Edo
Chief J.O. Igbinovia	8-Dec		Edo
Felicia Aimiuwuhimwian	8-Dec		Edo