Plantation agriculture and the formulation of native land rights in British North Borneo c. 1880–1930

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One of the most durable consequences of the development of plantation farming in the tropics was the establishment of varied systems of native land rights which allowed administering authorities, whether colonial or otherwise, to demarcate, alienate and sell land to investors. Without the codification of land rights, land could not have been bought, sold and leased as a commodity and security of tenure for the overseas investor would have been uncertain. The development of such land rights in British North Borneo, now known as Sabah, between 1880 and 1930 is the subject of this paper. It is argued that the elaboration of a Land Code which classified land with native title, state land, and land leased to investors was closely linked with the development of plantation farming for tobacco and rubber. The paper seeks to examine the economic, legal and social context within which native land rights were formulated.

KEY WORDS: Borneo, land rights, plantation agriculture.

IN MANY PARTS of late nineteenth-century South East Asia, the growing demand for commodities such as tobacco, timber, plantation rubber, oil and tin, was a major stimulus to greater foreign, especially European investment, in the production process. As many of the economies of the region experienced the effects of an expanding resource frontier, they became increasingly peripheralized within the global commodity market (Wallerstein, 1989) with the emergence of enclave sectors producing largely unprocessed products for export. The expansion of plantation systems of farming represents one example of such peripheralization. Whilst the structure and development of plantation farming shows considerable variation by both place and product, its effects on indigenous societies and their farming systems were often remarkably similar in the Tropics. The relationship between indigenous and plantation farming systems is of both historical and contemporary interest, especially in those parts of the Tropics where extensive systems of shifting cultivation traditionally predominated. In such areas, the development of plantation agriculture, usually employing foreign capital, had important effects upon indigenous farming, influencing in particular labour supply, population migration and the nature of property rights. The latter, it is argued, is of particular significance.

The development of plantation agriculture required a priori the commoditization of land. If external capital was to be attracted to investment opportunities — and this, fundamentally, was central to the success of the colonial enterprise in the Tropics — land had to be legally defined, alienated and sold by the administering authority. This process of turning land into a commodity which could be freely bought and sold, and to which legal title could be shown, was a necessary, though not sufficient, condition, for realizing the investment potential of newly-acquired territories. The process by which this occurred, and the variety of legal and administrative measures adopted to facilitate the process, are of crucial importance in understanding the articulations between indigenous and plantation farming systems. It is the relationship between these two in the territory of North Borneo between about 1880 and 1930 that is the subject of this paper.

In the first section of the paper the background to the development of the Chartered Company in North Borneo is briefly outlined, together with a consideration of the investment potential of the state. Secondly the question of land regulation — a fundamental prerequisite for European and, rather later, Japanese investment is examined and the establishment of native land rights is considered. In the third and fourth sections of the paper the development of plantation tobacco and rubber is
traced and, in the final part of the paper the intermeshing of plantation and indigenous farming and its impact on land rights is examined.

A cornucopia of riches?
In November 1881, Royal Assent was given for the creation of a British Chartered Company to administer and develop the territory of North Borneo, a form of quasi-colonial administration followed in other territories at the time, for example in New Zealand and South Africa (West, 1897). In May of the following year, the British North Borneo Chartered Company was formally registered in London and its share capital subscribed. Its Board of Governors were empowered to foster the administration and development of a large area of territory in north-west Borneo which, to the casual observer at least, seemed to promise much in terms of mineral wealth and agricultural potential. As a Chartered Company, its activities were subject to Parliamentary scrutiny, whilst its central aim was to secure a profit. It was this Chartered Company which was to rule North Borneo from 1882 until the absorption of North Borneo as a British colony in 1946 (on the Company see inter alia Black, 1983; Sullivan and Leong, 1981; Tregonning, 1958).

To many nineteenth-century travellers Borneo, with its valuable trade in exotic jungle products and its seemingly benign climate and soils, appeared underdeveloped and underpopulated (Cleary and Lian, 1991). The potential for economic development had been outlined in numerous papers, and a series of adventurers, notably British and American, had sought their fortune on the island. Earl, writing in 1837, argued that: ‘no country in the world can compete with it... (it) contains inexhaustible mines of gold and diamonds which are

<table>
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<th>Balance</th>
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Source: John and Jackson, 1973: 96.
so easily wrought that the inhabitants are enabled to procure considerable quantities of both with the most inefficient instruments’ (Earl, 1837: 240–41). Somewhat later, the botanist and traveller, F. W. Burbidge, was similarly enthusiastic noting that, ‘the future prospects of this tropical island, so rich in natural products, so fertile under rude cultivation, and withal so extensive and beautiful, are deserving of more than a passing mention’ (Burbidge, 1989: 332).

Whilst the Dutch held firm to much of the east of the island, the north-west was in a state of political flux. The declining importance of Brunei, once the dominant power on the island, provided the political context for a ‘scramble for Borneo’ in the second half of the nineteenth century. Beginning with the establishment of the ‘White Rajah’ dynasty in Sarawak in 1841, Brunei made a series of territorial cessions in exchange for much needed cash. By the late 1870s two major territories — Brooke’s Sarawak and North Borneo (then held as a private cession by Alfred Dent and an Austrian noble, Count von Overbeck) — surrounded Brunei like a pincer about to squeeze the last breath from a dying Kingdom (Brown, 1970; Cleary and Eaton, 1992; Irwin, 1965; Ranjit Singh, 1984).

As with so many such ventures, the early forecasts of Company investors were promising. Potentially at least, the territory, stretching from Brunei Bay and Kudat on the west coast, to the Segama River on the east, represented rich pickings (Fig. 1). Mineral wealth and a well-established trade in jungle products (rattans, birds’ nests, bezoar stones) precious to Chinese and Western collectors and epicures, were seen as the basis on which to build future profits. If in the first few years, expenditure far outran proceeds, the prognosis was good. In 1886, the Company Chairman, Sir Rutherford Alcock, declared that ‘the most trying period of the Company’s existence is now drawing to a close’ and that the prospects for profitability were good (British North Borneo Herald and Government Gazette — henceforth Herald, 1 March, 1886).

By that time, however, mineral prospecting had revealed little of any value and, as Table I shows, exports continued to lag well behind imports in the fledgling state. But early reports in the Herald argued that North Borneo represented a prime site for investment in tobacco plantations. Tobacco was widely grown as a native crop in the region and the Chartered Company had established its own nursery to try out different varieties (John and Jackson, 1973: 91). The first major grant of land in the territory — to the Chinese Sabah Land Farming Group in December 1882 — was of 40,000 acres for the purposes of initiating tobacco cultivation (Public Records Office: Colonial Office — henceforth CO: 874/59A). A number of Dutch planters from the Deli region of Sumatra visited North Borneo and expressed an interest in taking up leases of land there. That the administration was looking beyond the exploitation of minerals and jungle products is also clear from one comment that it might ‘adopt a mild form of the Dutch culture system’ to encourage native production of tobacco (Herald, 1 April, 1886).

Under that system, pursued most fully in Java but largely abandoned by the 1870s, the Dutch had sought to coerce the indigenous population into producing export commodities such as coffee and sugar (Geertz, 1963). The comment, indicative of the search for new revenue, was not, it would appear, pursued.

Regulating the land

The realization that mineral wealth was perhaps more fabled than real led to the view that land-based production held the key to the economic exploitation of North Borneo. In a paper presented to the Colonial and Indian Exhibition, an official of the Company, William Pryer pointed to the excellent prospects for both tobacco and timber in the newly-opened eastern part of North Borneo around the new capital of Elopura, later renamed Sandakan (Pryer, 1883). Similar papers in the geographical literature by Crocker (1881) and Cook (1890) were likewise optimistic. Testing of some of the first samples of wrapper-leaf tobacco from the state proved successful and, from the mid-1880s, a steady flow of investors sought leases of land in the territory. However, as Breman (1989) has shown for the case of tobacco plantations in the Deli region of Sumatra, the succesful growth of plantation crops depended on much more than favourable environmental conditions. The ‘freeing’ of a range of factors of production — land, labour and capital — was required and these depended in large measure on government.

That capital was available for such investments is clear from the experience of both Sumatra and Malaya where considerable European investments were made in the plantation sector, and large profits reaped (Breman, 1989: 13–74; Jackson, 1968: 211–45; Voon, 1976). But the other factors of production were more problematic. As da Silva (1982: 190–1) has argued, the plantation system was often highly labour intensive with a consequent reliance on imported coolie workers. The mortality rates for these groups — a statistic revealing the grim reality of coolie life — were often horribly high and, in the brutal terms of profitability, a drain on the balance sheet. Thus capital and labour were usually imported whilst the production of export crops in raw rather than processed form gave the economy a ‘pronounced export-import bias, thereby symbiotically linking the territory’s economy to the centre’ and acting as a precursor to later, post-

Of overriding significance to the success of the plantation enterprise was the availability of land. A first priority of government was to facilitate the definition of state land so as to allow for its alienation and sale; land, quite simply, had to be commoditized. ‘Native’ land and land which could be disposed of by the state required careful delineation. Given the high costs and difficulties of terrain, a full survey of such land remained many years away. What the Chartered Company, like many other colonial and crypto-colonial administrations, had to do, was to clarify legally what was, and was not, it’s to sell. Without this crucial legal step, security of tenure for investors could not be guaranteed.

In North Borneo, as in many other parts of the Tropics, the question of land rights was complicated by the prevalence of two features — systems of customary rights to land and shifting cultivation. In North Borneo, historically once part of the empire of Brunei, sovereign rights to land rested ultimately with the Sultan of Brunei although the Sultan of Sulu in the neighbouring Philippines disputed this right (Tarling, 1978). The position was complicated by the existence of rights to land held by the nobility or pengirans of the Brunei court. Thus, whilst the cessions made by the Sultan which were taken over by the Chartered Company gave the Company sovereign rights, it was still required to negotiate land rights with many individual pengirans as Crisswell (1972) makes clear. Furthermore, the usufruct of much of the land was communally held which meant that the concept of private property and private ownership was, with but few exceptions, absent. The second complicating factor, the extent of shifting agriculture, made for major difficulties for the administration in defining what was, and was not, uncultivated land. Land farmed on a long fallow system might to all intents and purposes appear uncultivated although, to the farming community, it remained part of their land. Coupled with this was the added complication of ownership of certain valuable trees and plants. These factors, then, made the problem of definition a difficult one, and the commoditization of land especially complex.

To permit the alienation and sale of state land a first step was taken in 1883 with the promulgation of the Land Code in North Borneo. The Code was broadly similar to that followed in the Federated Malay States and the Straits Settlements (the majority of Company administrators had served or were on secondment from the Malay Civil Service) and ultimately reflected Indian practice. All land in the territory was vested in the Chartered Company. A series of Land Ordinances (in 1883, 1894, 1904 and 1930) established the principles of land rights. In theory the intention was that all land under ‘native’ or ‘customary’ tenure (that is, land which could be shown to have belonged to the particular group ‘since time immemorial’) should, as a first step, be defined and demarcated. Ultimately, it appears that the intention was for the whole native population to register its rights in land on an individual basis and, in return for title to pay an annual quit-rent. If in a three-year period land was left uncultivated and no quit-rent paid the land reverted to the state (Sabah State Archives, Secretariat Files, henceforth S. 1428). In practice, however, the registration of individual rights to land was exceedingly slow. According to the administration the intentions of the code were ‘to protect the native from his own improvidence’ (CO 648: 6–7). No land could be disposed of by any native group or individual without authorization from the Company.

The dispositions of the Code are interesting for they reveal the complexity of the relationship between indigenous groups and the land. Whilst there were considerable local and ethnic variations, customary rights to land in Borneo were historically acquired in a number of ways. Clearing virgin jungle, planting land with fruit trees or using land as a burial ground were recognized as giving rise to tenurial claims. The Land Code sought, at least in theory, to recognize such rights. In general land which came into the following categories could not be alienated and sold to Europeans:

1 Land under ‘customary tenure’ (broadly, land under sedentary or shifting cultivation which had long been associated with a particular ethnic group).
2 Land planted with fruit trees.
3 Land containing isolated fruit trees which were harvested by a community — this applied particularly to trees such as the durian, rambutan and jackfruit.
4 Grazing lands.
5 Land which had been cultivated or built upon in the last three years.
6 Land with a particular sacred significance e.g. burial sites.

In theory, then, the provisions of the code seemed to offer considerable protection to native cultivators at a time when European investors were seeking land concessions. The procedure followed by the Survey Department when seeking to identify land for alienation was to rely on the local District Officer who would decide whether areas of land fell into any of the above categories. A study of the lease records of estates indicates that it was usually the responsibility of the lessee to ensure that they did not infringe land held under customary tenure (PRO-CO 874: 59). In practice the tiny survey department had neither the time nor the facilities to
carry out extensive surveys of land for these purposes. This potentially problematic position was eased because there was little overt land shortage in the territory.

The granting of land was further complicated by the existence of shifting cultivation over large portions of the state. In common with neighbouring Sarawak, the Forestry Department in North Borneo was hostile to the practice. As one report noted, ‘the Forestry Department rightly hate shifting cultivation and continuously storm about it (as)... an undoubted evil’ (S 284). By the early years of the twentieth century, Forestry and Land Survey officers had begun a policy of encouraging a move amongst the indigenous population from shifting or ladang cultivation to permanent wet-rice cultivation. As part of this policy and as a means of encouraging land registration, a decision was made to impose an annual rent on shifting cultivation, at the same per unit area rate as that for permanent cultivation. This obvious inequity in the fiscal treatment of the two systems was aimed at reducing the extent of shifting agriculture, encouraging permanent wet-rice agriculture (and hence reducing the burden of rice imports) and speeding up the process of land registration (S 284; S 1356). Within this administrative context, then, it is not surprising that land sales for plantation development were viewed in a favourable light. For the Forestry Department, any sales which reduced the apparent ‘depredations’ of indigenous shifting cultivators and which might stimulate commercial timber production were to be encouraged (John, 1974).

The tobacco industry

Tobacco was the first crop to be produced commercially through the plantation system in North Borneo. Planters from Deli on Sumatra had visited the territory in the early 1880s and commented favourably on the potential for development, especially on the more isolated east coast. The Company was already actively seeking outlets for a number of export commodities in the first decade of its rule. Timber sold well, especially to the Hong Kong market, but efforts to encourage the production of pepper and gambier (both of which had done well in the Federated Malay States) failed. Tests on experimental tobacco leaf exported to Amsterdam and London met with some success but it was found that the leaf was best suited as a wrapper for tobacco from the Deli area; a fact which limited the potential of North Borneo as a producer of its own cigars.

It was the Dutch and Germans who displayed the keenest interest in acquiring land. This is hardly surprising given their wealth of experience in tobacco production on Sumatra. A Baron Von Stein of Saxony negotiated one of the earliest leases in December 1886 of an acreage of ‘waste and uncultivated land’ for ‘the cultivation of tobacco’. The lease conditions noted that ‘should the said cultivation prove successful, the Concessionaire shall find capital to plant tobacco on a large scale and would be given the option of acquiring 15,000 acres of additional land’. The Deutsche Borneo Compagnie of Hamburg, the Count de Geloes d’Elsloi on behalf of the London Borneo Tobacco Company, and Van der Hockben Compagnie were also early recipients of concessions. These concessions were very large, usually in excess of 15,000 acres and were offered on standard terms (CO 874/5).

They applied only to ‘uncultivated land’ and it was the responsibility of the company to ensure it did not interfere with native rights. At this early stage, in any case, very little land had been given official title. Although, in theory, the allocation of title either to individuals or, more usually, the tribal group, should have preceded the grants of land to plantation investors, in practice this was not usually the case, as Rooney (1981) has argued. The land was held on a 999 year lease, usually at a rental of $1 per acre, although by the early 1890s the rate had fallen to 50 cents per acre. Most leases included an agreement to bring an agreed proportion of the land into cultivation within a maximum period of 18 months, presumably to forestall companies accumulating large areas of land for speculative purposes. In some agreements, land which still remained uncultivated after a set period (this varied in leases from 12 to 20 years) reverted to the administration (CO 874/59A). All mineral rights as well as rights of navigation remained vested with the administration. The Chartered Company also preserved access to jungle products such as rattans and birds’ nests which continued to be valuable sources of revenue.

Between 1886 and 1890 more than half a million acres were granted in concessions, usually for between 5000 and 30,000 acres; many were purely speculative, prompting the Company to tighten up its policies within a few years (Johns and Jackson, 1973: 93-4). The area actually cleared and planted with tobacco was, of course, very much smaller. By 1890, 21 public companies were producing tobacco leaf in a total of 53 estates. As Table II shows, the east coast provinces of Dewhurst, Martin and Myburgh, particularly in the Kinabatangan River area, were the most favoured locations and, although there were a number of individual proprietary owners, the majority were under the corporate direction of Dutch and German companies. The three most important companies, the London Borneo Tobacco Company, the Amsterdam Borneo Tobacco Company and the Darvel Bay Tobacco Company controlled about 150,000 acres (around one-quarter) of the total concession area.
TABLE II

<table>
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<tr>
<th>Province</th>
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<tbody>
<tr>
<td></td>
<td>Residency</td>
</tr>
<tr>
<td>Alcock</td>
<td>Kudat</td>
</tr>
<tr>
<td>Dewhurst</td>
<td>Sandakan</td>
</tr>
<tr>
<td>Martin</td>
<td>Sandakan/ E. coast</td>
</tr>
<tr>
<td>Myburgh</td>
<td>Sandakan/ E. coast</td>
</tr>
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<td>Mayne</td>
<td>East coast</td>
</tr>
</tbody>
</table>

Source: Handbook of the State of North Borneo, 1890.

The individual planters and companies, many of them experienced in the business through their interests in the Deli region of Sumatra, were attracted, not only by the conditions of climate and soil, but also by the liberal nature of the land leases available. The conditions attached to these were much more advantageous than those prevailing in either the Outer Provinces of the Dutch East Indies (e.g. Dutch Borneo and Sumatra) or in the nearby Federated Malay States. In the Deli area competing plantation crops (notably coffee and sugar) meant increased pressure on land. North Borneo, by contrast, was quite literally virgin territory for the plantation capitalist. Without this attention to land commoditization, the Chartered Company could not have hoped to attract investment to its territories.

By the late 1880s tobacco exports began to rise upon favourable reports and prices for the North Borneo product on the European market. Their significance in the overall export profile of the nascent state rose accordingly. Despite a fall in prices in 1893 with the imposition of steep US tariffs on imported tobacco, it continued to play an important part in state revenues through to 1914. The tobacco boom was, however, short-lived. Increased competition on the world market, coupled with the specialized nature of the North Borneo product (its prime use was as cigar-wraper) meant that attention soon shifted to a potentially much more remunerative plantation crop, rubber. A spate of bankruptcies and amalgamations meant that by 1909 production was concentrated in just three companies — the North Darvel Bay Company and Batu Puteh Syndicate on the east coast, and the London Borneo Tobacco Company on the west. The first two employed 2082 and 925 Javanese and Chinese coolies respectively in that year, whilst the latter had a coolie workforce of 1853 at its four estates (CO 684: 1–6). By that date, rubber planting was on the rise, leading to a geographical shift in the location of the plantation industry from the east coast to the west.

In 1914, the Report of the Chartered Company anticipated no further growth in tobacco and, though it was still the largest export by value, the growth of timber and rubber exports was considerable. By the early 1920s tobacco production had stagnated at around 1.25 million pounds in weight from just three major estates. By 1929 the last estate at Batu Puteh had gone into liquidation. The Chartered Company resurrected an estate at Lahad Datu in 1934 and, in the same year, the Imperial Tobacco Company took over part of the old Segama estate, but, overall exports never exceeded $400,000 a year; a fraction of their former importance (GO 874/59A; Sullivan and Leong, 1981).

The rubber boom

By the close of the first decade of the twentieth century, tobacco production had been largely eclipsed by the first of a series of rubber booms. In many respects the transition from tobacco, whose prices were becoming increasingly fragile and erratic, to rubber was a natural one. Prices were good, demand, stimulated by the emergent motor-car industry in the United States was buoyant and there was considerable expertise and investor confidence in rubber production elsewhere in the region, most notably in the Federated Malay States. Thus, in North Borneo, rubber became the new plantation crop in a fashion which underlines the argument that it was the system of production rather than the product itself which served to characterize, and still characterizes the plantation sector (Courtenay, 1980: 9–16).

The Chartered Company had been enthusiastically proclaiming the merits of rubber production as a means of developing North Borneo and, as early as 1899, had been engaged in developing rubber seedlings in its nursery at Sandakan. In scope, extent and longevity the rubber industry was to prove of much greater significance to North Borneo than its immediate predecessor, tobacco. Its impact on indigenous farming and land rights was likewise of greater importance. By contrast with the Federated Malay States, however, rubber production was slow to develop in North Borneo and, when it did emerge, was on a much smaller scale. According to Voon (1976: 108–14) the basic problem was two-fold: the high cost of labour and the lack of investor confidence in a rather remote and difficult region. As with tobacco, liberal land leases held the key to the growth of the sector. These were pitched much more favourably than elsewhere in the region. Thus average rents in North Borneo were about half those of the Federated Malay States and the premiums on top quality land were much lower. In addition there were no export duties levied on rubber from North Borneo, whilst Malayan producers were liable to a 2.5 per cent duty on gross value (Voon, 1976: 145). The experience of tobacco production had taught the Chartered
Table III

Rubber exports from North Borneo, 1910–1931

<table>
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<th>Year</th>
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Source: Handbook of the State of North Borneo, 1934.

Company the importance of facilitating easy and cheap access to land in the territory. By 1910 there were 12 rubber companies operating in North Borneo with a combined concession area of 103,000 acres and a capital value in excess of one million pounds sterling. As with the tobacco industry technical and managerial expertise were provided largely by the Dutch and Germans. Most of the larger firms — the Manchester North Borneo Rubber Company, the Langkon North Borneo Company, the Sapong Estate — had Dutch and German managers. If rubber came to replace the tobacco sector quite quickly, the nature of linkages between the rubber and tobacco industries was less clear. Voon has argued that, unlike in Malaya, relatively few tobacco estates simply switched production to rubber. However, whilst there was not the same degree of physical continuity between tobacco and rubber estates, institutional continuity remained strong with the larger rubber and tobacco estates often constituted under the same corporate umbrella. On a number of estates too — the Sapong Estate at Tenom or the Ranau Estate of the New London Borneo Tobacco Company Limited — rubber and tobacco were grown interchangeably. An additional incentive to investment in the plantation sector was provided by the Chartered Company in the form of dividend guarantees under which the Company agreed to guarantee a dividend of 5 per cent to investing companies for a period of six years (Herald, 1 December, 1910).
If the company leases provide useful information on concession conditions they are unfortunately less useful for charting the planted area. As with tobacco land leases, minimum planted areas were stipulated (primarily to prevent land speculation) but there seems to have been little or no policing to determine whether such conditions were being fulfilled. Given the tiny size of both the Agriculture and Land Survey departments this is hardly surprising. As Table III shows, the growth in rubber exports from North Borneo was spectacular, albeit not as dramatic as in the Federated Malay States. By 1915, much of the rubber from trees planted in the first 'boom' was coming on stream (there was a gap of about five years between planting and tapping) and similar cycles characterized production prior to the beginnings of international production regulation begun in the 1920s and early 1930s.

If land availability and leases provided no real problem for the capitalist entrepreneur, labour was more difficult. As with the tobacco industry, the plantations had to rely on imported coolies. In 1909 there were already some 11,200 employed on plantations; by 1926, at the peak of the second rubber boom, the figure had risen to 18,419. Chinese and Javanese were the most significant nationalities in this workforce. Coolies were largely recruited through Chinese labour syndicates and were employed on 2- or 3-year contracts. Whilst conditions of work were arduous it would appear that mortality rates were rather lower in North Borneo than in Malaya or Java (Evans, 1922: 37-41; CO 648/9). The development of rubber brought about a significant shift in the economic geography of the state. As Figures 2 and 3 show, much of the rubber industry was located on the
developing west coast which increasingly rivalled the Sandakan district in economic importance and which led to the rapid growth of Jesselton. By contrast, the Kudat region, once lauded as the likely economic hub of North Borneo (Kudat was, for a short while, the nominated capital of the State), languished.

The chief factor behind the rise of the west coast was the railway, the only public railway built in Borneo, linking Jesselton to Tenom and Melalap in the interior. The line, developed between 1900 and 1909 almost bankrupted the Chartered Company, plagued as it was by technical and managerial problems. The terrain was exceedingly difficult and construction costs were high (Tregonning, 1958: 57–62). Nevertheless it acted as a catalyst for plantation seekers and meant that the greatest pressure on native land was in this region. Many of the concessions flanked the line along the west coast leading the Company to comment in 1909 that ‘Jesselton has profited most by what may be called the boom and the Railway policy is now beginning to bear fruit’ (CO 684: 1–6). In some cases, the shrewder companies sought exclusive use of railheads. The Manchester North Borneo Rubber Company, for example, in negotiating for 13,000 acres at Melalap, obtained an agreement from the Chartered Company that, when the railway line was extended to Melalap, no grants of land would be made to other companies in the vicinity of the station. In return it agreed to guarantee a minimum of 500 pounds sterling worth of traffic each year for ten years on the railway. Thus the chief advances in planting were on the west coast while the decline of the tobacco industry weakened the relative position of the east coast. As Table IV shows, between 1909 and 1926 the west coast’s share of exports rose from 9 per cent to 53 per cent whilst that of the east coast fell from 32 per cent to 24 per cent. Kudat, likewise fell from 36 per cent to only 7 per cent over the same period. The collapse of rubber prices in the early 1920s had a catastrophic effect on the income and profits of the plantations in Malaya and North Borneo alike and led to the implementation of the Stevenson scheme for limiting the international production of rubber and thereby stabilizing prices (Jackson, 1968: 263).

The plantation and indigenous sectors

It has been argued here that the development of a plantation sector in North Borneo was the most significant control on the elaboration and application of a Land Code which sought to ‘regularize’ (from the European perspective) land holding in order to facilitate land sales. Even if the application of the land rights programme was hardly speedy, the codification of such rights seems to have been a first priority, stimulated, it is argued, by the need to grant foreign investors secure title. Alongside this aim was the wish of the Chartered Company to prevent large areas of native land from being sold to foreigners, provided, of course, that such an aim did not conflict with attracting foreign capital to the territory. In this respect the experience of North Borneo contrasts with neighbouring Sarawak where, although codification proceeded in the same general way, the objectives (protection of native groups rather than ensuring foreign investment) were rather different (Cramb and Reece, 1988; Hong, 1987). The question of land rights then, reflected something of a balancing act between the requirements of investors and shareholders and the responsibility laid upon the Company in its Charter to have ‘careful regard to the customs and laws of the class or tribe or nation’ which they ruled (Lee Hun Hoe, 1973: xi). In examining the way in which the Land Code was developed and applied the four basic aims become clear.

In the first place, the development of a system of land rights allowed the administration to identify, demarcate and market land for sale to European investors. As has been shown, this was crucial for attracting investors into the tobacco and, later, rubber sectors. Secondly, the Land Code had an underlying fiscal rationale. Under the terms of the Charter, all land ultimately belonged to the Company. Before the Land Code was developed, taxation revenue was low and erratic, collected largely through a poll tax system at village level. One of the aims of establishing title to land, embodied in the 1902 Abolition of Poll-Tax Proclamation, was to replace the poll tax with an annual quit-rent on land, once a title was registered. The process of registration of individual title was however, very slow. Thirdly, the eventual aim of instigating native, individual rights to land tied in with a Company ethos which viewed communal land holding as in some ways inimical to the ‘civilizing aims’ of British government. Private property alone, it was argued, constituted the best means of inculcating a sense of ownership and stewardship of the land. Thus Rutter (1929: 57), uncritically echoing this view, noted that the native becomes ‘a staid and passable citizen’ in those districts ‘where individualism in property has succeeded communal ownership’.
A final aim underpinning the establishment of native title was that of preventing migrants, especially the Chinese, from purchasing land from native groups. As the pace of Chinese immigration into North Borneo grew in the first decade of the twentieth century (brought in to man the plantations and develop wet-rice farming), the authorities took steps to ensure they could not buy land with native title. Thus land under native title could not be sold or leased to foreigners without the express permission of the administration; such permission, it seems, was rarely granted. As a report of the Land Survey department in 1914 noted, 'the definition of native rights was a necessity if Chinese settlers were to be encouraged without the danger of causing hardship to the native population' (CO 684: 6–7).

Not surprisingly, the progress of surveying and demarcating native lands was linked to the expansion of plantation farming — the rhythms of the two were complementary. Progress, in any case, was painfully slow. The high cost of surveying on even a crude basis alarmed the impetuous administration. The survey department was small: for most of the period up to 1930 it had just one European supervisor and half a dozen native surveyors. Much of the work of policing land registration was in the hands of District Officers. A later proposal to institute a full theodolite survey of the state was dismissed as 'sheer financial lunacy' (S, 1356). It is also clear that there was considerable native opposition to the programme, in part at least because many feared they would end up paying more in taxes.

It was the expansion of rubber in particular that prompted a serious application of the survey programme in 1909. That year, noted one report 'marked the beginning of a new era in land administration'. The principal reason, it was noted, 'was the rubber boom which besides accounting for the sale of 25 000 acres of land for Estates, brought home to the native mind the value of title ... when they found that their rights were in danger of encroachment ... they very soon showed themselves eager to pay their fees and get their documents' (CO 684/1). This early optimism within the administration was soon dissipated. Within three years reports from a number of outstations indicated native disquiet over the costs of establishing title and the rents to be paid on registered land. Special difficulties were noted over identifying native rights in areas of shifting cultivation but even in more stable wet-rice areas there were problems. In addition the Forestry Department anxiously eyed any claims to native title in forested areas. On the Kudat River, for example, the District Officer noted 'the total lack of recognised private ownership in the padi lands: the village community is regarded as the owner — any subdivision made this year will not be recognised next year'. At Tenom (Interior Residency) a range of objections was enumerated and the hapless District Officer pointed out that 'upon his approach nearly all the inhabitants of kampong went away into the jungle' and that the ringleader of the dissent 'appears to have preached the doctrine of passive resistance'. In the Keningau area (Interior Residency) a number of arrests for non-cooperation had to be made. 'It would be more considerate policy' the officer noted 'not to press the matter' (S, 1356).

Other instances of difficulties between native farmers and the authorities were also apparent. In both 1914 and 1919 the British Anti-Slavery and Aborigines Protection Society lodged complaints against the Chartered Company with the Colonial Office regarding the question of native land rights. In a series of depositions, compensation was claimed for the loss of native land to rubber estates in the Papar region. In addition, as Rooney (1981) has argued, legal judgements over land disputes tended to favour enacted law (the Land Code regulations) rather than customary rights which, though valid, had not yet been registered. Court judgements over land disputes were thus weighted in favour of the estate owners.

As the plantations expanded and Chinese immigration speeded up, it would appear that the establishment of title began to prove less contentious. There were ethnic variations — in general the Dusun appeared rather more willing to seek property title than the Murut and reports in the 1920s note that the pace of registration was much greater closer to the towns than in the countryside. Apparent ethnic differences, however, may simply have reflected the fact that the Dusun were greater practitioners of wet-rice than the largely hill-bound Muruts. Environment and farming systems, then, may be a better explanation for these differences than ethnicity. Certainly by the early 1920s considerable progress in establishing titles had been made. The 1922 report of the Land Office noted that 'the demarcation of lands was welcomed by the natives and requests for demarcation were received from various villages' (CO 684: 9–11). Nevertheless the extent of land with full native title remained limited. If by the late 1920s, much of the wet-rice area in the state was held under native title, large areas of shifting agriculture in the interior had been barely touched by the hand of the survey department. There the officers of the Forestry Department were systematically extending areas of state forest and seeking to curb the activities of swidden farmers (S, 48).

Aside from the creation of a system of title for groups and individuals which remains in existence today, the development of plantations had a number
of other consequences for indigenous farming. It firstly brought pressure to bear on native wet-rice agriculture. One of the aims of the Chartered Company had long been to reduce the dependence of the state on imported rice (Sullivan and Leong, 1981). Chinese immigrants, for example, were encouraged in the hope that they would bring with them improved wet-rice farming techniques. Such efforts largely failed as the immigrants established themselves as rubber smallholders or market gardeners. There is some evidence that the lands selected by plantation developers interfered with existing agricultural areas. In selecting the concession for the large Lok Kawi Rubber Company at Beaufort (West Coast Residency), the surveyor pointed out that ‘the Estate would be of a scattered nature and that there is no flat land is a decided drawback. I have no doubt however that once an estate is established, the natives will gradually cease to plant rice and the flats will become available for the estate’ (S, 231 A). This highlights another aspect of the impact of the plantation system—the demand for labour.

The high cost of labour in North Borneo meant that, in addition to importing expensive coolie workers, the new plantations were keen to attract local workers. At an early stage, the administration expressed concern that the Dusun in particular were leaving their fields and villages to seek work on tobacco and rubber plantations, especially on the west coast. Such migrations counteracted the aim of achieving self-sufficiency in rice production. The expansion of European planting, noted one report in 1909, was already reducing village labour available for rice cultivation (CO 684 : 3-4). The position remained unsatisfactory and, in 1922, new labour regulations required estates to obtain a special licence to employ more than 20 Dusun workers. In addition, estate managers had to ensure that the Dusuns were able to return to their villages for at least three months in every year. Even these somewhat onerous conditions seemed to have only a limited impact on the problem. As Rutter (1929: 99) noted some seven years after the regulations were introduced, ‘the estates are attracting natives from even the remoter villages of the interior in increasing numbers, until the fields are being left to the women’.

It is also important to underline the broader implications of the development of the plantation sector. Not only did its development create a legal framework in which individual ownership and sale of land became possible, but it also stimulated the emergence of a cash economy. Rubber and tobacco production was not confined to the estate sector but was also proceeding on smallholdings. The Chinese in particular were avid rubber cultivators. As elsewhere in Borneo, native production of these commodities began to draw smallholders inexorably into the market economy. Furthermore, wage payments in cash and improvements in infrastructure consequent upon the development of plantations (an extensive bridle-path system in the region reflected to some extent pressures from plantation owners to improve communications) acted in the same direction.

Conclusion
It is argued here that the formulation, application and implementation of a system of land rights and native title in North Borneo was inextricably linked with the expansion of the plantation system. It was the need to increase investment in, and profit from, the territory that was the catalyst for the regularization of land ownership and title. Indeed, given the evident fragility of the economic contribution of plantation crops in North Borneo during this period, it might be argued that the greatest impact of plantation farming was an indirect one, namely the impetus it gave to the codification of land rights. In examining the formulation and progress of land rights four themes are evident by way of conclusion.

First, the establishment of a regularized land market through which land could be commoditized was an essential prerequisite for foreign investment. Without the facility to define and demarcate land rights, the administration would be unable to secure proper investment conditions. An examination of the evolution of the Land Code thus serves to underline the linkages between political, legal and economic systems under colonial auspices. Secondly, an implicit aim of the Land Code was to establish the twin principles of state land and individual ownership. Communal title was seen as an impediment to the ‘proper’ functioning of the land market whilst the definition of state land allowed for its alienation and sale.

Thirdly, whilst establishing a system of title which facilitated the advance of foreign capital, the Chartered Company sought equally to maintain paternalistic control of the native population by preventing the sale of land to aliens. Thus, paradoxically, whilst encouraging the sale of land to European investors, its system of native title was designed to prevent that land being sold to immigrants, especially the Chinese. In some respects the process reinforced the apparent desire to confine native groups to native lands through the operation of a kind of reservation scheme. Seeking to ‘protect’ the native from the very economic forces that were being explicitly encouraged in North Borneo was part of the essentially contradictory nature of Company policy. Profit and paternalism, frequent bedfellows in the colonial enterprise, rested side by side in the elaboration of the land policy.
Finally it is worth noting that the provisions of the code have remained largely unchanged through to the present day. Native rights, established through the Land Ordinances of 1883, 1894, 1904 and 1930, remain a central plank in Native Customary Law in Sabah as well as in other parts of Borneo (Cleary and Eaton, 1992). Today, it is interesting to recall that the ordinances were codified in order to facilitate the intermeshing of an externally-driven plantation economy and a native system of livelihood. At a time when the pressures of logging and its associated environmental and ethnic impacts are highly topical issues in both Sabah (the name given to North Borneo on independence in 1963) and neighbouring Sarawak, it is worth reflecting on the historical context within which the question of rights to the exploitation of land was formulated.

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REFERENCES


Breman, Jan 1989 Taming the coolie beast — plantation society and the colonial order in Southeast Asia. Delhi: O.U.P.


Cook, A. 1890 Notes on the recent development, explorations and commercial geography of British North Borneo. J. Manchester Geogr. Soc. 6: 63–75.


Hong, E. 1987 Natives of Sarawak: survival in Borneo’s vanishing forests. Penang: Institut Masyarakat.


