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Fenske, James

University of Oxford, Department of Economics

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TREES, TENURE AND CONFLICT: RUBBER IN COLONIAL BENIN

JAMES FENSKE[†]

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.

[†]DEPARTMENT OF ECONOMICS, UNIVERSITY OF OXFORD

E-mail address: james.fenske@economics.ox.ac.uk.

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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.¹ 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.² Finally, I am able to rely on a handful of printed reports and other secondary sources for information and context.³ 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 and between members of local communities and outsiders, including migrants and commercial planters.

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 on the continent, especially in frontier areas or where there is in-migration. 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 disputes, especially where rights have been given to in-migrants.

¹Specifically, 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).

²These 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.

³Particularly 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.

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 created 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.

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 and between the people of Benin and outsiders. 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).

Edo-speaking Benin was conquered by Britain in 1897. It became part of the Central Province of Southern Nigeria to 1914, when the position of Oba (king) was restored and the Benin Province became part of a unified Nigeria (see Figure 1). Benin was part of independent Nigeria’s Mid-Western Region (later Bendel State) from 1963 to 1991, and has been part of Edo State since then. 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. I support, then, the general narrative presented by Usuanlele (1988). I describe the limited 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. Ward-Price (1939, p. 113) commented that

FIGURE 1. Colonial southwestern Nigeria



Source: Willink Minorities Commission. Downloaded from www.waado.org.

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 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, the chiefs who testified agreed that the Oba administered land through chiefs or community heads (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 was at the village level, with the *odionwere* (senior elder) and *edion* (elders) exercising power over its use and allocation (Bradbury, 1973, p. 181). Blanckenburg (1965, p. 13) wrote that land “has long been controlled by

the village head and the elders' council." The *odionwere* was responsible for handling "petty or routine" land questions within the community (Ward-Price, 1939, p. 114). Each year, those holding land gave a present, generally produce, to the chief. 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.⁴

Any member of the community could begin farming land without asking permission, so long as no one else was farming towards the same spot and it had not been farmed in roughly the past eight years (Rowling, 1948, p. 4). This was also true in neighboring Esan (Anschel, 1965, p. 79). Plots were used in the first year of cultivation 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 (Bradbury, 1973, p. 154). 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. 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. He noted that families did not retain areas permanently; land for food crops was held communally, "as if the whole of the people were one large family." Fallow land reverted to control of the community, and was not likely to be re-cleared for some years (Bradbury, 1957, p. 45). This does not imply that *farming* was communal. This did not reflect a pre-modern communal ethic, but rather the abundance of land. In 1927, the population density was estimated at 25 per square mile.⁵ In Esan, the pattern was similar; any person could clear the bush of his own village or ward, and this would revert to the community when its fertility was exhausted (Bradbury, 1957, p. 76).⁶

With no permanent individual interests in land, sale markets were absent and temporary transfers such as pledging or rental were rare or nonexistent. Lugard (1914, p. 51) noted that "no individual rights exist or can exist for consideration, except such rights as may exist from clearing or cultivating the soil." Ward-Price (1939, p. 115), similarly,

⁴NAI, Kukudiv 5 BP 455/C - Land Tenure in Kukuruku Division: 11 Nov, 1942: DO (District Officer) Kukuruku to Resident, Benin.

⁵NAI, CSO 26 09125: Assessment Report, Benin. 4 March, 1927: Resident to Secretary, Southern Provinces.

⁶The WALC was told, alternatively, that clearing forest created a perpetual claim. Rowling (1948, p. 3) rejected this, as he could find no supporting evidence in Ward-Price (1939) or any court record.

suggested that crops could be sold in the ground, “but there is no idea of a ‘sale’ as regards the land.” 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.

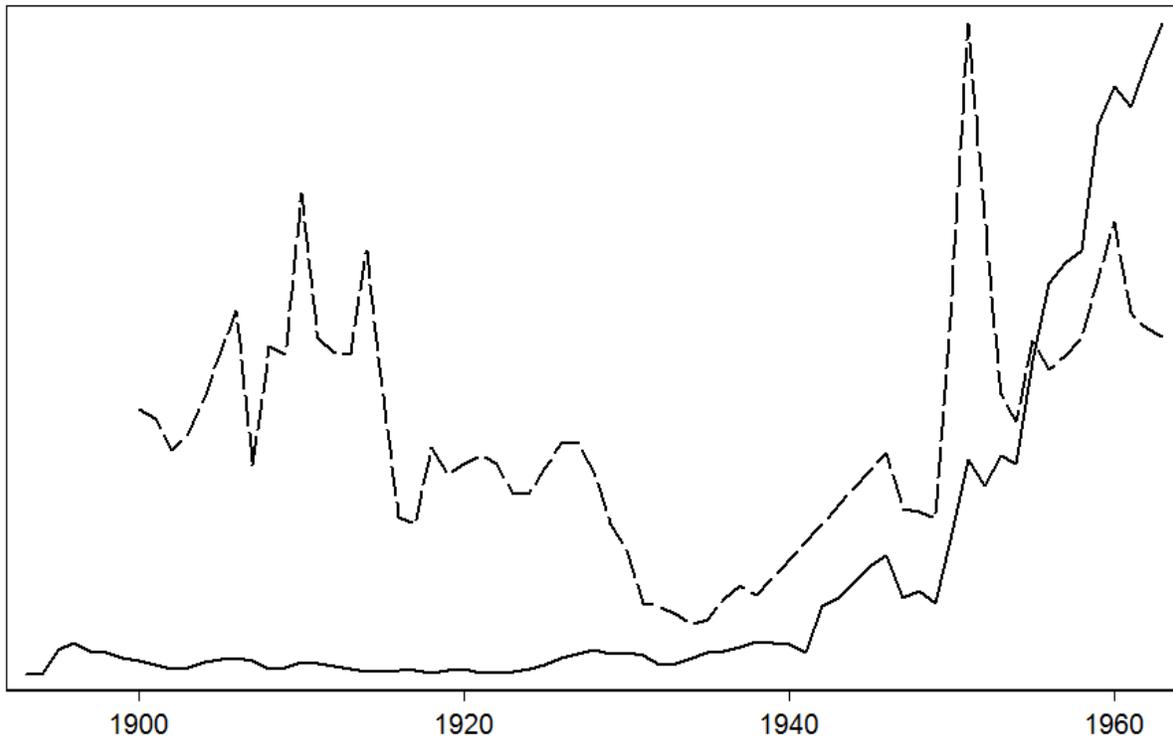
Edo from outside a particular community required permission of either the *Enogie* or *odionwere* to settle; gifts given to these chiefs recognized their political supremacy, but were not rent for the land. Ward-Price (1939, p. 115) suggested that the *Enogie* could deny a non-Edo permission to farm without cause. For an Edo stranger, permission of the *Enogie* was needed, but would not be denied. Bradbury (1973, p. 181-182) found in 1956 that 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 only a few shillings normally, “for land [was] not a scarce commodity.” Ward-Price (1939, p. 115) wrote that, once food crops were planted by a native or stranger, the planter was secure. He could sub-let his farm, but was not permitted to sell the land if he left the community. Such land would revert to communal ownership.

Tree crops were a minor feature of pre-colonial tenure. Those that grew wild were communal, with no individual rights recognized. According Rowling (1948, p. 9), no exclusive rights existed at all over wild produce, even on land under cultivation. Any village member could reap them. 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 a colonial introduction (Ward-Price, 1939, p. 116). A non-villager Edo would need permission of the *Enogie*, who could refuse, 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 1940 suit, for example, 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.”⁷

With low population densities, land was abundant and disputes were uncommon. These focused on the political power that came with controlling settlement. In 1918, the Resident wrote to the Colonial Secretary 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

⁷NAI, Ben Prof 8/1/5 Civil Record Book 1934-1935: EHK Obosi of Illah v. Ageture of Illah (1940) 69/40.

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.

that “there has been little difficulty in effecting a settlement.”⁸ 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 identified was disputes over permanent crops.

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*. The colonial government encouraged the creation of “communal” plantations of *funtumia* and distributed *Para* seedlings. 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

⁸NAI, Ben Dist 2/3 BP 446/1916 Land Disputes, Procedure in dealing with: 4 Feb, 1918: Resident Benin to Secretary, Southern Provinces.

seedlings each.⁹ Though these efforts were abandoned in 1921, Nigerians continued to plant rubber. From 1934, an international quota scheme kept world rubber prices high, but did not restrict Nigerian exports. Along with fears 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 (Usuanlele, 2003). A collection of letters sent between 1942 and 1944 to smallholders who were not tapping their plantations gives an (admittedly atypical) sample of 369 plantations that averaged 474 trees each.¹⁰ 90% of these were less than 10 years old. These plantations were largely in 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. Price controls, compulsion and propaganda were used to encourage tapping and collection, and this spurred planters. In Esan, for example, one official estimated in 1943 that 1323 farmers had 605 acres of mature rubber in Ishan, with roughly another 1,000 acres planted to young trees.¹¹ In Kwale-Aboh, another official estimated that the acreage under rubber had expanded from 660 acres before 1937 to 7067 by the end of 1944.¹² By 1948, it was guessed that 25% of Benin Division was planted to rubber (Usuanlele, 2003, p. 161).

Despite negative propaganda and active restrictions, Benin farmers continued to plant rubber after the war. Bradbury (1957, p. 24) reported that rubber and cocoa were the main sources of monetary income in the region. Anshel (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. Exports peaked during the first half of the 1970s, and the industry has since declined.

There are four confounding treatments that hit Benin during this period, whose effects may be mis-attributed to rubber: population growth, forest reservation, commercialization of palm produce, and colonial rule. While it is not possible to “control” for these, since my sources are almost wholly qualitative, I restrict my focus wherever possible to changes that were directly attributed by observers to rubber, or to disputes concerning *Para* plantations. For Blanckenburg (1965, p. 14), the cause of individualization, commercialization, and the increase in acreages was clear:

As the system changed, population density played the minor role although today many more people live in the villages than forty years ago. The main factor leading to a real revolution in the land tenure system was the introduction of permanent crops like rubber and cocoa into farming.

⁹NAI, BP 175 1917: Para Rubber Plantations: 11 Aug, 1917: Resident to Assistant Superintendent of Agriculture.

¹⁰NAI, BP 2287: Rubber Farms Taken Over by the Government.

¹¹NAI, 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.

¹²NAI, WP 149 rubber production: 5 Sept, 1945: Agricultural Officer to Resident, Warri.

In addition, I contrast rubber farms with those planted to food crops, and I note where observers made the same comparison. I also measure Benin against those regions of adjacent Afenmai Division and Ondo Province that were relatively untouched by tree crops. Rowling (1948, p. 12) estimated in 1948 that Afenmai (then Kukuruku) had a population density of 74 persons per square mile, or 76 persons if forest reserves were removed, while in Benin District these figures were 63 and 103 persons per square mile. It is impossible to control for the introduction of rubber while holding population pressure constant, but Afenmai presents a case where densities were similar but the spread of tree crops was more limited. I do not argue that rubber had any characteristics that made its effects distinct from those of other planted (as opposed to wild) tree crops, such as cocoa.

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. Throughout the continent, land for tree crops has often been obtained initially under “customary” relationships, with few cash transfers. Where land was sold early on, buyers’ rights were less restricted than in later periods. Berry (1975) found that early cocoa farmers in 1930s Ife, in southwestern Nigeria, obtained land for small presents and a promise to pay symbolic *ishakole* tribute annually. 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. In Ife, when cocoa began to bear, *ishakole* was raised generally to 1 cwt of cocoa per year (Berry, 1975). As the monetary value of *ishakole* rose, non-cash obligations fell. As forest became scarce in southern Ghana around 1950, authorities demanded regular tribute or rent rather than permitting outright sales. Over time, the *abusa* sharecropping contract gave fewer proprietary interests to these tenants (Robertson, 1982).

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.” In Esan, 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:

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.¹³

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,¹⁴ or that all that was needed was to “buy the elders drinks so that they would pray for you.”¹⁵ 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.¹⁶

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.¹⁷ 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.¹⁸

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. 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.¹⁹ Attempts were made especially to strategically evict stranger planters – these will be discussed in section 6.

¹³Interview: Samuel Edosomwan.

¹⁴Interview: Pa Abifade.

¹⁵Interview: Chief Thomas Emegue.

¹⁶Interview: Moses Igbineweka.

¹⁷OPA, Benin Civil Court 1942 No. 138, #129/42 S.A. Obaseki of Benin v. Isibor of Benin.

¹⁸OPA, File 35/58, J.J. Idehen v. J.E. Edokpolor.

¹⁹NAI, Ben Prof 1 BP 203/706, “Dibia Afam, petition from.”

In addition, colonial, provincial, and local authorities made efforts to restrict planting. In November 1937, the Native Authority passed a Permanent Crops Order (PCO) that restricted planting of all tree crops, including rubber. Those wishing to plant trees were to obtain a signed and witnessed form from the *odionwere*, who would submit it to the Oba for approval.²⁰ Similar orders were made in Warri Province towards the end of the Second World War. The PCO was unevenly enforced, and used mostly against Edo strangers, especially those resident in Benin City. 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.”²¹ The District Officer recognized that there was “no doubt” that these charges were largely true.²² Though it was not annulled formally, the PCO was forgotten in practice by the 1950s.

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 other cases in Africa. Elsewhere, 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, individualization is reversed with time (Berry, 1988). Planters initially 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. Berry (1975) finds that southwestern Nigerian tenants were seen as owners of the trees they planted, if not the land. 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.

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 formed groups that bought land which 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 today the death of a patron leads to renegotiation and demands for more cash. Duties of gratitude remain important in securing the migrant’s legitimacy (Chauveau and Colin, 2010). In Cameroon,

²⁰NAI, BP 1470 Vol 2: Permanent Crops in the Benin Division: 21 Oct, 1940: Circular from District Officer, Benin.

²¹BP 1470 Vol 2: Permanent Crops in the Benin Division, Minute (n.d. - 1941): GCW to Resident.

²²NAI, BP 1470 Vol 2: Permanent Crops in the Benin Division: Permanent Crops Order Benin Division (Memo by DO).

Guyer (1984, p. 68) notes 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 by 1984.

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 remarked that, in Benin Division, there was not much variation in farm size, and where it existed, it was compensated for by closer planting.²³ He measured fifty farms to get an average of 1.39 acres “for a man and his wife.” 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.”²⁴

Blanckenburg (1965, p. 16), by contrast, measured seven rubber farms in his study villages and found them all to be much larger. 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.²⁵

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

²³NAI, CSO 26 09125 Assessment Report on Benin Division by Nevins, DO.

²⁴NAI, AR8 A1b: Annual Report of the Ministry of Agriculture and Natural Resources (Extension Services Division); 1958-59.

²⁵Interview: 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, individuals responded by appropriating communal land for their own use and the inheritance of their children. Planting rubber was one means of gathering as much land as possible. 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. 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.”

Land ownership became less communal, and effectively gave the planter exclusive rights over the land. 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. 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.” Joint inheritance was less prevalent than in other parts of West Africa, as Benin had a tradition of primogeniture. Inheritance, then, had less power to convert holdings into family property. According to one respondent:

[A]s 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.²⁶

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

²⁶Interview: Albert Oburoh.

would allow them to exploit. Examples from court records include a plantation rented since about 1937 on which the rent since 1943 had been £15 pounds per year,²⁷ a 1,000 tree plantation rented around 1936 for £7 per year,²⁸ or prices per year per tree – 2d in 1939,²⁹ 3d in 1937,³⁰ or 2d during the late 1940s.³¹ The Benin Native Authority rented out rubber – in 1929 it reduced the rent on a plantation let out to £2/10 for two years.³² The Obi of Agbor coordinated the lease of eighteen plantations totalling 17,407 trees to the Bata Shoe Company at 4d per tree in 1946.³³ Osagie (1988, p. 55) cites one example of 172 trees let out in Esan at 6d per tree for one year, with a promise that the rent would double if the rubber were “roughly tapped.”

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 example, the plaintiff claimed the defendant had tapped an additional 200 trees not included in their agreement.³⁴ These conflicts were, however, bound up with other transactions and social considerations. In one 1940 case,³⁵ 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 court was sympathetic to this, awarding the plaintiff only £1/8.

Many smallholders let their plantations to Ibo tappers on a one half share system. Colonial officials worried that these short-term arrangements did not give tappers adequate incentive to maintain the health of their 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.”³⁶ A 1959 report by the Ministry of Agriculture claimed that:

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

²⁷OPA, Benin Native Court #315, 1945-46: #252/46 Ayi Belo of Benin v. Amadasun of Benin.

²⁸OPA, Benin Native Court 1938-39 #212, 178/39, Ikehena of Benin v. Ihabowa (?) of Ologbo.

²⁹OPA, Benin Civil Court Record Book 1941 #15, #179/1940, Amadasun of Benin v. A.B. Suberu of Benin.

³⁰OPA, Benin Native Court 1938-39 #212, 521/39: Joseph Obazie of Benin v. A Wilkey of Benin.

³¹OPA, Benin Native Court 1949 #206, 841/49, Ojo Osagie of Benin v. Avibayor Oniawe of Benin.

³²NAI, Ben Dist 1 14 24 29 Oba’s Judicial Council: Minutes of Council Meeting 10/12/1929.

³³NAI, BP 1273: Rubber Industry Benin Province: 30 Aug, 1946: DO Asaba to Resident Benin.

³⁴OPA, Benin Native Court 1949 #206, 841/49, Ojo Osagie of Benin v. Avibayor Oniawe of Benin.

³⁵OPA, Benin Civil Court Record Book 1941 #15, #179/1940, Amadasun of Benin v. A.B. Suberu of Benin.

³⁶NAI, WP 149 rubber production. 23/4/1945: Production officer to residents Warri and Benin.

season...The majority of farms have been almost completely ruined by bad tapping.³⁷

The contract cited above in which rents would rise if the trees were harmed suggests, however, that farmers were aware of this problem and gave tappers incentives to behave properly. Further, former tappers told me that they would tap for the same farmer for many years,³⁸ and so this repeated interaction could produce better outcomes than in a one-shot game. Similarly, farmers could supervise the work of tappers by checking whether the trees they tapped were healing correctly.³⁹

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. 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. 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 that 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."⁴⁰

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 Ekiadolor 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*)." Anschel (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." By contrast, I have only found one example of a sale of land not planted to permanent crops in the (albeit limited) sample of court records I have seen.⁴¹ Around 1902, the father of one Enbokwohesu gave a farm to Diajbonya's husband to sell for him. According to Enbokwohesu, he kept the money for himself. Diajbonya admitted that the farm had been sold, but asked Enbokwohesu (and the court), why action had not been taken at the time of sale. The court dismissed Enbokwohesu's claim.

³⁷NAI, AR8 A1b: Annual Report of the Ministry of Agriculture and Natural Resources (Extension Services Division). April-March 1958-59.

³⁸Interview: Okonkwo Okorie.

³⁹Interview: Joseph Agunjiaroni.

⁴⁰NAI, Ben Prof 1 BD 65 Vol 11: Petition Benin Native Court: Osionwanwri to DO, Benin c. 1936.

⁴¹Udo Native Court 1922 #227: #95/22 – Enbokwohesu v. Diajbonya

How did Benin compare to neighboring regions? In Afenmai, Rowling (1948, p. 14) reported that, excepting lease to aliens under statute and a single group purchase by refugees during the Nupe Wars, sale, pledge and lease of land were “unknown in the division.” Permanent crops, however, were could be pledged, mortgaged, or sold. The same was true in many districts of Ondo (Rowling, 1952). In Owo in 1952, there was no sale of land, but permanent crops could be sold to another Owo without permission (p. 14). In Ekiti, where population density was close to 100 per square mile, sale of land was “generally alleged to be an inconceivable squandering of the [lineage] trust-property,” even though the Ado-Ekiti council admitted unredeemed pledge of permanent crops could become a de-facto sale (p. 23). In Akoko, which at nearly 150 persons per square mile was the the densest part of the province, the Federal Council only reluctantly admitted the existence of clandestine land sales when faced with examples in the court records. That sale and pledge of permanent crops existed, however, went “barely without saying” (p. 31).

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.” 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.⁴²

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 (see Appendix A). While the sample size 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.

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 in 1941 that he had purchased a plantation of 412 trees in 1938 for £2/10, and had since added more and put identifying marks on these. When the seller died, another man claimed the property; the petitioner asked that he be made

⁴²NAI, Ben Dist 1 BD 28 Vol 11 Oba's Court Appeals; 22 Nov 1941: Petition by Guobadia.

FIGURE 3. Plantation prices over time



Notes: 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 one outlier of £70.

to take an oath to support his claim.⁴³ Another petitioner in 1937 complained that his father 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.⁴⁴ 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 husband, Fakaukun 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.⁴⁵

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

⁴³NAI, Ben Dist 1 BD 28 Vol 11 Oba's Court Appeals: 23 Nov, 1941: Letter to District Officer.

⁴⁴NAI, Ben Prof 1 BD 65 Vol 13: Petitions Benin Native Court. 30 Jan, 1937: Chief Ezoumunoglu to District Officer.

⁴⁵OPA, Court Proceedings Record Book 1954-55 #52, #843/54 A Izenbokun of Benin City v. Igberiohene of Benin City.

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.”⁴⁶ One petitioner in 1942 claimed that Chief Iyamu falsely pretended to have bought a plantation from his 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 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, also noting the signature on the document suspiciously matched that of the writer.⁴⁷

Sale was not universally accepted, and plantation owners’ alienation rights were contested by others. 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 responded 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.⁴⁸

29 of 78 rubber farmers in Anshel’s (1965) sample said they may not sell without seeking permission of village elders. 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 observed. At Ova, the “best located” of his three villages, the topic was more frankly discussed, with sales dating back to roughly 1944. In Esan, 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 this social disapproval remained, the more persistent change in land alienation has been the replacement of 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

⁴⁶NAI, Ben Prof 8 1 9 Civil Record Book 1936-1938: Obaze of Benin v. Osague of Benin (1938) 58/38.

⁴⁷OPA, Benin Divisional Court 1944 #130, A235/44 Edeoghomonwan of Ogbeson v. Awotu of Ogbeson.

⁴⁸Interview: Osatohanwen Amadin.

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.

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 two types of land conflict in turn – conflict within communities, and conflict with outsiders.

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, observers noted that disputes over tree crops were a problem. Despite farmers efforts to demarcate their boundaries, disagreements arose over boundaries and inheritance, and were caught up in other social conflicts.

In the rest of Africa, tree crops have led to disputes within communities. Many arise because land markets remain “embedded” in local politics and social relationships. Berry (1988) argues that several mechanisms of acquiring rights in tree crops do not extinguish previously existing claims, 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) finds that a Yoruba cocoa farmer’s heir may have rights that conflict with those of his wives, sharecroppers, or other children who worked the farm. Guyer (1984, p. 68) writes that child heirs in Cameroon often find that their land has been left to a trustee, who in turn has rented out. If the borrower has planted it with trees, he has a claim over the property. The right to transfer land to outsiders has been particularly contested. In Oumé, these conflicts are 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).

Colonial reports frequently state that most disputes in Benin revolved around tree crops. Rowling (1948, p. 5) wrote that food cultivation led to “remarkably little friction ... what litigation there is concerns permanent crops.” All recorded instances of trespass involved permanent crops (p. 6). 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 aggrieved owners could not take the law into their own hands. By contrast, land disputes in Afenmai were said to be rare. Where they existed, they were attributed to tree crops. Bradbury (1957, p. 96), for example, wrote of Ivbiosakon that “[l]and litigation is very rare, but disputes over the ownership of permanent crops, especially cocoa, are becoming more frequent.” At Etsako, similarly, he noted that boundary

disputes had been rare in the past, though the introduction of permanent crops and the rising value of the palm oil industry had created pressures to define boundaries between villages (p. 106).

Indeed, the types of disputes concerning land not planted to rubber that were heard before the Native Courts tended to concern damages to standing crops, and not more fundamental rights. Typical claims include larceny of cassava⁴⁹ or damages for a farm destroyed by cows.⁵⁰ Disputes over tree crops other than rubber, however, were very similar to those concerning *Para*. In a 1941 case, the plaintiff tried unsuccessfully to claim rents from “Sobos” who were reaping the fruits of palm trees his father had planted.⁵¹ They were paying a group rents of 8 to the defendant’s brother, but the plaintiff wanted each of them to pay 1s. The case was dismissed on the grounds that they had paid for what they reaped.

Respondents 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.⁵² 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.⁵³

In spite of these precautions, disputes did occur, and often concerned boundaries. In a 1936 case, the plaintiff claimed that he had been driven out by the defendant eight years before. On finding the bush cleared in 1935, 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.⁵⁴

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. The court found for the plaintiff on the grounds that the property had not been shared on his father’s death.⁵⁵

⁴⁹Benin Native Court 1931-32 #129: #583/32 – Akpakuma of Urokuosa v. Enoruwa of Ahue Camp.

⁵⁰Egbede Native Court 1939-40 #6/39: #58/39: Igabari of Igbogile v. Ekhaton of Uobe .

⁵¹Benin Civil Court Record Book 1941 #15: #482 and 483/41 J.N. Aimufua of Benin v. Agbonfo and Osuya.

⁵²Interview: Richard Nmbinje.

⁵³Interview: Moses Igbineweka.

⁵⁴OPA, Obajere Native Court 1936 (No. 282), #204/36 Chief Iduseri of Ogheghe v. Ebose of Ogheghe.

⁵⁵OPA, Egbede NC 1946 # 310: #10/47 Azalakian of Ebue v. Ehigiamusoe of Ebue.

As with the disputes that existed over sales, conflicts over rubber were embedded in social relations. In an otherwise unremarkable dispute from 1944, the plaintiff believed the defendant bore malice towards her because his daughter had married her ex-husband.⁵⁶ Similarly, the plaintiff in a 1946 case told the court that, after the death of their mutual father, 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. After losing the case, 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.⁵⁷

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... We have *odionwere* in this community the matter got to the *odionwere* and the community make peace between both of them.⁵⁸

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.⁵⁹ The other parties, for their part, 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.⁶⁰

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

⁵⁶OPA, Appeal Civil Record Book #244, Case A 223/44 Edegbe pf Benin v. Inomwan of Benin.

⁵⁷NAI, BD 430 285: Petition re: Oba’s court civil case.

⁵⁸Interview: Felix Igbinijie.

⁵⁹NAI, Ben Prof 1 BD 28 Vol 6: Oba’s Court Appeals: Petition of Samson Odia, 25 March 1937.

⁶⁰NAI, Ben Prof 1 BD 28 Vol 6: Oba’s Court Appeals: 25 March 1937: Igiebor and Iyigue to DO Benin City.

Ibo, and conflicts with these communities focused on assimilation and political control, not land.

In Oumé, urban returnees since the 1980s have pressured family heads to recover land transferred to migrants (Chauveau and Colin, 2010). Berry (1989) argues that migrants have acquired land through “economic” relationships that also entail subordination, dependence and aspects of “patron-client” ties. Sales to these strangers have been reinterpreted later as customary tenancies, and conflict emerges between descendants of landowners and planters. Robertson (1982), for example, writes that suppliers of land Ghanain *abusa* contracts see these as labor hire agreements, while suppliers of labor view them as land leases.

In Benin, 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 Benin City (Usonianlele, 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.⁶¹

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). 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 to recognize their authority, and were concerned about keeping enough land available for future generations (Ward-Price, 1939, p. 117). 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.”⁶² 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

⁶¹Interview: Muraina Bakare.

⁶²OPA, Ehor Umagbae Court of Appeal 1941-42 #176, #37/42 Gbinoba Odionwere of Okemuen v. Alue of Erhunmwusee Camp.

Court, and received judgment for the plantation, which they began to lease out for £1 per year from 1929.⁶³

Disputes exist where these stranger-planters were opportunistically evicted or threatened with eviction. Two 1941 cases⁶⁴ concerned the position of strangers in Ekhon. 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 5), some of the local Ekhon 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.⁶⁵ He claimed that 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 the clerk 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.⁶⁶

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."⁶⁷ 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

⁶³NAI, BD 207 154: Petition re: rubber estate.

⁶⁴OPA, Egbede NC and Civil Record Book 1941 No. 174A: #229/41 Oke of Ekhon v. Okuoghae of Ekhon and No. 174A: #228/41 Oke of Ekhon v. Osakhuawonmwun of Ekhon.

⁶⁵NAI, BD 153 Petitions Obajere NC: 27 Oct 1936: Osaze to DO Benin.

⁶⁶OPA, Native Court of Appeal, Benin City 1958-59, A 255/57 L.G. Police (?) v. Osagie and Others of Obagie Village in Ugbeka.

⁶⁷NAI, Ben Prof 1 BD 65 Vol 11: Petition Benin Native Court: 24 Oct, 1936: Sado to DO.

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.⁶⁸ 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.⁶⁹

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 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.” 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 (p. 131).

Government policy limited the extent to which locals and expatriate plantations competed for land. 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.

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. The Resident, Warri, felt that the Kwale settlers would be particularly hurt due to the shortage of land in their

⁶⁸NAI, WP 149 rubber production: 4 Dec, 1944: Chief Ireto Olutse to Resident Warri.

⁶⁹NAI, WP 149 rubber production: 19 June, 1944: Jesse Chain Council to DO Jekri-Sobo.

home district. The Resident, Benin, refused to support Palmer's application.⁷⁰ 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.⁷¹

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 locals for land, though their presence was limited by government policy.

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⁷⁰NAI, BD 36 1929 Palmer Application for Lease of Rubber Plantation. 2 April 1930: Resident to Assistant Commissioner of Lands, Southern Provinces.

⁷¹NAI, BP 1273: Rubber Industry Benin Province: 20 Nov, 1953: Director of Marketing and Exports to Resident.

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APPENDIX A. LIST OF SALES

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.

APPENDIX B. 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