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Documenting Inter-personal Conflicts in Senegal during the First Quarter the 20th Century
using Dispute Registries from Native Courts

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Abstract

In the early 20th century, in countries of former French West Africa, new litigation bodies, the so-called 'native courts', were created and managed by the French colonial administration to regulate relations between native people. The monitoring of court activity has generated high-frequency litigation data. Such data provide a unique opportunity to document interpersonal conflict in a context of colonial rule that is undergoing rapid transformation. This paper has three objectives: (i) describe the institutional framework allowing for the emergence of the data on which this research is based --Les Etats Récapitulatifs--; (ii) detail our method to compile time series of disputes arbitrated by native courts of Senegal; (iii) describe certain trends in the dynamics of disputes arbitrated by native courts of Senegal. We conclude by discussing how this database could be used to better understand the economic and political roots of interpersonal conflict.

JEL Classification : J12, K41, N37, O12, Z13

Keywords: conflict, justice, history of colonial institutions

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Introduction

French colonisation brought about important changes in the economic structures of colonized countries as well as in their legal and judicial institutions. Regarding the latter, one important change stemmed from the creation of native courts by the colonial administration in the early 20th century.

The native court system in former French West Africa (thereafter AOF) has four notable features: arbitration decisions must be made in accordance with local customs (if that does not conflict with the "civilizing" mission of the colonial power); arbitration is free of charge; judges and assessors receive monetary compensation for their work from the colonial administration; and finally, decisions are enforced by the administration and police. If the two first features mean native courts resemble traditional arbitration courts, the last two distinguish them from each other.ⁱ

For monitoring reasons, native courts must keep track of all disputes brought before them and their arbitration decisions, data which is registered in records called Les Etats Récapitulatifs des jugements. Les Etats Récapitulatifs des jugements produced by native courts thus offer a unique opportunity to analyse the dynamics of grievances between individuals not only under colonial rule but also in a context that is undergoing rapid transformation. In this regard, we compile high-frequency litigation data from Les Etats Récapitulatifs des jugements for Senegal, currently archived at the Archives Nationales du Sénégal (thereafter ANS).

Between 1906, when the first native court opened, and 1922, i.e., shortly before a major reform of the functioning of the judicial system (in 1924), approximately 33,000 disputes were adjudicated by the 43 sub-district native courts located in 12 districts of Senegal. We have compiled time-series of the disputes for each of the 43 Native court, that can be disaggregated by quarter, by type (civil/commercial on the one hand, correctional/penal on the other), and by subject of grievance.

Analysing the functioning of native courts helps us understand various aspects of society at the time. A first strand of the literature on native courts observes that by providing alternative adjudicatory bodies (potentially applying an alternative set of adjudication rules), the native court system may have helped reshape power relationships during the colonial period. To date, the results of existing studies are however mixed. Data from Les Etats Récapitulatifs des jugements for the period 1906-1912 in four sub-districts of French Soudan (now Mali), Roberts (2005) suggests that women have benefited from native courts by renegotiating their marriage arrangements to their advantage. Indeed, native courts, contrary to most local customs, only considered a marriage legitimate if women had consented to it. Roberts (2005) reports several cases in which women are asking the Court to annul their marriage because they did not consent. However, Rodet (2007, 2009) and Brunet-Laruche (2014) come to a different conclusion looking at court records between 1918 and 1939 for the sub-district of Kayes (now Mali) and between 1900 and 1946 (with only a few records after 1920) for various subdistricts in Dahomey (now Benin) respectively. They suggest that men have increased their control over their wives following the opening of native courts. The authors report several cases in which men are complaining about their wives' absence and are asking the court to force their wives either to return or to repay the bride price. The authors deem that, in contexts where men's non-agricultural labour is particularly valued by the colonial administration, local traditional leaders and the French colonial administration colluded to reinforce the sexual division of labour (i.e., men are specialized in wage labour and cash crop cultivation and women are specialized in domestic activities and staple food cultivation) and to guarantee the stability of marriage (to reinforce the reproductive role of women).ⁱⁱ Through their gender lens, these analyses

contribute to the very scarce literature documenting the living conditions of women in colonial Africa (Savineau, 2007; Dobkin, 1968). However, as suggested by Coquery-Vidrovitch (2007), these papers fail to provide the broader picture of changes in gender relations and factors driving these changes because each study focuses on a single type of marriage-related dispute (concerning bride price, adultery, or divorce filing) and does not explicitly consider changes in the economic and political environment.

Another institution that is analysed in existing literature is the so-called 'Indigénat'. It is a crucial tool – just like native courts - to better control native people.ⁱⁱⁱ The Indigénat is a system where people are punished without having the right to defend themselves at court. Sanctions are pronounced by colonial administrators (see Merle (2004) or Manière (2007) for an analysis of the institution in the countries of former French West Africa).^{iv}

More generally, the present work contributes to a better understanding of the functioning of colonial institutions (for the countries of former AOF, see the work of Cogneau et al (2021) and Huillery (2009) for example).

It should be noted that there has been some debate about the set of rules that should prevail in native courts to adjudicate a case (Becker et al, 1997). Although local customs are adopted as the norm, the system is actually designed to familiarize the population with the French Rule of Law.^v Such a process can go through three main channels : cases on appeal are ultimately adjudicated by the district administrator who is French (and was socialized in metropolitan France); the Chambre d'homologation, the upper Court in the native court system, headed by a French magistrate, can seek review of any lower court decision; and finally, the circumstances in which a local custom opposes the "civilizing" mission of the colonial power are left vague in the decrees – and might therefore be judged according to the French law.

In this paper, our main objective is to present an original dataset, illustrate how this database was compiled and showcase how our data can help better understand the economic and political roots of interpersonal conflicts in colonial Senegal. Documenting changes in sentencing for a given misconduct (and thus the contribution of the native court system to controlling native people) or assessing the effect of colonial policy on women's ability to negotiate better marriage arrangements are questions left for future work.

In the first section, we describe the institutional framework that allowed us to compile the data which forms the basis of this research, Les Etats Récapitulatifs. In the second section, we explain our method to construct the time series of disputes. In the third section, we describe some trends in the dynamics of arbitration requests over the period under consideration. We conclude by discussing how the database could be used to document the economic and political roots of interpersonal conflicts.

Section 1: Institutional Context

Organization of native courts in AOF: Context

In 1903, the French colonial administration adopts a decree that sets up the native court system to regulate disputes between natives.^{vi} The decree follows two attempts of the French colonial administration to reform the functioning of the local justice: a first one in 1892 and a second one in 1902.

In 1892, local chiefs (and cadis for Muslims) who play a major role in arbitrating minor and major offences are deprived of their power to arbitrate major ones. Yet, because such a decision induces distortions in arbitration decisions of minor offences -- chiefs increase the amount of the fines requested for minor offences to compensate for their loss of income--, in 1902, chiefs are given back the power to arbitrate all types of offences (except crimes), but under a certain degree of supervision: the Chambre d'homologation is created to systematically review all prison sentences of over a year. Other decisions can also be reviewed at the request of the general attorney.

However, dispute records are not properly kept and the French magistrates making up the Chambre d'homologation do not receive any assistance in understanding the local customs guiding arbitration decisions. So, a new reform is introduced in 1903 creating of native courts that were supposed to better take into account local customs

Organization of native courts in AOF: General principles

As indicated in the introduction, the native court system has four important features. First, arbitration decisions must be made according to local customs as long as that does not conflict with the "civilizing" mission of the colonial power. That means for example that the hands of a thief are no longer cut off – he's instead sent to prison. In addition, arbitration is free of charge^{vii}; Judges and assessors receive monetary compensations for their work from the colonial administration; Finally, decisions are enforced by administrative and police officials.

The native court framework is a four-tier justice system. The first tier is made of village courts, headed by village chiefs. Village courts aim at reconciling the parties in conflict.^{viii} If the conciliation fails, parties can request arbitration from the next tier up: the sub-district court. It is not mandatory to go through the first tier of the system: parties can bring their cases directly to the sub-district court.

Sub-district courts arbitrate all types of cases except crimes. They are chaired by a panel of judges, composed of the sub-district chief and two assessors (local public figures). Decisions can be appealed. Appealed cases are brought to the next court up: district courts.

District courts are at the third tier of the system. They arbitrate on appealed cases and try crimes directly. The court is chaired by the district administrator and two assessors, who -- as opposed to the subdistrict level -- do not take part in the decision-making but only advise the administrator about local customs.

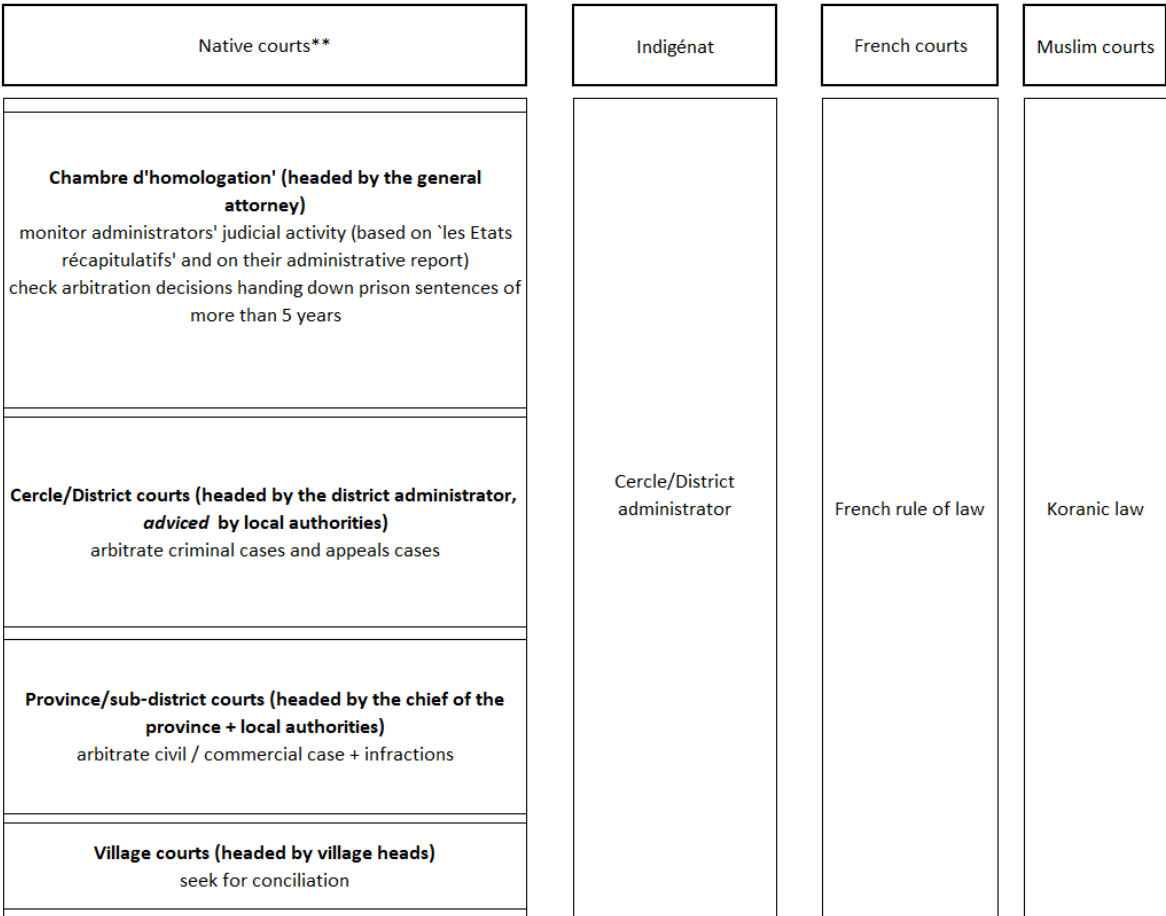
The fourth tier is the Chambre d'homologation, a board of French magistrates and local assessors who systematically review all prison sentences of more than five years. They can also review other decisions, at the specific request of the general attorney.

As is depicted in Figure 1, native courts are part of a broader justice system in AOF, which also includes two other court systems. Disputes between inhabitants of les Quatre communes^{ix} or between French citizens are arbitrated by French Courts, headed by French magistrates arbitrating according to French Rule of Law. Disputes between inhabitants of les Quatre communes who kept their Muslim personal status can also request arbitration from Muslim Courts headed by Cadis who arbitrate according to Koranic Law.^x

Another component of the justice system is the Indigénat. The Indigénat lists a series of behaviours and actions condemned by the colonial administration (those violating rules, and

offences directly targeting representatives of the colonial power). Only natives are governed by this set of rules. The district administrator enforces it (without any monitoring). Native courts were reformed four times: in 1912, 1924, 1931 and 1946. The reforms introduced in 1912, 1924 and 1931 mostly aimed at improving the functioning of native courts. For instance, in 1912, it was clarified which custom should apply when the plaintiff and the defendant do not follow the same customs. Also, both the plaintiff's and the defendant's population group, with their specific customs, now had to be represented amongst the judges: registers from then on had to specify the customs according to which arbitration is performed in order to facilitate monitoring the enforcement of the verdict. In 1924, local chiefs were replaced by sub-district administrators (trained by the colonial administration) to arbitrate disputes in sub-district courts.

Figure 1: Organisation of the justice system



** reformed in 1912, in 1924, in 1931, in 1946

In 1946, a major reform renders the distinction between natives, inhabitants of les Quatre communes and French citizen null and void. This reform significantly impacts the organization of native courts. Following this reform, all penal cases are now arbitrated by French Courts, according to French Rule of Law. Native courts are maintained however, until the country's independence, to arbitrate civil and commercial matters.

Section 2 How we compiled the time series of disputes from "Les Etats Récapitulatifs"

The Raw Material: Les Etats Récapitulatifs

The monitoring of arbitration decisions of sub-district native courts by the district administrator and board members of the Chambre d'homologation yields a series of documents that form the basis of the present research. These documents, archived at the ANS (series 6M), include:

- (a) registries summarizing disputes arbitrated both by sub-district and district native courts. They are written in French by court secretaries (usually teachers) on a quarterly basis until March 1914, and after that on a monthly basis.^{xi} These registries are referred to as Les Etats Récapitulatifs;
- (b) administrative reports written by district administrators, documenting the judicial activity of their district.

Les Etats Récapitulatifs are produced separately for civil or commercial litigations and for correctional or penal cases.^{xii} In addition to indicating the court's decision, the date of the decision, and whether one party has decided to appeal the decision, Les Etats Recapitulatifs give details about the dispute (nature, context, amount involved, identity of witnesses and witness' statements, if any). Other sets of information are added with each reform (e.g., the customs of each party must be specified after the reform of 1912 -- although records show that the information is not in fact systematically provided). Figures 2a and 2b illustrate registries summarizing civil or commercial disputes arbitrated by the sub-district native court of Saniokhor in the District of Tivaouane in May 1915.

Time series of disputes: Our method to compile the time series of disputes

Our primary objective is to create several time series of disputes arbitrated by courts between 1906 and 1922. To do so, we exploit the following documents: the registries summarizing disputes arbitrated by subdistrict courts and administrative reports written by district administrators concerning the functioning of justice in their district. With regards to sub-district native courts, we should bear in mind that cases adjudicated exclude most violent ones (e.g., such crimes are directly arbitrated by the district court).

As mentioned before, we focus on the period 1906 - 1922, i.e., just before the second reform of the system in 1924. Please note that the year 1907 is not recorded in the archives. From 1906-1922, around 33,000 disputes were arbitrated by 43 subdistrict native courts located in 12 districts (thereafter, we will refer to subdistrict native courts simply as native courts).^{xiii}

Our method: step 1. Documenting the native courts' activity each quarter between 1906-1922

To create our time series of disputes arbitrated by native courts between 1906-1922, we will consider activity per quarter between 1906-1922.

We create as many excel files as we have quarters between 1906 and 1922 (a total of 64, as the four quarters of the year 1907 are missing). Then, for each quarter, we list the courts documented in registries and describe their activity: the total number of litigations arbitrated in civil/commercial

matters on the one hand, in correctional/penal matters on the other hand, the total number of litigations that have been appealed to, and whether these litigations are related to marriage or not. Around 33,000 disputes have been categorized.^{xiv}

Our method: step 2. Reconstructing the courts' genealogy

The second step is to reconstruct the genealogy of each court. Indeed, over the observed period, some courts split, others merged. We define 1916 as our reference year, and we count 43 courts operating that year. We thus follow these 43 courts over time. In Figure F1 and in Figure F2 Appendix A1 we illustrate cases where two courts merged and a court split into two respectively.

Basically, two courts (A) and (B) which have merged as (C) before 1916, and are observed as (C) in 1916, are considered as one court (C) the years we observe both courts (A) and (B). This is for instance the case of the court "deux Guoye" we observe in 1916 in the district of Bakel, which is found to be the merge (in 1909) of two courts "gouoye inférieure" and "gouoye supérieure" (Figure F1).

Litigations arbitrated in courts (A) and (B) are bundled to represent the number of litigations arbitrated by court (C). A court (C) which has been divided into two courts (A) and (B) before 1916 is thus considered as two distinct courts, (A) and (B). To allocate the litigations arbitrated by (C) between (A) and (B), we use as a key the distribution of the litigations between (A) and (B) the year before the merge.

For instance, in the district of Kolda, the court "Fouladou" (renamed "Kolda" in 1911) splits into two courts "Kolda" and "Velingara" (Figure F2) in 1912. Yet, we would like to observe the two courts "Kolda" and "Velingara" also between 1906 and 1911. We "reconstruct" these courts by redistributing disputes arbitrated by the court "Fouladou" using the distribution observed in 1912.

Note that there are some courts that appear in 1906 that we could not link to any court observed in 1916. In Figure F2, this is the case of court named "Ntembolou" or of court named "Sambougar" (there are 7 in total). These courts are thus dropped from the analysis.

The final database

The final database is a panel of 43 courts observed on a quarterly basis between 1906 and 1922. Courts are not observed each quarter: for some courts, some quarters are indeed missing (the four quarters of 1907 are missing for all courts). The panel is thus unbalanced. We will below discuss patterns associated with missing quarters.^{xv}

Furthermore, we include the courts' locations in our analysis. To do so, we exploit a series of information: the courts' names, the decrees specifying where courts must be located (usually, the headquarter of sub-districts) and maps of colonial Senegal.^{xvi}

Figure 2a: Court of Saniokhor (District of Tivaouane), May 1915, civil and commercial disputes (page1)

RECHERCHES GÉNÉRALES DE LA AFRIQUE OCCIDENTALE FRANÇAISE COLONIE DU SÉNÉGAL		REPUBLIQUE FRANÇAISE LIBERTÉ - ÉGALITÉ - FRATERNITÉ			PAYS DE PROTECTORAT CERCLE de Tivaouane	
ÉTAT des jugements rendus en matière <i>Civile et commerciale</i> par le Tribunal de Subdivision du Saniokhor pendant le mois de Mars 1915						
DATE des JUGEMENTS	NOM ET DERNIER DES PARTIES	LIEU D'ORIGINE DES PARTIES	EXPOSÉ SOMMAIRE DES CIRCONSTANCES NOTABLES DE L'AFFAIRE	PEINE PRONONCÉE ou DES DÉCISIONS INTERVENUES	DATE de l'audience ou de la libération	DÉCLARATION DES PARTIES au sujet de l'appel
N° 59 5-5-15	Ahmed Caloum âge de 30 ans, statut de statut musulman, demeurant à Medoutra contre Moussa Tall âgé de 37 ans, cultivateur de statut musulman demeurant à Mackhe	Mauritanie Cercle de Tivaouane	Le Tribunal a été saisi sur la plainte de Ahmed Caloum qui déclare qu'il avait rendu au crédit, au sieur Moussa Tall des mandats pour une valeur de 335 francs, qu'il lui a avancé 111,00 francs, que son délai est expiré et qu'il refuse de lui payer le restant, — Moussa Tall, interrogé, reconnaît avoir été débiteur de 111,00 francs de Ahmed Caloum d'une somme de 335 francs et qu'il lui a avancé 111,00 francs. La couronne veut que toute dette dont le délai est périmé soit paye	115 jours		sans appel

Source: série 6M, ANS

Figure 2b: Court of Saniokhor (District of Tivaouane), May 1915, civil and commercial disputes (page2)

RECHERCHES GÉNÉRALES DE LA AFRIQUE OCCIDENTALE FRANÇAISE COLONIE DU SÉNÉGAL		REPUBLIQUE FRANÇAISE LIBERTÉ - ÉGALITÉ - FRATERNITÉ			PAYS DE PROTECTORAT CERCLE de Tivaouane	
ÉTAT des jugements rendus en matière <i>Civile et commerciale</i> par le Tribunal de Subdivision du Saniokhor pendant le mois de Mars 1915						
DATE des JUGEMENTS	NOM ET DERNIER DES PARTIES	LIEU D'ORIGINE DES PARTIES	EXPOSÉ SOMMAIRE DES CIRCONSTANCES NOTABLES DE L'AFFAIRE	PEINE PRONONCÉE ou DES DÉCISIONS INTERVENUES	DATE de l'audience ou de la libération	DÉCLARATION DES PARTIES au sujet de l'appel
N° 59 5-5-15	Moussa Chiray âge de 40 ans cultivateur de statut musulman demeurant à Tavaouane contre Lalio Bejo âgé de 40 ans, culti- vateur de statut musulman, de- meurant à Kou- diare	Cercle Cercle de Tivaouane	Le Tribunal a été saisi sur la plainte de Moussa Chiray qui déclare qu'il avait, depuis sept mois, un cheval au nom de Lalio Bejo qui lui avait avancé 115 francs et qu'il ne veut pas lui payer le restant et qu'il demande justice. Le sieur Lalio Bejo, interrogé, re- connait avoir été débiteur de la somme de 100 francs, qu'il a avancé 115 francs et qu'il demande un court délai pour payer le restant. Le Président du Tribunal M. Diegel	115 jours		sans appel

Source: série 6M, ANS

Section 3: Time series of disputes: Descriptive analysis

Exploring inter-annual variations

Our panel of courts allows us to calculate various time series of disputes for 43 courts.^{xvii} To give a better idea of the trends, we describe in Figure 3a various annual series of total disputes arbitrated for three areas: a groundnut-producing area excluding Casamance, an area that does not produce this local cash crop, and Casamance. Casamance, a region located in the south of Senegal, is considered separately as it has been pacified by the colonial power later and may thus have specific behavioural patterns which meant the native court system may not have been as widely accepted as in other parts of the country.^{xviii}

To be able to compare trends between areas, we also represent the share of quarters we do not observe each year (second axis, on the right). Since Les Etats Récapitulatifs are produced separately for civil/commercial matters and correctional/penal cases, we provide two series for the proportion of missing quarters: one for each type of matters. The corresponding dots of the two series are almost undistinguishable. This means that the mechanism(s) underlying the probability that a quarter is missing is not different for civil/commercial matters on the one hand, and for correction/penal cases on the other hand.^{xix}

Figure 3a sheds light on two patterns that are worth commenting on before turning to the conflict trends. First, almost all of the dots in the total disputes series in the groundnut-producing area are higher than those in the other two series. In the groundnut-producing area, courts arbitrate 1306 disputes per year on average. The corresponding figures are 523 and 236 for the non-groundnut producing area and Casamance respectively. Second, the shares of missing quarters vary over time. The variation observed follows a similar pattern across zones.

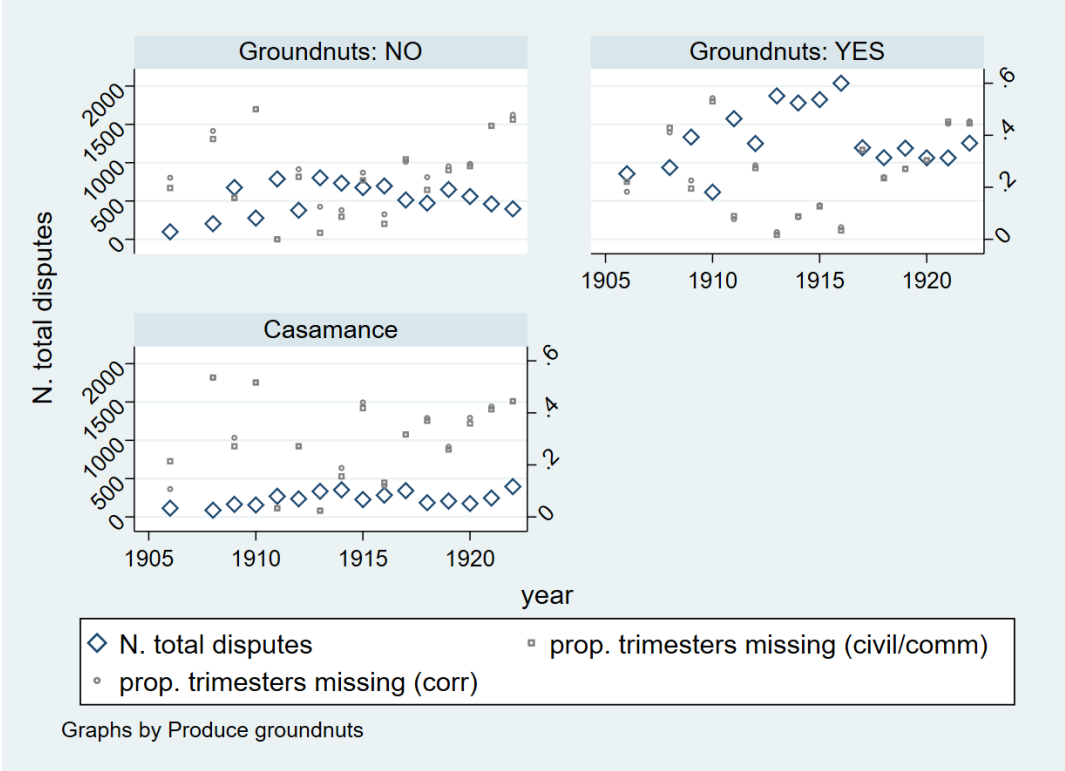
According to the 1910 district-level population census (Huillery 2009), the groundnut-producing area is the most populated. More disputes may be brought to court simply because the number of potential (litigious) matters is greater. Besides, the economic opportunities associated with groundnut production might lead to large in-migration flows. Thus, in the groundnut-producing area, we may observe not only a larger number of individuals but also a larger number of individuals following different customs. This may be another reason why there are more requests for arbitration at native courts (informal conciliation attempts are more likely to fail when the plaintiff and the defendant do not abide by the same customs).

To account for population size, we illustrate in Figure 3b the annual series of total disputes *per capita* arbitrated. Since we do not have a series of population, we use the census in 1910 as a baseline measure.^{xx} The groundnut-producing area arbitrates 1.71 disputes per 1000 inhabitants per year on average. The corresponding figures are 2.23 and 0.85 for the non-groundnut producing area and Casamance respectively. It is worth noting that in 1914, a year that follows a major drought (Chastanet 1982), the number of disputes per capita is the highest in the non-groundnut producing area compared to the producing area (the dynamic of missing quarters is similar across the two areas).

Within an area, the trend of disputes is difficult to interpret due to the variation of the share of missing quarters over time. It is interesting to note that, except in Casamance, the share of missing quarters follows a U-shaped pattern, whereas the total disputes per capita follows an inverse U-shaped one.

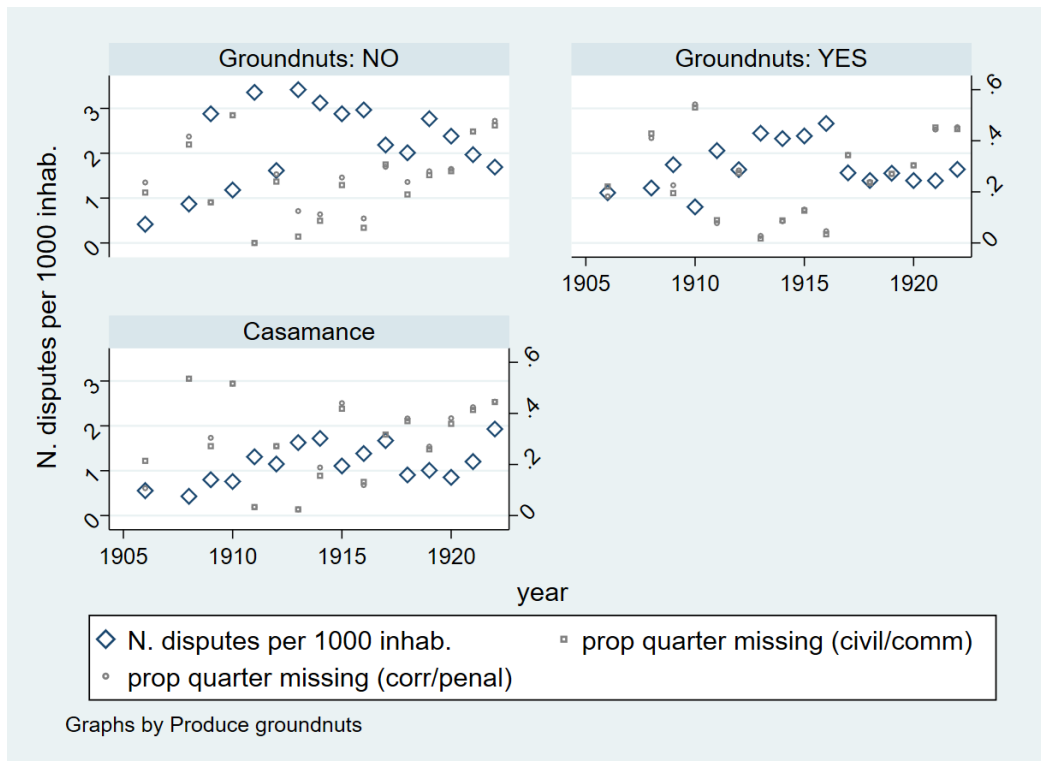
Our database also allows us to explore within-year variations. In Appendix A2, we disaggregate the annual number of disputes per capita by quarter. We produce the information separately for the groundnut-producing area and for the other two areas (Figure A2b). It appears that more disputes are arbitrated during second quarter in the groundnut-producing area, i.e., just before the beginning of the rainy season in Senegal.^{xxi}

Figure 3a Time series of total disputes by area



Source: author’s calculation

Figure 3b Time series of total disputes per capita by area



Source: author's calculation

Distribution of disputes by type

In Table 1 Panel A, we describe the share of total disputes arbitrated when it comes to civil/commercial matters and the share of total disputes that are related to marriage.

Our interest in disputes that are related to marriage is motivated by at least three factors: (i) the prevalence of such disputes in our data (a fifth of our total disputes, see below), (ii) marriage-related disputes have been the focus of many existing studies on native courts in countries of former French West Africa (Robert, 2005; Yade, 2007, Goerg, 2007, Rodet, 2007, 2009, Brunet-Laruche, 2014); (iii) the role of marital arrangements in determining women's welfare in today's Senegal (Lambert et al, 2018), and a fortiori in colonial Senegal, and the potential of our database to better understand norms underlying marriage and family arrangements.

Our work contributes to past dispute data compilation efforts by providing various series of litigations that cover a larger period, for all the districts in which a native court opened, and that can be disaggregated by quarter, by type, and by matter of grievance.^{xxii}

Whether a dispute regards civil/commercial or correctional/penal matters is directly deduced from the raw data. Whether a dispute is related to marriage is an indicator we construct. We identify a dispute as related to marriage if the dispute opposes a man (or a representative) and a woman (or a representative) who are engaged/married at the time of the dispute or were formerly married.

Marriage-related disputes may be arbitrated in civil courts (such as divorce petitions) or correctional/penal courts (such as charges of bigamy or adultery). Thus, we also describe the share of marriage-related disputes that are adjudicated in civil courts.

Table 1: Distribution of disputes per court by type (mean and standard deviation in ())

	All courts	Courts in districts with population size in 1910 > national average ^{xxiii}	Courts in districts with population size in 1910 < national average
	column 1	column 2	column 3
Panel A			
N. disputes ^{xxiv}	769 (685)	837(779)	654(489)
share of civil/commercial disputes	0,617(0,13)	0.563(0.13)	0.708(0.09)
share of marriage-related disputes	0,217 (0,10)	0.194(0.08)	0.256(0.12)
share of civil disputes among marriage-related	0,924(0,13)	0.899(0.12)	0.967(0.14)
Panel B: Post 1910			
N. disputes	665(588)	718(660)	574(444)
share of civil/commercial disputes	0.616(0.13)	0.564(0.12)	0.704(0.10)
share of marriage-related disputes	0.221(0.10)	0.199(0.09)	0.256(0.12)
share of civil disputes among marriage-related	0.929(0.14)	0.901(0.13)	0.975(0.15)
Panel C: Post 1910 Among marriage-related			
share of requests for divorce	0,421(0,13)	0.423(0.14)	0.417(0.12)
share of complaints about a wife's absence	0,049(0,04)	0.06(0.05)	0.03(0.02)
share of reneges on marriage promise or of marriage fraud	0,172(0,08)	0.162(0.07)	0.189(0.09)
N courts	43	27	16

According to Table 1 Panel A, 62% of all disputes are civil/commercial matters and 22% are related to marriage (column 1). Among marriage-related disputes, 92% are deemed civil matters.

Columns 2 and 3 disaggregate these figures according to whether the court belongs to a highly populated district or not. A highly populated district is defined as a district with a population above the national average (or median) in 1910.^{xxv} It is noteworthy that courts in highly populated districts arbitrate a higher share of total disputes and of marriage-related disputes concerning correctional/penal matters (the share of total disputes and the share of marriage-related disputes considered civil matters are lower in these courts according to column 2).

Generally, a dispute is adjudicated in a correctional/penal court when the complaint relates to behaviour likely to undermine the social order (according to the prevailing social norms).^{xxvi} It might be interesting to document how the share of marriage-related disputes that are adjudicated in correctional/penal proceedings varies over time (in a given area), as variations might indicate changes in underlying norms regarding family organisation.^{xxvii} We leave such analysis for future work.

Marriage-related disputes by sub-type

In this sub-section, we describe three sub-types of marriage-related disputes that have already been discussed in the existing literature (for other contexts): requests for divorce, complaints about a wife's absence and litigious reneges on the promise of marriage. Other marriage-related disputes include charges for adultery, charges for abduction (for marriage), disputes regarding guardianship for children (following a divorce, or the death of one or both parents) and any marriage-related disputes that do not fall into the types mentioned.

We describe their respective share among marriage-related disputes in Panel C of Table 1. The information is only provided for the period 1910-1922 as our categorization of marriage-related disputes into sub-groups before 1910 did not distinguish complaints about a wife's absence and other marriage-related disputes.

We reproduce in Panel B the statistics we provided in Panel A for the sub-period 1910-1920. The sub-period is almost similar to the whole period. Altogether, the three sub-groups of marriage-related disputes represent most of marriage-related disputes adjudicated between 1910 and 1922 (around 80%, according to Panel C, column 1).

Requests for divorce

Requests for divorce represent 42% of marriage-related disputes (Panel C, column 1). In Appendix A3, we report cases that illustrate such disputes (see case 1).^{xxviii}

Roberts (2005) studies requests for divorce between 1906 and 1912 in four sub-districts in South Sudan. As already indicated in the introduction, he reports several cases in which women are requesting a divorce because they did not consent to marry. In colonial Senegal, absence of consent by the woman is one reason for divorce. Divorce petitions also have other reasons. One of the courts' objectives is to conciliate spouses when they disagree on the amount of the bride price that the wife must repay to her husband if she is the one filing for divorce. The plaintiff can be either the husband or the wife. On the basis of the evidence available for our study, if a woman wants a divorce, she must repay her husband the bride price she received at the time of the wedding (except under very rare circumstances defined by custom – see Maupoil (1939)). In contrast, if it is the man who wants a divorce, his wife can keep the bride price.

Husbands have specific incentives to formalize their wives' requests for a divorce in court, even if they have agreed on the amount of the bride price the wife has to repay. According to Thoré (1964), who analyses adjudication data for a later period in Senegal, this formalization ensures that a third party (the native court) will enforce the reimbursement.

Women also have an incentive to formalize their own request for a divorce in native courts. Formalization reduces the risk of accusations of bigamy by ex-husbands if they remarry in the future, as court records prove they are divorcees.^{xxix}

According to Table 1, shares of requests for divorce are comparable across Column 2 (courts in highly populated districts) and Column 3 (courts in other districts).

Complaints about a wife's absence

Marriage-related disputes also include complaints from husbands about their wife's absence (5%). In Appendix A3, we report cases that illustrate such complaints (see case 2).^{xxx}

Husbands are likely to complain about the absence of their wife from the marital home in court if their wife refuses to return despite the intervention of customary arbitrators (elders for instance). They will then ask the court to force their wife either to return or to repay the bride price.

Complaints from husbands about their wives' absence have already been studied by Rodet (2009) and Brunet-Laruche (2014), as indicated in the introduction.

It is interesting to note that the share is twice as high in Column 2 as in Column 3. In other words, courts in highly populated districts arbitrate a higher share of complaints of men about their wife's absence. Highly populated districts are more likely to produce groundnuts. The pattern found could be consistent with the argument of Rodet (2009) and Brunet-Laruche (2014) that male labour demand is associated with colonial policies favouring the stability of family.

Litigious renegees on the promise of marriage or marriage fraud

Lastly, our data include numerous cases of renegees on promises of marriage (17% of marriage-related disputes). In Appendix A3, we report cases that illustrate these disputes (see case 3).

According to Maupoil (1939), at the beginning of the 20th century, marriage in Senegal is preceded by a promise of marriage made to the fiancé by the daughter's family. Between the promise and the act of sealing, the fiancé is authorized to date the daughter, and on his visits, he is expected to bring gifts for the daughter and her family. The gifts are to signal to other suitors that the daughter is engaged.

Litigious renegees on promises of marriage have been studied by Yade (2007) and Roberts (2005) in Senegal and French Sudan, respectively. Administrative reports (for Senegal) and court records (for French Sudan) include numerous cases where men complain about the fact that their fiancée is already married to someone else. They ask the court either for the repayment of the gifts they offered or the annulment of the other marital arrangement. According Yade (2007) and Roberts (2005), the increasing monetization of the economy and thus of the bride price incentivized some parents to accumulate wealth by promising their daughter to more than one man (while polyandry is strictly forbidden in both countries). Such cases are labelled in administrative reports as marriage frauds.

In Table 1, we show that the share in Column 2 is lower than the share in Column 3. In other words, courts in highly populated districts arbitrate a lower share of renegees of marriage promise. This result is surprising since the probability to find an alternative marriage arrangement – and therefore to observe a litigious renege of a marriage promise -- may increase with the size of the population. However, highly populated districts are also those most likely to produce cash crops. In these districts, there may be more means of wealth accumulation, explaining why we observe a lower share of bride price payment frauds (as a mean to accumulate wealth).

Other marriage-related disputes

Other marriage-related disputes include bride-related disputes that are not explicitly associated with a request for divorce, with a renege of a promise of a marriage^{xxxii}, charges for adultery, charges for abduction (for marriage), disputes regarding children's guardianship (following a divorce, or the death of one or the two parents) and any marriage-related disputes that do not fall into the sub-groups mentioned.

Sub-categories of marriage related disputes: exploring trends

In Appendix A4, we investigate how the 3 sub-types of marriage-related disputes considered vary over three time periods (1910-1913; 1914-1918; 1919-1922) and across two areas (the district of Sine-Saloum and the remaining districts). The rationale for considering separately Sine-Saloum is the fact that the district faced a relatively higher rate of military conscription between 1914-1918. Michel (1973) computes that 2.4 percent of the population in 1921 has been enlisted while the country's average is 1.74.^{xxxiii} We expect shares of requests for divorce to be especially high between 1914-1918, and even more in the district of Sine Saloum, if the spouse's absence drives a share of requests for divorce. We test this hypothesis in Figure A4a and Figure A4b in the Appendix A4.

Figure A4a (respectively Figure A4b) represents shares among marriage-related disputes (respectively shares among total disputes). Patterns described seem to confirm our hypothesis.

Conclusion: Exploring the economic and political roots of inter-personal conflicts

The database produced could be exploited to document various other questions. As indicated in the introduction, by analysing how sentences for certain misconducts have changed over time, one might better understand the factors that reinforce policies aiming at controlling the population.^{xxxiii} That analysis could also help better grasp the factors underlying divorces. The study of the regulation of marriage-related disputes could highlight the changes in norms that shaped marriage and family organisations during the colonial period. Such an analysis could have two emphases we detail below.

Economic shocks and marriage dissolutions

In the illustrations of marriage-related disputes provided in Appendix A3, the bride price payment status appears central. This is suggestive evidence for the fact that there are economic factors at stake when it comes to marriages in the context studied. Changes in the characteristics of the economic environment could affect the economic value of a given marriage compared to another one, and thus the stability of marital arrangements (giving rise to requests for divorce and/or to renege on the promise of marriage).^{xxxiv}

A formal way to test this hypothesis is to combine our dispute data with rainfall data, taken from Cort and Kenji (2020), to proxy agricultural income shocks.^{xxxv} Since both datasets provide high-frequency data, it is possible to assess the effect of rainfall deviation from its long-run mean every quarter by looking at the number of marriage-related disputes arbitrated in courts the following quarters.

Colonial policies and norms regarding family organisation

Future work could also document how intensification of cash crop cultivation, conscription, and forced labour might have influenced the adjudication of marriage-related disputes and thus norms regarding family organisation. One way to proceed is to investigate how the share of marriage-related disputes arbitrated in correctional/penal courts varies with the implementation of colonial policies. Since some districts might have been more impacted by some of these policies, the effect of colonial policies on adjudication of marriage-related disputes could also have spatial variations and be assessed following a difference-in-difference approach.

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Appendix

Appendix A1: Documenting the compilation of time series

Appendix A1 - Figure A1a

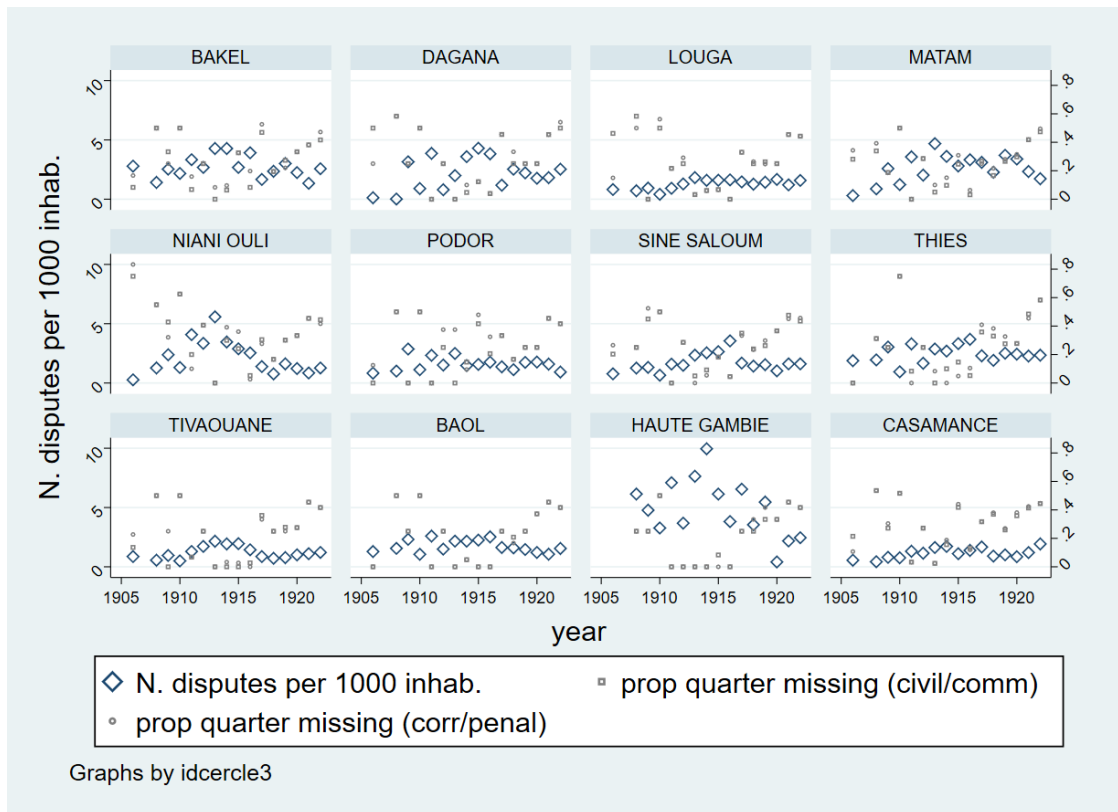
1906	BAKEL				SINE SALOUM					
	101	102	103	104	801	802	803	804	805	806
	BOUNDOU MERIDIONAL	BOUNDOU SEPTENTRIONAL	GOUOYE INFERIEURE	GOUOYE SUPERIEURE	DJILOR/BAS SALOUM	KAHONE	KAOLACK	RIP	SALOUM ORIENTALE	SINE
1908			103 GOUOYE INFERIEURE	104 GOUOYE SUPERIEURE	801 DJILOR/BAS SALOUM	802 KAHONE			805 SALOUM ORIENTALE	
1909			105 DEUX GUOYES		801 DJILOR/BAS SALOUM				807 MALEM	
1911					808 BAS SALOUM				807 MALEM	
1912					808 BAS SALOUM				809 KAFFRINE	
1913										
1914										
1915										
1916	BOUNDOU MERIDIONAL	BOUNDOU SEPTENTRIONAL	DEUX GUOYES		BAS SALOUM	KAHONE		RIP	KAFFRINE	SINE
1917										
1918										
1919										

Appendix - Figure A1b

CERCLE	NIANI OULI						KOLDA	
	601	602	604	605		603		
1906	KALANKABOUGAN	NIANI	OULI	SAMBOUGAR		NTEMBOLOU	FOULADOU	
1908		606	604		607		201	
		PROV OCC	OULI		PROV ORI		FOULADOU	
1909		606	604		607		201	
		PROV OCC	OULI		PROV ORI		FOULADOU	
1911		606	604				208	
		PROV OCC	OULI				KOLDA	
1912		606	604				1601	1602
		PROV OCC	OULI				KOLDA	VELINGARA
1913		606	604				1601	1602
		PROV OCC	OULI				KOLDA	VELINGARA
1914		606	604					
		PROV OCC	OULI					
1915		602	604					
		NIANI	OULI		607		1601	1602
1916		602	604		PROV ORI		KOLDA	VELINGARA
		NIANI	OULI					
1917		602	604					
		NIANI	OULI					
1918		602	604					
		NIANI	OULI					
1919		602+604						
		NIANI +OULI devient MAKI						
1920		1802						
		MAKA						
1921		1802						
		MAKA						
1922		1802						
		MAKA						

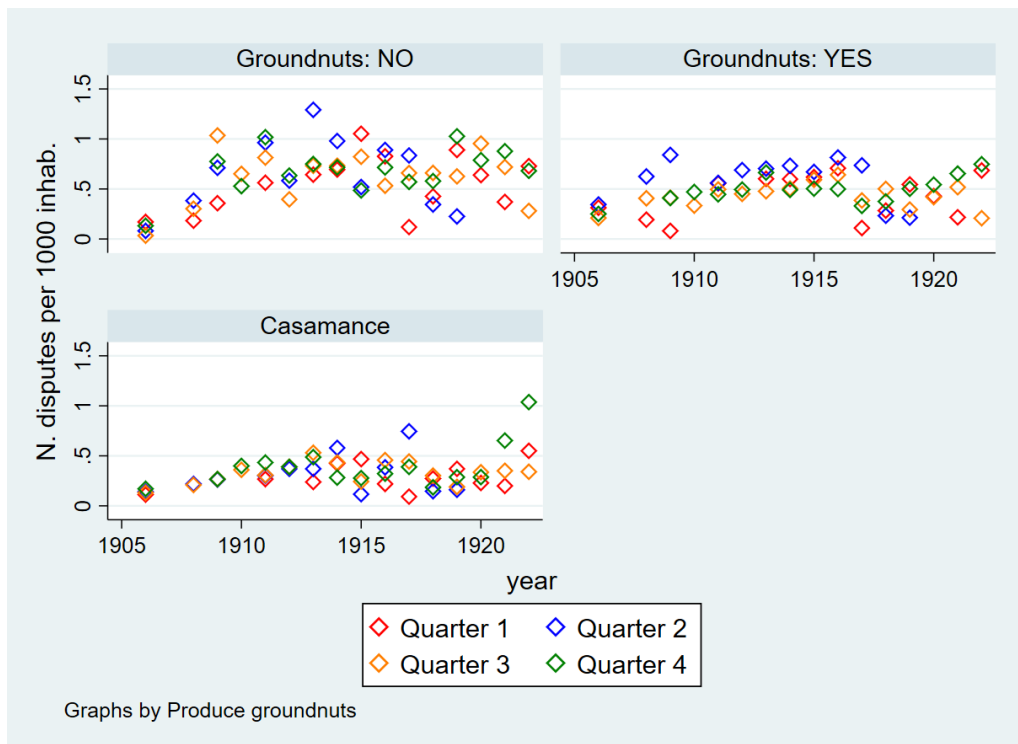
Appendix A2: Exploration of our time series of disputes

Figure A2a: Time series of dispute per capita by district



Source: author's calculation

Figure A2b: Time series of disputes per capita disaggregated by quarter



Source: author's calculation

Appendix A3: Illustrations of marriage-related litigations from Les Etats Récapitulatifs

Case 1: Motives for divorce

There are three main motives for divorce petitions in our data: male spouse desertion, male spouse violence, and impotence. The cases below illustrate them (in French first, as taken from les Etats Récapitulatifs, then in English). Cases are anonymized: Y refers to husbands, X to wives, Z to wives' parents, M to second husband.

Request for divorce triggered by male spouse absence

“DK déclare que son mari MK l'a abandonné il y a deux mois qu'elle n'a rien pour son entretien et sa nourriture et demande que le tribunal intervienne. MK déclare ne pouvoir plus vivre avec elle et sollicite le divorce. Le divorce est prononcé sans aucun remboursement de dot.” (Kaolack, 1915, dossier 91)

Request for divorce triggered by male spouse violence

“La femme SM introduit devant le tribunal, par suite de mauvais traitements, une demande en divorce contre son mari SM. SM partage l'avis émis par son épouse et demande le remboursement intégral de la dot et cadeaux, soit 5 boeufs, 2 moutons, 2 tissus de pagne et 5f d'espèces. Le tribunal prononce le divorce entre les 2 époux et ordonne à X de rembourser le montant de la dot.” (Sedhiou, 1911, dossier 64)

Request for divorce filed due to impotence of the spouse

“MD demande le divorce sous prétexte que son mari BB est impuissant. BB nie mais reconnaît qu'il n'a jamais eu de relation avec sa femme bien qu'ils ont vécu pendant trois ans. Le tribunal prononce le divorce sans remboursement de dot.” (Sine Saloum, 1919, dossier 147)

In the three cases described above, the wives are those who request a divorce. There are also cases where the husband files for divorce. In those cases, they bring the case to court to formalize a separation that their wife has requested. Following Thoré (1964), husbands are incentivized to formalize the separation, as the reimbursement of the bride price that they are entitled to will be enforced by native courts.

The case below illustrates a situation where a wife has asked her husband for a divorce, but the spouses disagree on the amount of the bride price the wife should repay. The husband took the case to court.

Litigations over the bride price the wife should reimburse

“Le nommé AP réclame contre la nommée MG pour qu'elle lui rembourse une somme de 350 F montant de divers dépenses faites au moment de leur mariage. MG reconnaît seulement la somme 101 F 25 montant de la dot. Le tribunal prononce le divorce et condamne MG à rembourser 101 F 5 montant de la dot. Décide que les dépenses faites en dehors du mariage ne sont pas remboursables.” (Ziguinchor, 1920, dossier 156)

It bears mentioning that in two cases the court did not order the wife to reimburse the bride price: impotence and male desertion. According to Maupoil (1939), who explains the customs of many social groups in AOF, if impotence is proven, a wife can divorce without having to repay the bride price. However, male desertion only is a customary motive for divorce without having to repay the bride price for women among the Wolof ethnic group, native to the Tivaouane district. If Y and X

were from this ethnic group, the court decision followed customs. If not, the court deviated from the customs. According to Roberts (2005), court decisions that deviate from customs are not rare.^{xxxvi}

Case 2: Complaints about a wife's absence from the marital home

“IB déclare que son beau-père est cause si son épouse a abandonné le domicile conjugal. Le défendeur avance n'avoir jamais conseillé à sa fille de quitter son mari. La femme OD dit avoir quitté le domicile conjugal sans être conseillée et qu'elle a agi par suite des mauvais traitements. La femme ne fournit pas des preuves suffisantes. Le tribunal ordonne à la femme OD de réintégrer le domicile conjugal.” (Sédhiou, 1911, dossier 65)

Case 3: Reneges on promises of marriage

Litigious reneges on marriage promise

“Le nomme AN déclare avoir versé 135fcs à MN qui lui avait promis de lui donner sa fille en mariage, jusqu'à présent rien n'est fait, il demande son argent. Le nommé MN consent à verser cette somme.” (Baol, 1918, dossier 134)

“Le nommé AD réclame à AS le remboursement d'une somme de 360 F représentant les cadeaux qu'il lui avait donné pour se marier avec elle, AS ne voulant pas se marier avec lui. Devant le tribunal AS ne reconnaît que 25 F et invitée à prêter serment sur le Coran, elle s'y refuse et consent à payer. Le tribunal décide que AS paie 360 F à Y.” (Baol oriental, 1920, dossier 157)

Our data reveal another type of dispute worth documenting for our research. As above, these quarrels are between grooms-to-be and their future fathers-in-law: the former discover that the woman they have been promised is actually already married. Polyandry is strictly forbidden in Senegal.

Cases where parents marry or promise their daughter to more than one man may be possible, as spouses do not necessarily live together. A husband might thus not be immediately aware of the fact that another marital arrangement exists.

In their reports, district administrators referred to such cases as *escroqueries au mariage* (marriage fraud), or accusations of bigamy.^{xxxvii}

Brideprice payment fraud (marriage fraud in order to obtain the bride price)

«Le nomme SK se plaint que son beau père KD a remarie sa femme KaD a NF sans qu'il soit divorce avec elle. Il résulte que KD a uniquement prononce ce nouveau mariage dans le but de roucher une nouvelle dot (escroquerie au mariage selon la coutume mandingue). Le beau père ainsi que son complice NF reconnaissent leur culpabilité » (Sedhiou, 1918, dossier 135)

“MM soldat à Saint Louis, ayant appris le mariage de sa femme AG avec le nommé OK du village de Thiamboukh réclame la dot de 550 F qu'il avait versé aux mains d'AD, son beau-père. AD est condamné à rendre à MM les biens reçus de celui-ci.” (Tivaouane, 1916, dossier 114)

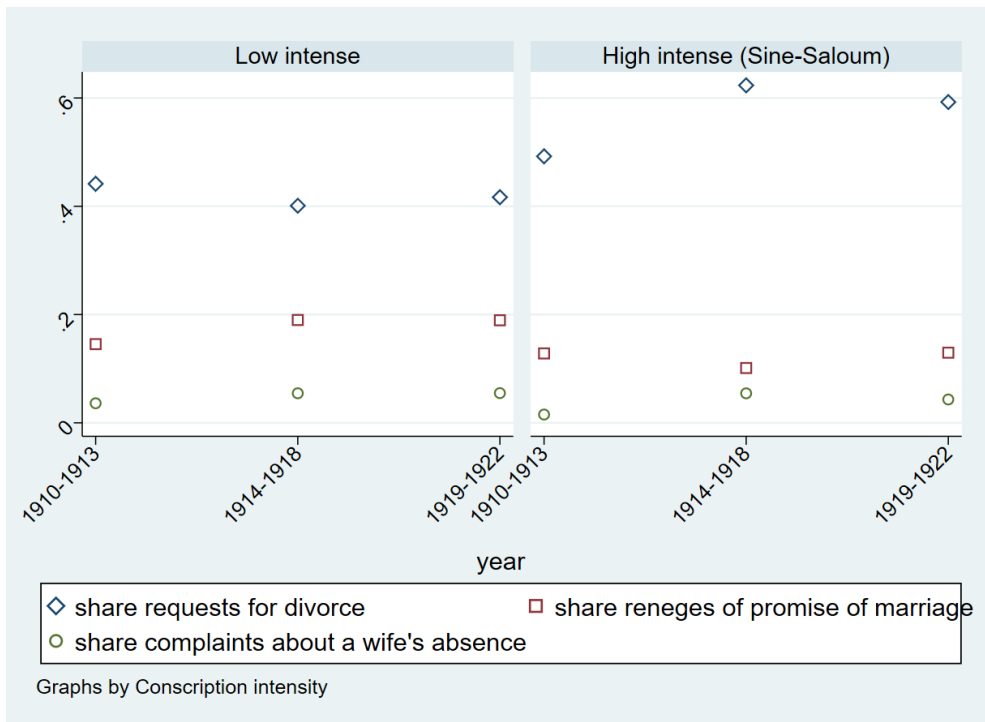
Case 4: Other brideprice-related disputes

We have described three types of marriage-related disputes. We observe other types of marriage-related disputes, where again the brideprice plays an important role. For example:

“DK réclame à BY une vache restant due pour celui-ci sur le paiement de la dot de sa soeur mariée avec ce dernier. BY déclare que celle-ci a un vice de conformation qui l'empêche de remplir ses devoirs conjugaux et demande que la dot qu'il a versé lui soit entièrement remboursée. BY condamnée à donner la vache réclamée par son beau frère. En outre, le tribunal a reconnu que son mariage est valable, BY n'ayant jamais demandé le divorce contre sa femme depuis 4 ans qu'il vit avec elle.” (Dagana, 1914, dossier 82)

Appendix A4: Dynamic of sub-categories of marriage-related litigations

Figure A4a: Dynamic of sub-categories of disputes related to marriage (share of disputes related to marriage)



Source: author's calculation

Figure A4b: Dynamic of sub-categories of disputes related to marriage (share of all disputes)



Source: author's calculation

i Native courts have also been implemented by the British colonial administration in former British colonies. The rules governing the functioning of native courts in former British colonies are more similar to those of customary arbitration courts. See Fenske (2014) for an analysis of native courts' activity in colonial Nigeria.

ii Goerg (2007) highlights gender differences in misconduct adjudicated in correctional/penal affairs by native courts in colonial Guinea.

iii Native courts can influence the behaviour of individuals by defining objectionable behaviour/conduct. See Sarr (1975) for an analysis of precedent-setting decisions made by the upper court of the native court system, the *Chambre d'homologation*.

iv Other institutions aiming at controlling the population, either directly or indirectly (through their influence on norms) are prisons and Christian missions. See Archibong and Obikili (2020) for an analysis of prisons in colonial Nigeria and Jedwab et al (2021), Okoye (2021) and Guirkinger and Villar (2022) for an analysis of missions' activity in colonial Ghana, colonial Nigeria, and colonial Congo respectively.

v The decision to not impose French Rule of Law is made in part for practical reasons: the administration lacks the resources to enforce a new set of rules.

vi This sub-section is based on Becker et al (1997)

vii Appealing a decision is however costly: 100 fc (if the decision is confirmed).

viii Disputes brought to village courts are only civil or commercial disputes. Judges in village courts do not receive any compensations for their judicial activity from the colonial administration. Their decisions are not enforced by the administration or police.

ix Inhabitants of Les Quatre Communes of Senegal are the inhabitants born in the following towns: Saint-Louis, Dakar, Gorée, or Rufisque. They were granted full French citizenship in 1848.

x French and Muslim Courts were located in the districts of Dakar and of Saint-Louis. In these districts there were no native courts. Disputes between natives in these districts could be arbitrated by French courts. Then the French magistrate was assisted by an assessor.

xi We retain the quarter as the time unit of observation for the period documented.

xii In other words, the categorization of disputes as civil/commercial matters or correctional/penal cases, presented below, is directly deduced from the raw material at our disposal.

xiii This description is based on notes taken during a stay in the reading room of the ANS, and notes based on digitalized versions of the raw material. Around half of the material has been digitalized.

xiv For a subset of courts, we also describe the arbitration decisions as well as the characteristics of plaintiffs (and defendants) – whenever available.

xv When a court arbitrated zero disputes in a quarter Q, the court secretary indicates "null" in the record of that quarter. "null" is zero in our data. Sometimes the record is missing but information can be recovered from the administrative report established by the district administrator (whenever available to us). In our data, a court's activity is considered as missing during quarter Q whenever we lack information on the courts' activity during Q whether through the registry, or through the administrative report we could access.

xvi Maps are taken from Martonne (1924)

xvii Over the whole period, native courts arbitrated 769 disputes on average. Per year, the corresponding number is 50.

xviii We exploit information in Giraud (1939) to identify groundnut-producing districts. They include Bakel, Louga, Niani-Ouli, Sine-Saloum, Thiès, Tivaouane, Baol, Casamance. Districts that do not produce groundnuts are Dagana, Matam, Podor and Haute-Gambie.

xix After the first quarter of 1914, registries are kept monthly. After this date, we consider that we miss information for quarter Q for court C if we miss information on the activity of court C at least for one month during quarter Q. Thus, we tend to overestimate the level of missing information after 1914.

xx A second measure is available for 1925. Patterns described are almost similar if we use the measure in 1925 instead of the measure in 1910 (results not shown but available upon request). In Appendix A2a, we describe the annual series of total disputes *per capita* arbitrated by courts separately for the 12 districts.

xxi This pattern holds until 1917. Starting from 1920, the second quarter is systematically missing for all courts.

xxii In this paper, we distinguish cases that are related to marriage from other cases. For cases that are not related to marriage, we can further distinguish cases where the disputed object is an animal, a land (or another productive asset like a boat) or another good or service. A last set of cases is more mixed. It includes charges of assault and battery, vagrancy, or violation of hygiene rules.

xxiii The national population average is 100,400. That's very close to the national median (99,000). The districts with a population size below the national average are the four districts located along the Senegal river (Bakel, Dagana, Matam, Podor) plus two districts located in the east (Haute-Gambie and Niani-Ouli).

xxiv We cannot compute the average number of disputes per capita arbitrated by courts as we do not have a baseline population measure at court (sub-district) level. Per capita measures can be obtained at the district level however. We count 2755 disputes and 33 disputes per 1000 inhabitants arbitrated on average by districts (of which there are 12). The most populated districts (6 districts) arbitrate 3767 disputes and 25 disputes per 1000 inhabitants on average. Less populated districts (6 districts) arbitrate 1744 disputes and 42 disputes per 1000 inhabitants on average.

xxv Note that the most populated districts are more likely to be groundnut-producing districts.

xxvi A conviction then consists of paying a fine or serving a prison sentence. Imprisonment can also be a consequence of the convicted not being able to pay the fine. Indeed, regarding the situation studied, restraint by force is legal.

xxvii As seems to occur with the intensification of cash crop cultivation, as suggested by the work of Rodet (2007) and Brunet-Laruche (2014).

xxviii Cases are reported in French. Cases are transcribed as written in the original documents (sic). They are anonymised.

xxix There are a few cases of charges of bigamy in our data.

xxx Even today, it is not unusual in Senegal for women to temporarily leave their marital home and return to their original household to signal to the community that their relationship is in trouble. This practice is called *faye* in Wolof, one of the major local languages.

xxxi See case 4 for an illustration in Appendix A3.

xxxii The computation at the country level includes the Quatre Communes.

xxxiii The second database, in which we document arbitration decisions for a sub-set of courts, would be especially useful (see footnote 13) to this effect.

xxxiv Theoretically, the effect of income shocks on requests for divorce is ambiguous: positive income shocks could increase requests for divorce by increasing the value of alternative marriage options, or it may decrease them by reducing conflicts over resource allocation within the current marriage. Negative income shocks would

produce the reverse effect. This ambiguity has been recognized in the literature, especially for developed countries (see Bobonis, 2011).

xxxv This is motivated by the heavy dependence of households on agricultural production. The two databases can be merged since both sets of information are geo-referenced.

xxxvi See Roberts (2005) and Becker et al (1997) for a review of factors incentivising chiefs in that direction. Deviations could be expected to have been even more frequent after 1924, when sub-district administrators replaced chiefs to arbitrate cases in sub-district courts. Actually, this could be one reason why litigants with minor social statuses (women and young men) were keen to request arbitration from native courts.

xxxvii With adultery, these two marriage-related cases are arbitrated as "penal" cases, i.e., the judge can sentence the defendant to prison and/or the payment of a fine.