

# Règles, stratégies et contrats dans la problématique du foncier : Théorie et pratiques à travers quelques terrains au Maghreb, en Afrique noire et à Madagascar\*

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## **Abstract:**

The aim of this paper, written by an economist, is to provide an interdisciplinary perspective on selected land tenure issues in the African continent. During the 1980s, land tenure issues were considered as one of the main stumbling blocks for the promotion of rural development, and have thus become a matter of new interest for rural economists, especially for “new institutional economists”, who emphasize the role of institutions in minimising transaction costs. The cases presented in this text show that, although such a conceptual framework provides a useful key for analysis, the researcher is still confronted with the risk of “over-interpreting” the social practices so that they correspond with the theory used as the interpretative framework. Such an intellectual bias was already observed and conceptualised by Bourdieu in the 1970s, but it is still recurrent in social science fieldwork.

The first case study deals with “collective lands” in north-west Morocco. The absence of individual land ownership was seen as a key feature of so-called “local communities”, which were supposed to be ruled by a collective land tenure system. The periodic (generally on an annual basis) re-allocation of fields among shareholders seemed to be, for many social scientists, one of the main characteristics of such lands. It was explained as a means to avoid the risk of overly pronounced social differences within the local group. This point has also sometimes been highlighted to “explain” African behaviour concerning low investment and accumulation (in-)ability. Fieldwork coupled with historical inquiries has shown that egalitarian and recurrent land redistribution had been instituted by administrators during the French Protectorate. This redistribution was based on biased and selective observations made by colonial jurists in the early twentieth century, and was perpetuated for political objectives until after independence. Such “invention of tradition” illustrates the risk of confusion between the intellectual pattern, developed to give an understanding of the practices, and the practices themselves, which follow their own specific dynamics. It also underscores the fact that what is presented to the external observer as “rules” is subject to many exceptions that sometimes reveal more about the social dynamics of the local society than about the “traditional rule” considered as immovable.

A well-known conceptual framework derived from the public choice theory distinguishes between private, public, “club/toll” and “common” goods, and suggests that the intrinsic characteristic of the goods should be the basis for designing its property and management regime. Such a framework is not fully suitable for analysing land tenure in Africa, since the land is often characterised by several layers of tenure, the features of which can vary with time and according to the identity of the holder. The role of collective representations is critical here in order to assess what is acceptable or not, beyond the hypothesis of the “intrinsic nature” of the land, and also to evaluate the choices made by societies regarding what should be private and what should be common or public. In addition, the nature of the tenure itself cannot be assessed without a comprehensive view of what is at stake among actors in the field and vis-à-vis the government. The “Rural Land Tenure Plan”, supported by foreign donors and tentatively implemented in certain West African countries, was designed to “record the local rights” as they were declared by stakeholders. But the process failed to capture the real nature of the land rights because the technicians in charge of the operation were unable to elaborate tenure categories that would have been able to reflect the diversity of the local situations. Thus, the operation, far from providing a neutral picture of the land tenure situations, produced a new layer of interpretation of the local realities which, in its turn, will be appropriated and used in the individual strategies of local actors.

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One of the shortcomings of the new institutional economics is its tendency to see the evolution of institutions through the exclusive prism of the minimisation of the transaction costs to achieve economic efficiency. Boserup's theory linking agricultural intensification, enclosure and demographic growth can be read as a verification of such a narrative of "the emergence of institutions according to historical necessity". Studies carried out in northern Burkina Faso, where demographic growth has been accompanied by "extensification" and by natural resource degradation, suggest a less straightforward picture. Socio-economic evolution has led to individualism, and the will to avoid social conflicts within the different parts of the population motivated the upholding of land access rules and the blocking of possibilities of intensification.

A comparable analysis can be made regarding agrarian contracts in Madagascar. According to the literature influenced by new institutional economics, the choice of a given type of contract (land lease, sharecropping, etc.) was directly determined by market failures and risk aversion, and the persistence of sharecropping in many developing countries was typical of hazardous contexts, with priority given to economic security over efficiency. Madagascar, an island frequently crossed by hurricanes, would have been typical of such a situation. However, a field study showed how peasants managed to remove the risk entailed in annual payment associated with land lease thanks to their social capital and the common acquaintance between landlords and tenants. Here, too, economics is embedded in social relations and practices. Thus, the theory seems to be more effective in categorizing and explaining the rationale behind the choice of contract *a posteriori*, than in predicting the contract pattern one will find in the field.

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