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Fabien Gaveau, *Propriété, cadastre et usages locaux dans les campagnes françaises (1789-1960). Histoire d'une tension légale*. Besançon: Presses universitaires de Franche-Comté, 2021. 478 pp. Maps, notes, and bibliography. €40.00 (pb). ISBN 978-2-84867-712-5.

Review by Peter McPhee, University of Melbourne.

The revolutionaries of 1789 defined “natural and inalienable” rights in the Declaration of the Rights of Man and Citizen as “liberty, property, security and resistance to oppression.” Successive constitutions in 1793 and 1795 concurred about the sanctity of property, and in December 1799 the new Consuls assured the citizenry that a new, fourth constitution would again be based on “the sacred rights of property, equality, and liberty.” Article 544 of the Civil Code of 1804 pronounced that “property is the absolute right to enjoy and dispose of things, provided they are not used in a way prohibited by laws or regulations.” But why would a social practice as deeply embedded as private property need to be guaranteed as a right? And what did it mean?

Rafé Blaufarb responded brilliantly to these questions by arguing that the Revolution sought to separate property from sovereignty by ending privately-owned forms of power such as venal public office, seigneurial courts and ecclesiastical tithes: henceforth sovereign power would be in the hands of citizens and the state while property would be in the hands of individuals.^[1] For Blaufarb, such a distinction was at the heart of modern notions of state and society, public and private, and sovereignty. This was a protracted and complex separation to realize, not least because of the conflict unleashed when the National Assembly sought to force rural communities to compensate seigneurs for their losses as a form of property. Distinctions that seemed clear between commercial rents and seigneurial exactions proved ambiguous and explosive in Brittany, for example, where the local rental regime of *domaine congéable*, very long-term leases in which the tenant owned the buildings as well as the produce, seemed feudal to tenants but commercial to the Assembly.

Fabien Gaveau has produced an equally important work on the complexities of property, but one which focuses instead on the profound tension which existed between the revolutionaries' conception of property as private ownership of land and buildings and the complex, ancient community *usages* (use-rights) which proliferated across the nation. It was one thing to free the land from the claims of the privileged orders to seigneurial and ecclesiastical exactions and to make property private; it was quite another to free it from longstanding collective practices such as access to common land and forests. Gaveau teaches at the Lycée Carnot in Dijon and is a *chercheur associé* at ARTEHIS (Archéologie, Terre, Histoire, Sociétés) at the Université de Bourgogne. His weighty and instructive volume is based on massive research in national and

eleven departmental archives; there are detailed, helpful chronologies, indexes, and bibliographies (Blaufarb is a notable absence). He gives us an extraordinarily detailed but lucid history of the contested meanings and practices of rural property since 1789, linked so deftly to wider contexts that the book becomes an alternative history of modern France. It is a remarkable achievement, redolent of a deep knowledge of agricultural practices and politics and of his affection for the diversity of rural landscapes.

The transition from the provincial patchwork of Ancien Régime taxation systems, exemptions and assessments to a national, uniform system based on the ownership and value of private property was one of the most daunting, contentious, and protracted of all revolutionary projects. Legislators were caught between their commitment to the sanctity of private property as the bedrock of the new society and their uneasy awareness of the strength of peasant attachment to collective practices. How could the latter make sense in a regime based on individual ownership and control of property? The difficulty was evident in the new Rural Code of 28 September 1791, in which the Assembly tried to balance the rights of individuals to enclose pastures and forests with ancient collective rights, for example, to graze livestock on common or fallow land. The Assembly passed a revised Forest Code, essentially a restatement of the major provisions of Colbert's 1669 code on state control of its forests, but with an insistence that privately-owned forests were fully at the owners' disposition, "to do with as he wishes," whatever the traditional rights of access by rural communities. The code became a focus of protest and litigation. The Directory also sought to facilitate agrarian individualism and the rights of private property over ancient communal rights over forest resources, gleaning, commons, use of uncultivated land and rights of access across private land. The regime encouraged the sale of common lands by auction, rather than division by head, but it had to accept that, especially in livestock areas, many communes simply did not want them sold at all.

The comparative economic and political stability of the Empire facilitated the work of measurers seeking to catalogue the physical, economic and human resources of the new nation. Cartographers and statisticians drew on the Cassini map project aborted early in the Revolution, and on the censuses of 1792-93 and the Year VIII to initiate national registers of property and persons. From 1806 the population was to be enumerated every five years. Then in 1807 the Empire initiated a cadastral survey of all property in every commune as the basis of the system of uniform taxation. This massive undertaking, which occupied legions of engineers and technicians until 1850, assumed that, apart from communal and national property, all land was a privately owned and used commodity. For social historians, these surveys--especially the *matrice* or register of every parcel of land, its owner, value and use--have been an invaluable tool for reconstructing profiles of property ownership and rural production across time.^[2] They can be enormously cumbersome: Gaveau gives the example of Quincy-le-Vicomte (Côte-d'Or), whose 1,903 hectares of forests, vines and cultivated land were in 9,287 parcels for the village's 243 landowners at the time of the first survey in 1833 (pp. 340-341). By 1913 there were 10,900 parcels for the same number of landowners, but land sales and transfers meant that the *matrice* now covered 1,430 folio pages rather than 731, its complex amendments almost indecipherable.

The cadastral surveys inevitably imposed a bureaucratic concept of ordered, taxable space onto a reality of local arrangements and customs. Cadastral officials and notables first had to agree on the boundaries of 40,000 communes before measuring every parcel and pathway. How were officials to decide whether a path was communal or private property? What if it went through private land? And how could laws extinguish ancient collective rights to enter private, communal

and national forests or to glean on harvested fields? On Corsica, for example, how could ancient agreements (and feuds) about transhumance between mountain villages be captured by a model based on private property? (Only about 40 per cent of the island had been surveyed by 1843). Gaveau argues that, until the 1960s, these tensions were at the heart of rural life, and occasionally escalated into violent confrontation, most notably in the spring of 1848, where conflict over control and use of forests exploded, especially in the Pyrenees and the east. Ultimately, the new republican regime had to mobilize more than 48,000 troops to reimpose the forest codes of 1827 and 1846.[3] In contrast, when the 1860 law on reforestation was to be implemented, particularly in mountainous areas, officials also ran up against the opposition of large landowners as well as peasant communities insisting on their rights to use forests as they wished without interference from the state.[4]

Tensions between the rights of private proprietorship and collective access were deeply political at both the local level and nationally, and political élites who vaunted the attachment of peasant proprietors to the land as the basis of the social order would occasionally be unsettled by the strength of community attachment to ancient collective rights. The dream of the new regime after 1789 was never fully realized. For example, when the National Assembly voted in 1889 to end the practice of *vaine pâture*, whereby locals could send their cattle onto private fallow or harvested land designated by the municipal council, the outcry was such that it decided to leave the matter up to individual councils: 8,370 of 36,147 councils maintained the practice.

The great rural exodus which had commenced in mountainous regions in the mid-nineteenth century undercut these tensions. After World War II, a revolution of mechanization and a new Rural Code in 1955 encouraging *remembrement*, the consolidation of small plots, would dramatically reduce the number of farming families, from 7.4 million in 1946 to only 2 million in 1975 and 0.73 million today. Instead, governments have realized increasingly that individual property rights have needed to be curtailed in the interests of the environment, often under community pressure. Gaveau recounts the fascinating story of how proposed infrastructure work on a grotto on the Lison River made famous by Gustave Courbet led to the foundation of the Société pour la Protection des Paysages de France in 1901, the law of 21 April 1906 on the protection of natural sites and monuments, and finally the first international congress on the protection of landscapes, held in Paris in October 1909 (pp. 318-319). In the twentieth century, there have been new conflicts over inclusion in areas of appellations, most commonly for wine but also for cheese (Roquefort) and walnuts (Grenoble), at the same time as producers' associations and cooperatives have further undermined the social model of private property.

The notion of rural property ownership as a purely private right is moribund. As Nadine Vivier points out in her preface, a paradox of agricultural politics in France today is that a combination of environmental challenges, European Union subsidies and regulation, and sensitivity to local identity has made governments more protective of the ancient collective rights and practices which they for so long dismissed as archaic. One wonders what the revolutionaries of 1789 would have made of the *terroirs* of Bourgogne, Champagne and Saint-Émilion, and the Causses and Cévennes, being listed on a World Heritage register as part of humanity's shared patrimony! It is time, Gaveau concludes, for a new, multi-usage cadastral survey based on rural land as a *bien commun*—but he knows that this would unleash a new wave of tensions between those who see farms as rural enterprises and those who concede multiple claims on the countryside. As *Le Monde* posed the question in 2012, referring to the increasing presence of wolves in the Jura and elsewhere, how do we “garder le loup sans perdre l'agneau” (p. 371)?

NOTES

[1] Rafe Blaufarb, *The Great Demarcation. The French Revolution and the Invention of Modern Property* (New York, NY: Oxford University Press, 2016). On revolutionary changes to the concept of property in general, see also the contributions to Geneviève Koubi, ed., *Propriété et Révolution. Actes du colloque de Toulouse, 1989* (Paris: CNRS, 1990).

[2] See, for example, Peter McPhee, *Revolution and Environment in Southern France: Peasants, Lords, and Murder in the Corbières, 1780-1830* (Oxford: The Clarendon Press, 1999), chap. 7.

[3] Kieko Matteson, *Forests in Revolutionary France: Conservation, Community, and Conflict 1669-1848* (Cambridge: Cambridge University Press, 2014), chap. 6; Jean-François Soulet, *Les Pyrénées au XIXe siècle*, 2 vols. (Toulouse: Privat, 1987), vol. 2, chap. 11; and two early studies by Albert Soboul, *Problèmes paysans de la Révolution (1789-1848)* (Paris: François Maspero, 1976), chaps. 12-13.

[4] Tamara Whited, *Forests and Peasant Politics in Modern France* (New Haven: Yale University Press, 2000), chap. 2.

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