**Sheffield Centre for International and European Law**

School of Law

**Working Paper Series**

**Colonial Rule and Justice during Interwar Period: the case of Spanish Guinea**

**Dr. Rubén Pérez Trujillano**

**Universidad Internacional de la Rioja**

**2020/2**

SCIEL builds on a long and distinguished tradition of international and European legal scholarship at the University of Sheffield School of Law. Research in the Centre focuses on the international and European aspects of legal issues, and more broadly draws on the School’s strengths in many forms of International, European and Comparative Law to consider the wider implications of current problems and the function of law in a globalised world. As part of this mission, the Centre publishes the present Working Paper Series.

General Editor, Professor Nicholas Tsagourias

Editor in Chief, Daniel Franchini

Managing Editor, Fiona Middleton

Please visit [www.sheffield.ac.uk/law/sciel](http://www.sheffield.ac.uk/law/sciel) for more information about the Centre or contact:

Email: [insert email here]

Twitter: @lawsheffield

The full Working Paper Series is available at

<https://www.sheffield.ac.uk/law/research/clusters/sciel/working-papers>

© The Authors, 2020. This work is licensed under a [Creative Commons Attribution 4.0 International License](https://creativecommons.org/licenses/by/4.0/).

**Colonial Rule and Justice during Interwar Period: the case of Spanish Guinea[[1]](#footnote-1)**

**Dr. Rubén Pérez Trujillano**

**Universidad Internacional de La Rioja**

**pereztrujillano@gmail.com**

 **1. Introduction**

Law and justice had a central role in the making of colonial systems. Courts of justice, whether composed by metropolitan or partially native structures, developed a significant action in the creation of the colonial otherness and the resistances to it. Courts were also important in shaping the conflicts between the indigenous exception and the universalist agenda of the general, Western law and European ideologies about empire, rule of law and Constitution.[[2]](#footnote-2) The aim of this paper is to explore the specific role of the court system in the context of the apparent dichotomy between colonialism and constitutionalism. To do so, I will research the Spanish dominance over Equatorial Guinea during the Second Spanish Republic (1931-1936), in order to discuss the real implementation of this constitutional and democratic regime created in the 1930s vis-à-vis ancient, colonial dynamics.

 The Second Republic brought to Spain the first fruits of the Constitutional State. The Revolution of 14 April 1931 and the Constitution which was enacted at the end of that year proclaimed fundamental rights and created institutions, both of them subject to the sovereignty of the people. This unleashed several changes in the country after a grey monarchical period which had always shied away from constitutional guarantees.[[3]](#footnote-3) While new rights had political and jurisdictional guarantees, new institutions incorporated limits, either political –such as the democratic principle of legitimacy– or jurisdictional –such as the control of constitutionality. However, new Spanish constitutionalism and, in general, interwar constitutionalism, had a dark side that affected the native population of the colonial territories. The hidden face of constitutionalism was not only that it excluded human groups from the status of citizen or even from the entitlement to fundamental rights, but also that –as a result of its racialization– it marginalized and discriminated against certain groups such as Arab, Berber and Black peoples.

 In this research I claim that the analysis of the justice system is crucial to understand the relation between colonialism and constitutionalism in territories under Spanish sovereignty. Rights and freedoms were directly linked to their respective materialization before the public administration and, especially, courts of justice.[[4]](#footnote-4) At the same time, the constitutional redefinition of the institutions of the State depended on what happened in those areas and contexts in which administrators and officers exerted their competences. Nevertheless, these topics have been generally ignored even by the most serious historiography about the Spanish republican experience[[5]](#footnote-5) –and about colonialism and international law during this era[[6]](#footnote-6)–, although this is something that by good fortune is steadily starting to change.[[7]](#footnote-7)

 Justice involves a bureaucratic body, and an activity, with a unique autonomy from the administration, as some authors of that period had pointed out.[[8]](#footnote-8) Hence, the study of the functioning of the courts system should contribute to the detection of two lines of tension in the process of implementation of constitutionalism during the period from 1931 to 1936 in Spain. On the one hand, the exploration of a discriminatory treatment based on ethnic or, rather, racist baselines in judicial practice will show the intrinsic limitations to the constitutional model forged in the interwar Europe. Simultaneously, the implementation of the colonial bequest –comprising old rules, routine practices and unwritten laws– and new, democratic laws will bring to the surface the limitations extrinsic to post-war constitutionalism; those limitations and hardships stemmed from the peculiar autonomous action of the judicial, public prosecutor, police and military authorities in their approach to old values and principles whereby colonialism might have undermined constitutional change. The task I have embarked on is to gauge the effects of the democratic Constitution of 1931 over colonial order, but also to scrutinize the impacts that colonial rule and practices had over entire constitutional system during five critical years of Republic in Spain.

This paper is about those historical and legal issues. I will try to offer a brief response to the problem of transition from dictatorship to democratic systems from a constitutional point of view that does not ignore the colonial reality of those days. In so doing, and insofar as I study the Spanish case, I try to make a contribution to the grasping of the capacity of judicial organs to build, underpin and protect the aims of the constitution –or their capacity to not to do so at all–. Overall, I mean to achieve two goals. First, giving an array of questions about Spanish contemporary history in which judicial institutions played a formidable, albeit not too visible role drawing the constitutional system. Second, I attempt to reflect on how judiciaries might have used categories, principles and rules from a previous regime –monarchical, authoritarian, colonialist, etc.– under new and incompatible legal conditions.

 This document is structured as follows. Section 2 examines some legal innovations related to the change of regime that took place in 1931 in Spain. Afterwards, I will place these innovations in the context of the distribution of competences among institutions of the State in practice. My aim is to underline the gap between formal legal innovations and their practical operation largely because there was a traditional imbalance between metropolis and colonies that would end up echoing an antagonism between constitutional mandates and colonial facts. For this reason, section 3 sets out to show how racism came to be institutionalised in Equatorial Guinea through the categorization of native people as a problem to be controlled and as an inferior human group to be under guardianship in spite of any constitutional clause. Section 4 looks at how the judges, the military and the police operated in their dealings with colonized peoples in order to pose how this dominance relationship affirmed a system radically different from the constitutional rule of law. Section 5 looks into some aspects about colonial practices in the light of law applicable with the purpose of studying the administrator’s interpretation of law and colonial dominance. Section 6 addresses the areas of contact between colonialism and constitutionalism. The goal of this item is giving an answer to the next question: knowing that Africans were not citizens at all, how did colonial governance affect the exercise of constitutional rights and freedoms by citizens at the heart of the Second Republic? In the last part, some conclusions are made.

 **2. A provisional but definitive colonial statute of 1931**

 The Provisional Government of the Spanish Republic approved a colonial statute for “the Spanish Territories of the Gulf of Guinea” –such was the traditional denomination– by virtue of a presidential decree of 22 July 1931.[[9]](#footnote-9) According to its preamble, the “advent of the Republic” had meant a “momentous change” in the legal order that must have an “impact” on the “colonial regime of the territories” under Spanish sovereignty. The preamble laid down the new “guidelines” according to which the decree had to be implemented. The “greater scope for individual freedom in all its manifestations”, the “gradual democratization of institutions and the exercise of authority”, the “extensive decentralization that gives freedom to the colonial regime”, etc., showed a change in the approach of Spain to the colonies, but also the limits of that change. As Donato Ndongo-Bidyogo said, the Spanish Republic “was not anti-colonialist”, but sincerely wanted to reform colonialism.[[10]](#footnote-10) Recently, Mayca de Castro has argued that the Spanish Republic did not take any decolonizing measure and that republican discourses belonged to a “colonial anticolonialism” vision of the problem.[[11]](#footnote-11)

 Rule 2 of Guinea’s colonial act[[12]](#footnote-12) established the powers of the governor-general, who was freely appointed by the Council of Ministers at the proposal of the President of the Government. Although “the independence of the judiciary” was asserted as a barrier to the governor-general’s power over officials, this was confined to “the conduct and adjudication of cases”. The appointment of personnel and the administration of justice was left to the discretion of the colonial authority. Initially, the act of 1931 acknowledged that its aim was to outline a regime of colonial exception submitted to the future constitutional rule. However, the constitutional effect over Guinean territory was rather limited.

 Among the clauses of the statute directly related to the colonial authorities and rights in Guinea, as well as to the hierarchical relations between the both of them, we can note the following. Firstly, there was a generic clause about the primacy of public order. In accordance with this clause, the governor-general had the power to dictate “any measures he deems necessary to preserve the security of the territories”, with the only requirement that he informs the executive about them (rule 2.3). Among these measures were those that were called “Urgent Provisional Orders”. They had no procedural or substantive requirements (rule 14.1). Furthermore: neither this one nor any other decision of the governor was susceptible to be appealed, unless another rule explicitly allowed it (rule 14.3). In other words, a source of law that existed prior to the constitutional system became a de facto parallel system, essentially alienated from the constitutional rule. It should be remembered that the new Spanish Constitution of the Second Republic did not provide for such sources of law: the “Urgent Provisional Orders” were not even mentioned along constitutional articles.

 Secondly, the same thing was clear concerning the application of the rules. I will return later to this. For now, it is necessary to explain that the administration of justice was at the behest of the colonial and especial regime. The “provisions in force in Spain” and “the especial ones to be adopted for the colonial territories” (rule 6.1) would govern as long as the Spanish Government so decided, using their “law-adapting function” (rule 14.1), a “ministerial despotism” similar to that one that took place in France since the Second Empire and continued during the Third Republic.[[13]](#footnote-13) The declaration of rights and duties written in the Constitution and complementary laws were subject to “adaptations” which the Government of Madrid could approve at the initiative of the governor-general of Guinea (rule 7.1).

 Thirdly, concerning freedoms, the colonial act of the Republic showed a notorious change with regard to monarchic rule. The decree of 1931 declared the right to religious freedom, meaning freedom of conscience and worship (rules 7.3 and 7.4). However, the decree ordered that significant political freedoms would depend on an exceptional legislation. It was the case of freedoms of assembly, of press and to form associations (rule 7.2). Indigenous people were deprived of the right to exert judicial posts, because the organic law of judicial power, from 1870, required Spanish nationality and high level of education to exercise these rights (article 109). Republican legislatures did not reform that point, so it underpinned a set of discriminatory rules.

 Without doubt, the colonial regulation evolved vis-à-vis the preceding years, but only for colonial settlers. Colonized subjects were silenced and excluded. All the clauses were bound to racist discrimination. For instance, it was so when the act set out a “Colonial Guard” consisting of “Europeans and indigenous people” (rule 10). Some indigenous people were allowed to be part of the public order forces, but always in a subordinate position. The recruitment of Black people into the coercive arm of the colonial administration was a part of a strategy of co-option of colonized people into policing and mediating their local rivalries and hostilities. In that sense, the ‘republican’ Colonial Guard did not make significant differences regarding the traditional model of Colonial Guard created in 1904.[[14]](#footnote-14) The demilitarization of the colonial authority was a real breakthrough, owing to the republican regime. The case of the governor-general, now a civilian authority, provided for a clear example. Nevertheless, this progress was halted by the decree of 30 November 1932, still during the first progressive biennium of the Republic.[[15]](#footnote-15) At that time the Colonial Guard was given a military nature, as it had been the case for this institution in the past. This way it accelerated the militarization of the exercise of authority and, in consequence, military courts increased their competences by virtue of this measure. The military meddling in the management of public security and conflict with the majority African population modified thoroughly the republican reforms. That served as an alibi to militarize the conflict and to promote military hegemony within the colonial rule, to the detriment of the constitutional spirit.

 On this basis, it can be concluded that constitutional and colonial rule were at odds, but only partially. Admittedly, several reforms were undertaken as soon as Republic was instituted in Spain. However, it is not true that the republican Revolution first and the 1931 Constitution latter completely confronted colonialism. Some aspects were enhanced thanks to the Second Republic, of course. However, one thing must be borne in mind. We should distinguish colonial aspects supressed due to the republican reformism from colonial situations that the Spanish Republic allowed. In that latter sense, it must be clarified what colonial aspects the constitutional regime was willing to treat wittingly and what questions of colonial dominance simply were almost unavoidable to a constitutional regime that only lived five years after the lethal *coup d’État* in 1936. In the next section I will map out some aspects of the colonial reality in the Gulf of Guinea, either linked with formal laws or surreptitiously engendered by colonial authorities.

 **3. No indigenous jurisdiction**

 Colonial discourse in courts only knew colonialist perspectives. There were not native tribunals in Guinea officially recognized by Spanish colonial system, so African peoples hardly had an institutional way to channel their own voices before a court in case of police abuse, plundering of goods or human trafficking. This fact draws an important difference between Black Africa under Spanish dominance and other colonial governments in the area.

 Given this, it is necessary to reflect on whether this type of idiosyncrasies makes a real or just a theoretical difference. In order to answer the question, I propose to pay attention to certain British and French models of colonial justice during the period. Some authors, such as Bonny Ibhawoh, have seen an important factor in the existence of an indigenous jurisdiction. Despite its limitations as “an historical construct of the colonial period”, native courts tended to be defining organs in the British Empire with respect to its channelling of the conflict between colonial and colonized subjects within indigenous tribunals.[[16]](#footnote-16) Nevertheless, many others, like Jean Suret-Canale, gave scarce relevance to this issue decades ago. In his opinion, Tropical Africa under French domination was divided into three judiciary systems. First, the French system, whose scope referred to cases involving French citizens. These courts implemented French law, but sometimes local customs when cases involved native subjects as long as one of the parties made a request. Second, the native justice dealing with all other cases except for the Four Senegalese Communes, which preserved the legal status of the Muslim population with respect to their personal state, marriage, inheritance, donations and wills since 1857 and, especially, since the Decree of 20 November 1932. This third judicial system was residual.

 The native justice system is probably more interesting to our research, albeit judicial competences traditionally exercised by indigenous chiefs were decreasing gradually in colonial Senegal. The indigenous system of justice had an “arbitrary aspect”, largely because the colonial administrator and other European officials relegated native notables and chiefs. In consequence, this system in fact just sought to expand the colonial powers over the African peoples, complicating and hastening the procedures.[[17]](#footnote-17) French colonialism favoured tribal judges during the 1920s as a way to consolidate colonial rule by means of local hierarchies[[18]](#footnote-18).

 In any case, the existence –or lack thereof– of a native judiciary system which essentially recognized and implemented –or created– native law is the difference between Spanish colonialism and other similar systems. The lack of native system in Spanish Guinea involves a deeper difference. It shows two things. On the one hand, it shows the little respect Spain gave to African peoples. On the other hand, it is a consequence of too recent colonial domination. Spanish colonialism in Guinea was neither similar to his French counterpart nor to the British experiences.

 In accordance with a report sent by a representation of Spanish colonialist employers to the Provisional Government, the Republic did “absolutely nothing” with regards to the court system.[[19]](#footnote-19) Differently from the judicial system in Spanish protectorate of Morocco,[[20]](#footnote-20) there were no native courts in Guinea. Litigations and lawsuits within African population were known as “words” (*palabras*). They were resolved by colonial guards and governmental delegates with alleged equity, but with actual arbitrariness.[[21]](#footnote-21) Thus, the drawback is obvious. Native people did not take part in the implementation of law as an active judge. Furthermore, Spanish authorities did not put an effort in implementing native laws and customs.

 This key feature helped to spread forced labour at the behest of colonial administration, ignoring social rights or personal freedoms which have been set out in the Constitution and which had been the bulwark of the Revolution[[22]](#footnote-22). Indigenous manpower sanctioned by confused judicial organs could be brought to jail. They would no longer be free workers from then on. Contrarily, they were forced to work for free at the service of colonial institutions like *Obras Públicas* or the *Consejo de Vecinos*. Furthermore, they were left in debt for the duration of their stay in prison. In practice, this system was the cradle of a plundering justice for men in general, but it also encouraged the sexist trafficking of “deposited women” in detention centres, to use words written in the mentioned report.[[23]](#footnote-23) According to studies on the monarchical period,[[24]](#footnote-24) the *palabras* were playing the same main role: perpetuating forced labour in Guinea. Usually, Spanish settlers and colonial administration washed their hands of any responsibility. For them, most of this criticism about forced labour and slavery was based on the *cliché* of “the black legend”, as settlers often asserted before public opinion.[[25]](#footnote-25)

 Republican colonial reformists thought about building what they called “racial courts” (*Tribunales de Raza*) in 1935,[[26]](#footnote-26) but the truth is that these native courts were not institutionalized until the Francoist dictatorship three years later.[[27]](#footnote-27) Therefore, the Africans were only entitled to use the criminal justice system when they could prove that they had converted to Catholicism by virtue of a real order of 23 July 1902 (article 9). Naturally, this led to controversy among Republicans, due to the principle of secularity established in the article 27 of the Constitution. However, criminal law judges continued to investigate the conversion of the indigenous defendants in order to determine which jurisdiction they belonged to, as reported by the Attorney General of the Republic in 1932, one year after the adoption of the Constitution.[[28]](#footnote-28) The judicial system that affected the autochthonous population was basically in the hands of outdated judges. Additionally, this meant that one of the few changes in the field of rights that had been added by the colonial decree of 1931 (religious freedom) lost efficacy. Right to access to court in a common jurisdiction depended on being of Catholic identity in spite of the secular nature of the regime. This was radically incompatible with the legal regime of criminal and civil processes according to the Republic. Trials where the indicted subjects were “un-Christianized blacks” had to take place before in the *Juzgado de primera instancia e instrucción de Santa Isabel*, and all the rest took place in the *Audiencia de Las Palmas.*[[29]](#footnote-29)

 It is not possible to know whether the creation of a native justice system would have deployed tools at the service of colonialist interests of domination or, on the contrary, guarantees to allow colonized peoples to cope with the worst face of colonialism and, at least, to aspire to some recognition. But one thing is clear. In this case, the entire colonial jurisdiction was coherent with the status given to the autochthonous population. The lack of native tribunals was the bedrock of making of the status of the ‘black’ (“*negro*”).

 Local people were denied full legal capacity in Spanish Guinea. In that sense, the status of *negro* was parallel to the status of “subject” used for native peoples by the French colonial system. The “*indigénat*” was a category that embraced people who had not a full-fledged status before the colonial institutions and before the judicial structure inside them. Contrarily, native people were deprived of the right to vote, freedom of expression and other attributes of citizenship. Also, native people were denied basic personal rights. For instance, the administration had extraordinary prerogatives to inflict them disciplinary punishments without guarantees. In such a situation, the basic principles of the criminal law system and the rule of law just posed scant boundaries. The “*indigénat*” was a legal and institutional category meted out by colonial system in Algeria from 1874 onwards, in disregard of self-determination and freedom arguments. Later, it was extended to colonial and mandated territories under French domination in the whole of Tropical Africa by virtue of a decree of 15 November 1924.[[30]](#footnote-30)

 The conception of the “*indigénat*” admits a reasonable comparison with the racialized Spanish classification of the colonized population. Like I will expose in the next section, the Spanish model shared the key feature of the “*indigénat*” counterpart model: “the submission to a special discipline, charactized by the absence of any guarantee in criminal matters”, as the French League of the Rights of Man denounced.[[31]](#footnote-31) Despite that coincidence, the status of black had ancient Castilian roots. In the background, Africans who were embraced by that category were included under the ethnic status produced by the colonial order of Catholic nature in Spanish America since 1492. Bartolomé Clavero explained this legal and administrative construct imbued with old corporate elements as the consequence of a “multiplication” –not only the sum– of three medieval statuses that had been used to incorporate indigenous peoples into the colonial order in a dependent position: “miserables”, “rustic” and “underage”. Under this dominance system, the indigenous subjects were left in a perpetual position of subjugation subject to the dominance of non-indigenous actors. This logic further legitimized and encouraged colonial action.[[32]](#footnote-32)

 Spanish colonialism in Guinea followed this old pattern of modernity. An unequivocal example is the guardianship exercised by Colonial Curatorship over Africans. This institution superseded the lack of legal capacity of indigenous subjects and dealt with employers on labour issues, even after the Constitution had been promulgated and entered into force.[[33]](#footnote-33) The figure of the curator had taken part in human trafficking during monarchic years and would do it again during Franco’s regime. The Second Republic did not eliminate the institution, which essentially ensured the economic exploitation of the colonized people under unfair conditions and which obviously avoided the importation of constitutional rules into African territory. But republican governments appointed a different individual to the position. This is a diaphanous example of changes and limits of the measures implemented by republicans in Guinea.[[34]](#footnote-34)

 The second example refers to the *Patronato* of the Indigenous from the Spanish territories of the Gulf of Guinea. This “spine” institution had been created in 1904 and was working alongside the Curatorship since then.[[35]](#footnote-35) Similar to traditional colonial law in America, this institution consolidated the classification between “unemancipated indigenous people”, “emancipated indigenous people” and, of course, “Europeans”.[[36]](#footnote-36) In practice –as Carlos Garriga explained with regard to colonialism in America– this kind of differentiation of “qualities” or “social markers” by judicial organs could operate as “contextual factors that modulate[d] and m[ade] the *status* more flexible, but do not dismantle or dissolve it”.[[37]](#footnote-37) All Africans, emancipated or not, suffered from the same indigenous status. The impossibility of holding judicial positions and competences, in colonial or segregated institutions, turned the status of black into an aggravated racist status, similar to the native American status albeit starker than it in some ways.

 Blacks shared with Indians an administrative and judicial category inspired by an oppressive ontology, whose matrix was theological. Hence the institutions quoted above. But, at the same time, it has to be remembered that Indian peoples in Spanish America could enjoy more opportunities related to the right to trial, which Blacks absolutely lacked in West Africa controlled by the Spaniards.[[38]](#footnote-38) The shaping of curatorship and tutorship institutions was too good to be true historically. The lack of native institutions and the superposition of supremacist institutions were central mechanisms to oppress the Western African peoples and make them invisible before colonial administration and capitalist market. The formula of colonialism assumed by the Constitution of Cadiz in 1812 survived somewhat. Within it, Indian population could take part in the Spanish Nation after being converted into Catholic culture. Otherwise, Black population or, directly, slave population, was radically excluded. In the 1930s, Spain had no territories in America but the country had them in Africa. In a way, these African colonies remained “the rotten fruit” of Cadiz, to use Clavero’s terms.[[39]](#footnote-39)

 The lack of recognition of a native jurisdiction in Equatorial Guinea can be understood as one of the clearest manifestations of the existence of a direct method of government in the colony. According to the traditional scheme on direct and indirect rule, the first one crystallized in French dominance and the latter in British empire. However, systems of assimilation and association of colonial government both followed the same key principle, albeit “applied in a different style”.[[40]](#footnote-40) The dichotomy between direct and indirect rule was too confuse and rhetorical. It declined in importance as soon as colonial practices were tested. For example, the French protectorates of Tunisia and Morocco were theoretically a kind of association, albeit these territories were actually subject to a direct rule system based on an economy subordinated to the interests of a minority of European settlers, at least, from 1925 onwards.[[41]](#footnote-41) Indeed, some authors have explained that the concession of citizenship rights to some Africans in the Four Senegalese Communes after First World War was not a conquest owing to republican ideals, but also “a residual Old Regime-style privilege for a particular interest group”.[[42]](#footnote-42) If the detailed study of the French colonies often leads to these conclusions, Spanish Guinea was a direct rule colony in a strict term. There is no doubt about the existence of a system of direct rule because of the lack of any kind of indigenous jurisdiction and the hypocritical, remote possibility of becoming an emancipated –and never a fully citizen– Black.

 In addition to that, the absence of native courts constituted a reflection of the extreme subaltern condition of Africans who borne the status of black. Nevertheless, the absence of a legal order belonging to a political area of native peoples spotlights one important characteristic of this colonial system in appearance related to pre-capitalist colonial rule. On the contrary, direct government together with institutional blindness to the original rights or powers of African peoples is part of a fully modern way of understanding capitalist power and exploitation relations. Using Partha Chatterjee’s concepts, the only difference is that “the pedagogy of violence” prevailed or still preceded “the pedagogy of culture” in Equatorial Guinea. Probably, Spanish colonialists had not trust in the existence of any “credible native institutions” in the territory, and that might be the reason why they absolutely evaded native views about their powers and rights.[[43]](#footnote-43)

 To sum up, African original law was neither reduced to customs, nor was it purged from elements contrary to the Spanish rule. It was simply ignored. The search for absolute domination, a model of colonial governance lacking any severe limit and indigenous monitoring, was akin to the search for absolute exploitation that drove and speeded up slavery. As Josep Fontana stated, if capitalism was able to embrace and nurture colonialism, it was also able to maintain slavery and make it compatible with wage labour.[[44]](#footnote-44) In other words, capitalism was able to make constitutionalism (in metropolis) and colonialism (in peripheries) compatible and mutually necessary.

 **4. Punitive functions of the administration of the colony**

 A closer look at dynamics in Equatorial Guinea outlines the importance of colonial officers in the materialization of real asymmetric power relations. There was a contrast between the legal regime and judicial practice insofar to surveillance and punishment of native African population.

 When the Republic was established, Spain had colonies in the western coast of Africa. Following the denominations of the colonial law, *Río de Oro* consisted of a territory between *Cabo Bojador* and *Cabo Blanco*. This zone had an administrative organization of an “exclusively military character” due to the hostility of the indigenous inhabitants. For this reason, the military authority assumed all judicial tasks. The military auditor located in the Canary Islands appointed military judges and prosecutors, whose activity was led by him.[[45]](#footnote-45)

 For their part, territories located in the Gulf of Guinea were divided into two well distinguished areas. These were known during the colonial period as Continental Guinea and the islands of *Fernando Poo*, *Annobón*, *Corisco*, *Elobey Grande* and *Elobey Chico*. At first sight, the administration of justice seemed to be normal if we focus on the rule 6 of the colonial act of 1931. Like constitutional territories of the Republic, criminal justice corresponded to municipal courts (*juzgados municipales*) and investigating and sentencing courts (*juzgado de instrucción* and *audiencia provincial*). The first ones, located in the towns of Santa Isabel and Bata, had the task of judging faults. The latter –the *Juzgado de primera instancia e instrucción* *de Santa Isabel* and the *Audiencia de Las Palmas* (in Canary Islands)– investigated and sentenced on the crimes.

 In theory, military jurisdiction had been significantly whittled away by virtue of the Republican decree. However, colonial justice was not too akin to metropolitan justice in practice. I will provide some explanations. Firstly, some commonalities existed in all colonial systems of first post-war period. It must be remembered that there were several governmental functions in justice. Colonial bureaucracy involved the main actor of government and social change. Whatever did not pass through the hands of bureaucrats simply did not exist. Colonial administrators and officials had mostly military status –let me recall here the Colonial Guard– and, over all, all of them were kept from democratic, indigenous scrutiny and free press controls. This gave rise to a State-like entity which did not necessarily coincide with the republican, Constitutional State of the metropolis. This specific colonial power dominated rights and freedoms. Metropolitan elites did not much concern about that.[[46]](#footnote-46)

 Equatorial Guinea was not an exception. Government delegates obtained judicial functions. They worked in a similar way to municipal courts since a real order so established in 1903.[[47]](#footnote-47) According to the information of an employer organization from 1932,[[48]](#footnote-48) these institutions were still in the hands of personnel linked to the monarchy so a strong continuity in their treatment to African population can be assumed. Governmental delegates who furthered *razzias* (a type of nefarious raid traditionally colonial) and forced labour under the pretext of “freedom of recruitment” were in many cases the same authorities who had to administer justice from 1931 onward, that is to say, under a regime of constitutional democracy.[[49]](#footnote-49)

 The problem may have been even more serious because of the flawed and negligent operation of ordinary justice in Spanish Guinea. The 1935 budgetary memory of the parliament recognized that the administration of justice suffered from an “anomaly”. Less than a year before the Spanish Civil War, some positions were filled by “administrative [not judicial] officials who could not abide by their mission”.[[50]](#footnote-50)

 The central principle consisting of executive control over the judiciary can be confirmed through qualitative analysis of the files on the murder of the governor-general of Guinea at the hands of the government delegate in *Annobón* island. These extraordinary documents supply interesting information about the judicial reality in the colony.[[51]](#footnote-51)

 By November 1932, a sergeant of Colonial Guard –obviously a Spanish individual– who held the position of government delegate in the mentioned island cruelly killed Gustavo de Sustoa Sthamer, the governor-general. The provincial court of Las Palmas issued a ruling in 11 July 1934 sending the agent to prison. But the most interesting question is the reasoning in all legal proceedings, a diaphanous example of racist ideology of Spanish dominance despite the fact of enjoying a constitutional system thanks to the Republic. Also, it is remarkable how ordinary criminal justice echoed and finally confirmed the unusual reality of the colony in relation to the court system.

 In the first place, judges and magistrates underpinned legal inequality between native –“negroes”– and white people –“Europeans”–. Indeed, they bolstered racist biases around African population and African weather, as a coy way of fetishizing peoples. This kind of judicial discourses portrayed all local elements –people, territory and weather– as lawless and criminal, at least, for threatening the peace of Europeans and for capriciously making life difficult for colonial administrators and officials. It happened, for example, when judges deliberated on whether the presence of few whites –and, on the contrary, the coexistence with too many blacks– could deploy an extenuating or exonerating circumstance in the criminal punishment.[[52]](#footnote-52) As we can see, colonial discourse assumed and created by tribunals was managing to fulfil their own prophecies and strong assertions reached on racist prejudices and stereotypes.

 Secondly, the legal process, and directly the judgment of the *Audiencia de Las Palmas*, not only did not frown upon colonial reality, but also normalized a situation which did not fit the legal regime’s conception of justice. In its own words, the judgment stated that the defendant, as a government delegate, “exerted a level of autonomy since he arrived [to the island] which first viceroys of the New World would envy”. [[53]](#footnote-53) In other words, constitutional rules about justice were not part of the concerns of the court. Colonial authorities, on a local and intermediate level, enjoyed several, often full powers that overruled judicial regulation in practice. The tribunal’s interpretation of the separation of powers and their attitude to the indigenous people were restrictive. To use a crude but at the same time effective expression for it, that interpretation renounced compliance with the Constitution in the colony.

 Therefore, it seems that colonial justice did not break with its autocratic past. There was an essential continuity from monarchy to Republic in this point. Somehow, the strength of facts, the routine activity of colonial administration and no less everyday judicial passivity and leniency ending up overruling republican aims of reform. We can look at certain coercive relations in order to examine this distressing conflict between old and new regime and, inside this last one, between old and new visions about rights and powers.

 If representatives of colonial employers were right, forced labour had been deterred or at least decreased thanks to republican policies. As the president of the Agricultural and Forestry Official Chamber for Continental Guinea expounded in 1932, this practice was a kind of slavery, but the Republic had fortunately outlawed it. From his point of view, the main problem was other, not least important: the Republic did not demand responsibility to whom had done “slaves cams” in the preceding years. According to this scheme, the Republic was beginning to enforce the forced labour convention signed by the left wing and liberal Government in 1932, after other agreements in the framework of the International Labour Organization.[[54]](#footnote-54)

 Nevertheless, the result turns out to be different when we study police documents of that period. Research in this field can be deepened to fine-tune our understanding of the dialectics between monarchical colonialism and constitutional colonialism prompted by republicans. The State apparatus disputed republican colonialism, preserving traditional colonial rule in large part. For example, security services surveyed journalists who investigated colonial situation and, especially, human traffic in Guinea.[[55]](#footnote-55) Recent studies confirm this dramatic and illegal situation during the five republican years, regardless of left and right hegemony.[[56]](#footnote-56)

How could colonial situations be resistant to constitutional changes in Spain? Maybe, it owed much to certain mentalities and political cultures in republican parties and groups. So to speak, Niceto Alcalá Zamora, who was the president of the Provisional Government during the first months and later became the president of the Republic, did not engage with anticolonial or egalitarian ideologies at all. In fact, during constituent discussions Alcalá Zamora defined “the full rule of Constitution”, bringing it from the metropolis to the colonies as a “danger”. [[57]](#footnote-57) Also, the deputy Clara Campoamor, who was the great heroine of feminist struggles, gave racist speeches in the Parliament.[[58]](#footnote-58) This can be one aspect of the problem, although does not explain it entirely.

 Actually, we cannot discard that Spanish republican forces and leaders could have done much more to foster contact between the new constitutional regime and colonized peoples. But the inferiorization and subsequent criminalization of African people cannot be studied in isolation. It did not exist on its own but must be put in relation with two factors. First, the colonial order was in essence protected by the League of Nations, which confined self-determination claims to Europe and helped to expand imperialism in Africa and Asia.[[59]](#footnote-59) Second, the authoritarian ideology of the judicial, military and colonial administration broadly. Putting them in relation, we have to consider that the international duties of the Spanish Republic set up a different way of colonial rule (for example, without forced labour) in comparison with the monarchy, and that the same problem (conflicts between State apparatus and democratic innovations) appeared in other spheres in the heart of metropolis during republican years.[[60]](#footnote-60) Possibly, we can provide for some answers to this puzzle after studying the special application of law in Guinean colony. If colonial governmental administration absorbed judicial tasks, it had to elicit consequences from the legal appliance perspective.

 **5. Colonial rule implementation**

 In this section, I will look at the ways and the actors that in fact implemented the law in colonial Guinea. In the next pages I aim at making a two-fold contribution. On the one hand, I will present some information about substantive and procedural law. On the other hand, I will try to present some features and trends of the functioning of the colonial rule putting the focus of the analysis in the organs and agents that used to interpret the law and in broad the terms of Spanish dominance upon Equatorial Guinea and its multiplicity of peoples.

 On the substantive level, I will start with some remarks about law applicable to Guinea. This could be general law with specificities related to the right to pass and adapt laws which came from metropolitan organs, established in rules 6, 7 and 14 of the decree of 1931. Still, law applicable to Guinea was de facto totally exceptional. This question was subordinate to necessities of public order and the colonial *raison d’État* (rule 2). This primacy of the colonial enterprise was highlighted early, when the review of responsibilities for the policies of the dictatorship of Miguel Primo de Rivera (1923-1930) started at the outset of the republican democracy. For instance, the contract among the administration and the Company of West Africa for the maritime communications service in the Gulf of Guinea was audited. The Council of State detected certain infringements committed by the company, but it finally suggested not terminating the agreement in order to give precedence to colonial interests over all other considerations.[[61]](#footnote-61)

 From a procedural standpoint, although procedural rules in the colony would be the common rules, and although trials would before the public at the seat of the *Audiencia de Las Palmas*, the court of the popular jury never would have jurisdiction over any offence. One of the biggest reforms in justice referred to some popular justice institutions, such as the *juzgado municipal* (municipal, peace court), whose positions would be partially chosen by vote. The Republican Provisional Government introduced the institution of jury by peers after it was abolished by the monarchy, satisfying a popular demand. In my view, this made a monumental difference between metropolitan and colonial process within the same courts.[[62]](#footnote-62) At the same time, municipal courts were not appointed by popular suffrage in Guinea, such as it happened in the Spanish metropolis or in some French colonies since 1919.[[63]](#footnote-63) In Guinea, Black population was excluded from any political right, which blocked even minor transfers of power in their favour, even in the judicial arena.[[64]](#footnote-64)

 Rafael de Pina, a professor of procedural law who was firmly committed to republican values, asserted that civil and criminal procedural rules were the same in Guinea as in Spain, although he pointed out “slight variations”. [[65]](#footnote-65) He was being unjustifiably complacent. These variations were not as slight as he described. The case of the murder of the general-governor in Annobon (see above) shows that the colonial administration, and especially its *longa manus* actors, possessed several judicial competences on the ground with considerable degrees of autonomy regarding other authorities and republican regime. The *administrativeization* of judicial phenomena prevailed in the colony, of course with the complicity of judiciaries. These practices added more complexity to the exceptional regime of Guinea that I presented earlier. Probably, these special practices concerning the implementation of law were bound to the customary inertia of colonial law –Bartolomé Clavero[[66]](#footnote-66)–, or perhaps these features were associated to this material, unformal Constitution of “Spain in Guinea” –Carlos Petit[[67]](#footnote-67)–. In both of them the vast power of adaptation exercised by colonial authorities with regard to State law became paramount.

 What is certain is that we find evidence of this phenomenon of dissociation between written law and colonial reality, whereby colonial practices presented special characteristics that colonial law, in itself exceptional, did not always contemplate. Scholars often justified or minimized it, but it was useless to hide this phenomenon. Even Rafael de Pina’s writings serve as an example of the generalized knowledge of this reality.

 The lack of an indigenous jurisdiction in conjunction with the strength of judicial competences exercised by governmental authorities and officials had as a consequence the production of private relations and powers. As regards native population, there was a strong labour discipline with a severe system of punishment, including deprivation of liberty for offences committed in the field of work. Black manpower had no judicial protection against employers and their conceptions and assessments about diligence, loyalty or obedience. In contrast, the bulk of judicial posts –whether they were professional judges or officials doing judicial tasks– were inclined to protect colonial interests of exploitation. So was the case of the tutorship institutions, as I explained above.

 In the Gulf of Guinea, “stay in the barracks” was a labour punishment established by a norm that was enacted in 1906 for the first time, but amended and confirmed over and over in 1910 and 1920. The Republic did not approve any substantial reform of this until 1935,[[68]](#footnote-68) but it was clearly too late to consider that the Spanish Republic wanted to profoundly overhaul labour conditions in the colony. In fact, the Spanish Republic emulated her French counterpart. In the beginning, nearly all whites in West Africa had the privilege to inflict punishment on indigenous people in Spanish and in French dominions. Although the prerogative was later on limited to authorities, administrators and clerks, a French decree of 1924 provided for several causes in which punishment without a due process was allowed. Undoubtedly, appeal against injustice was repressed and considered as an infringement: “complaints or objections, knowingly incorrect, repeated in front of the same authority after a proper solution has been found”. Decrees from 1920 onwards punished the refusal or negligence to carry out forced labour, failure to give a colonial commander the military salute, dissemination of writings or speaking (but also songs, rumours, etc.) capable of disturbing public order, etc. A decree of the government-general in French Equatorial Africa approved in 18 December 1934 set out the penalty of five days in prison and pecuniary sanction to the following behaviour: “refusal or ill-will (...) in the establishment and/or upkeep of crops”.[[69]](#footnote-69) The survival of some native institutions in French protectorates and mandates hindered the colonial rule, but the situation was in Algeria very close to what I have just explained.[[70]](#footnote-70)

 So Spanish colonialism, even during its republican stage, ran parallel to the French Third Republic and other colonial powers of the interwar period. The “stay in the barracks” punishment sanctioned during five to twenty days to black workers who refused to work “without just cause”. Those workers who committed “stubborn disobedience” could be imprisoned from five to thirty days in Spanish Guinea. The same penalty was applied to native workers who were absent or moved “without permission from their employer”. Only labourers who committed insubordination with violence to people or property would be brought to organs of justice. Notwithstanding, the misfortune of getting involved with these courts did not forestall to be interned in the barracks from thirty to sixty days. An African worker who incited others comrades to abandon their post, either on his own farm or on another, would be imprisoned for forty five to ninety days without any judicial decision. As a dissuasive measure, complaints by indigenous people whose “falseness” and unjustified character were proved would also be sanctioned with fifteen to thirty days in the barracks. This clause definitely abrogated the right to appeal.

 With this information, a first, remarkable idea can be formulated at this point. The intervention of judiciaries was only established in the case of some –not all–aggressions over persons or things. This intervention would only occur by virtue of the criminal gravity of the action, so the criteria was the gravity of the damages. This requisite was used as an invitation to inhibition of the judiciaries. Moreover, judicial intervention did not prevent government agents or employers from administering their own punishment prior to such action and immediately after the offence.

 As we can see, “the stay in barrack” was a legal monstrosity for two reasons. Firstly, it was an exceptional and unregulated gaol system, that ignored the positive changes that were taking place on the constitutional territory, where a reformist like Victoria Kent came to head the General Directorate of Prisons among 1931 and 1932.[[71]](#footnote-71) In that sense, punishments manifested the vigorous state of private and domestic powers, according to an imperialist philosophy. Labour regulations and decrees of the governor-general criminalized native conducts in the context of a private justice system, disregarding regulations of the common criminal law. This special regime meant the absolute denial of labour law, criminal law and the essential pillars of the constitutional rule of law shaped by Constitution in 1931. The Republic updated such a brutal regime. Republicans in the power warranted the coexistence between colonial violence and constitutional development. This can be confirmed by reading the project of creating a system of identification for the black population, based on identification cards that echoed labour history in accordance with the previous private criminal pattern.[[72]](#footnote-72)

 Secondly, “the stay in barrack” was not only a masked imprisonment, but also a penalty for conducts unthinkable in a minimally coherent system of constitutional rule of law. It is possibly that some republicans assumed this heritage reluctantly, but it does not look like they were the majority. The Second Republic did not abolish extra-judicial penalties, which were imposed by employers or colonial administrative officials. This colonial vestige eroded the constitutional system, because “the stay in barrack” was simply the irregular imprisonment of manpower that was trying to exercise the freedom of work, the freedom to move, the right to industrial action or the right to demonstrate; in other words, constitutional rights. Despite the Popular Front Government in 1936 reinforcing the penalties for employers who imposed corporal punishment to indigenous workers –a good example of the survival of this custom–[[73]](#footnote-73), the criminal system continued unscathed.[[74]](#footnote-74)

 **6. Colonialism and constitutionalism face to face**

 In principle, Spanish colonies did not belong to the constitutional sphere. They were regulated by exceptional rules.[[75]](#footnote-75) The decree of 1931 established an exceptional but transitory regime for Guinea, and the Constitution enacted soon afterwards opted for the silence vis-à-vis colonial regime. This silence could have meant that colonialism was no longer an untouchable topic of discussion.[[76]](#footnote-76) However, those decree ended up being the basic, definitive and para-constitutional regulation for the Gulf of Guinea.[[77]](#footnote-77)

 The adaptation of the constitutional framework to the colonial interests was clear during the first biennium (1931-1933) of the Republic. That is to say, before the generalized militarization of the administration were carried out in the second biennium (1933-1936). This latter period profoundly deepened the traditional colonial exceptionality.[[78]](#footnote-78) However, the flow of unconstitutional and colonial logics to the detriment of the Spanish citizens was visible at all times. The reversal of organised forms and governor practices from colonies to metropolis was a general trend in all interwar Europe due to different contributory variables: “the decline of bourgeois democracy” and “the complacency” with regard to fascists methods inside the imperialist’s executives, as Jean Suret said.[[79]](#footnote-79)

 In Guinea there was a small group of Spaniards and all of them were dedicated to the colonial administration in some way. The settling was not considered safe until 1926.[[80]](#footnote-80) So unlike in Morocco, in Guinea there was no working-class movement, trade unions or anything similar. Spanish settlers belonged to the European staff in some way. A despotism grounded on military practices operated without any control that could formally moderate their acts. Since the European population was not asking for that control, such control did not exist.[[81]](#footnote-81) Despite this fact, Guinea and over all the island of Fernando Poo were used as a place of deportation by governments. That is why colonialism in West Africa impacted on the Constitutional State. As anarchists denounced, it happened because “the tropical lands of Guinea” were “outside any constitutional legality and [even] all sentimentality”. This kind of criticisms were prosecuted by police and punished by criminal courts in Spain under charges of insult to authority and provocation to rebellion.[[82]](#footnote-82)

 It is known that the colonial situation obliterated constitutional rights in Africa. Freedom of speech and freedom of the press were upended by colonialism in the constitutional territory as in the periphery of the colonial powers. The research in historical and judicial archives shows that citizens’ criticism against colonial administration from the apparent safety of the metropolis often clashed with criminal proceedings.[[83]](#footnote-83) The shielding of the colonial status involved the subtraction of a colonial fragment of the State from the validity of the Constitution. In turn, this implied the restriction of constitutional rights where the Constitution was in force. The judicial system tended to silence journalists and activists against colonial managements. As a result, a colonial model of governing and exerting force was protected and put ahead of constitutional rights.

 It is possible to illustrate this hierarchical relationship by studying the repression of the anarcho-syndicalism general strike that took place in January 1932 in the High Llobregat, in Barcelona province.[[84]](#footnote-84) In short, hundreds of trade unionists were arrested and deported to Guinea without due process owing to decisions of the national Government using disciplinary administrative powers that dated back to the pre-Republican period in Spain.[[85]](#footnote-85) The employers’ organization opposed this because they considered that the arrival of those “undesirable” Spaniards was endangering “indigenous discipline”. In their words, the Spanish Government must look after “the prestige of white race”, which was the only ingredient that fostered the obedience of 100.000 “blacks” to 200 “European settlers”. They argued that Guinea would become “a second Morocco” if African population came into contact with the arrested people. Also, colonialist representatives knew other arguments to persuade reformists of the Government. According to them, any type of public outcry could arouse “international claims”.[[86]](#footnote-86)

 The colonialist pressures over the Government fulfilled their ambitions. Landing of arrested unionists was repeatedly postponed. Meanwhile, a ship loaded with detainees was in the ocean. Many got sick and some died. An administrative sanction became a capital penalty. In this grave situation, the governor-general of Guinea supported the claims of the private powers of the colony. In consequence, he called into question the Government’s decision.[[87]](#footnote-87) The Spanish Government gave up. Finally, the landing took place in April in Villa Cisneros, in the coast of Western Sahara, where military jurisdiction was absolute and where there was barely any native population.[[88]](#footnote-88) The success of the colonialists was quite clear. In fact, new detainee shipments would end up making landfall in the same place in the future. For instance, that occurred with other anarchist detainees[[89]](#footnote-89) and with individuals involved in the monarchist *coup d’État* of 1932.[[90]](#footnote-90)

 The case above teaches us that private powers could dominate the colonial situation even during republican, constitutional years. The cost to this was the freedom, the health and sometimes the life of Spanish citizens because of their political and trade union activity. Institutionally, the republican Government saw how difficult would relationships with colonial authorities be, even with those who had been appointed by them.

 The colonial *prius* gave refuge to colonialism. This was basically a legacy situation, not a republican construction. For the sake of honesty, we have to remember that republican forces, although they did not want to leave the colony, did not want to maintain the colonial *status quo* either. Colonialism eroded the emancipatory potential of the constitutionalism at the same time that increased conservative and reactionary forces that were sheltered in the State apparatus. Colonial needs were the pretext for keeping the colonial situation intact and, from a certain point, for doing an assault on the metropolis from the colonies. The State of emergency, the colonial State powers, strangled the Constitutional State with its own hands through a genocide war for three years. If colonialism prolonged the life of military Africanism in the protectorate of Morocco, the special harshness, and in some way the colonial purity of Guinea, did not bear any different fruit.

 **7. Conclusions**

 The Spanish constitutional regime that had been unveiled in 1931 largely ignored the colonized peoples, alike the constitutional systems of interwar Europe and the international law system in general did in spite of the novel notion of “international responsibility” forged by the League of Nations in 1919.[[91]](#footnote-91) The social and democratic constitutionalism never stopped being colonial constitutionalism. It was one of the most dramatic bridges between old and new regimes in that moment. Paraphrasing Bartolomé Clavero, constitutionalism and colonialism were “two sides of the same coin”[[92]](#footnote-92). This nexus was evident in the article 7 of the Spanish Constitution, by which the constituted power was committed to the fulfilment of the international duties. Inside them, there was an uncompromising obligation: the maintenance of certain colonial politics.

 Most Spanish ruling parties and republican leaders cherished some type of colonialism, so those constitutional clauses served as a pretext for delusions of greatness of Spanish nationalists. Obviously, there were republican voices that devoted considerable attention to the problem of colonialism, proposing alternative visions on that. This was the case of Blas Infante Pérez, the leader of Andalusian nationalist movement. Infante argued that Andalusia, and all Spain with it, should treat the Muslims and the Jews of the North of Africa –not only Morocco– “as brothers” instead of “indigenous people”. His idea was that there was not a univocal and exclusive way to interpret and carry out international obligations, including the protectorates. Only the development of the scenario of colonial powers and the competition among imperialist Europeans could determine the specific meaning of international obligations in a sense or another.[[93]](#footnote-93) The Spanish republican respect to colonial balance in Africa, especially with regard to French imperialism, would have fatal consequences during the war against fascism.[[94]](#footnote-94)

 The Spanish Second Republic was not handcuffed by international law. But international law, and international influences too, did not encourage the Republic to change significantly the colonial legacy. The lack of a strong project in this field led to an increase in the importance of actively racist and discriminatory institutional behaviour patterns. The perpetuation of old-style logics of colonial domination refers to the problematic relationship between the inherited State apparatus and the republican horizon. This relationship can be defined in terms of internal sabotage by the former with respect to the latter. Colonial legacy was truly loath to constitutional system –which meant serious limitations to administrative and private powers, a brilliant bill of rights, etc.–, albeit interwar constitutionalism and its Spanish expression were not against colonialism. Republican colonialism confronted the traditional types of colonialism –such as that of the Africanist military[[95]](#footnote-95)–, but they shared certain commonalities which ending up playing a role against the constitutionalism.

1. This working paper is one of the results of my Visiting Fellowship at the Sheffield Centre for International and European Law, at the School of Law of the University of Sheffield. I want to thank primarily Dr. Pablo Castillo-Ortiz for his invaluable support, as well as the rest of staff of the institution. [↑](#footnote-ref-1)
2. Regarding British Empire: Bonny Ibhawoh, *Imperial Justice. Africans in Empire’s Court*, Oxford, Oxford University Press, 2013, pp. 15-16 and 185. [↑](#footnote-ref-2)
3. Eduardo González Calleja, *La razón de la fuerza. Orden público, subversión y violencia politica en la España de la Restauración (1875-1917)*, Madrid, CSIC, 1998, pp. 54-73. Also, by the same author, *El máuser y el sufragio. Orden público, subversión y violencia política en la crisis de la Restauración (1917-1931)*, Madrid, CSIC, 1999, pp. 278-291. [↑](#footnote-ref-3)
4. I devoted my doctoral thesis to this object of study. Rubén Pérez Trujillano, *Dimensión político-social de la justicia penal durante la Segunda República española (1931-1936)*, doctoral thesis, Sevilla, Universidad de Sevilla, 2019. It was guided by professors Bartolomé Clavero and Sebastián Martín, and received the maximum mark. [↑](#footnote-ref-4)
5. For example, a great, essential book recently published has devoted little space to the colonial issue, and generally concerning the Moroccan case. Eduardo González Calleja, Francisco Cobo Romero, Ana Martínez Rus y Francisco Sánchez Pérez, *La Segunda República española*, Madrid, Pasado & Presente, 2015. Similar is the case of a good work of critical synthesis, such as Ángel Luis López Villaverde, *La Segunda República (1931-1936). Las claves para la primera democracia española del siglo XX*, Madrid, Sílex, 2017. Also I basically evaded the topic in Rubén Pérez Trujillano, *Creación de Constitución, destrucción de Estado: la defensa extraordinaria de la II República española (1931-1936)*, Madrid, Dykinson, 2018. Available on line: <http://hdl.handle.net/10016/27108>. Recently, I have tried to make up for the situation with an article about institutionalized racism and colonialism inside judicial and legal discourses: Ídem., “Gitanos, moros y negros ante los tribunales: colonialismo y racismo institucional durante la Segunda República española (1931-1936)”, in *Historia Constitucional*, number 21, 2020, pp. 420-472. Available on line: <http://www.unioviedo.es/historiaconstitucional/index.php/historiaconstitucional/article/view/647>. [↑](#footnote-ref-5)
6. There is a classic book about Equatorial Guinea from an anthropological and historical perspective. But we cannot forget that its mentions to the interwar period and to Spanish republican years are too scarce. Gustau Nerín, *Guinea Ecuatorial, historia en blanco y negro*, Barcelona, Península, 1997, pp. 24, 35, 113, 121, etc. Afterwards, the same author published other book paying more attention to republican period, albeit he studied mainly the monarchical regime: Gustau Nerín, *La última selva de España. Antropófagos, misioneros y guardias civiles. Crónica de la conquista de los fang de la Guinea española. 1914-1930*, Madrid, Libros de la Catarata, 2010, pp. 271-277. Moreover, I would like to put forward an example of silence about the Spanish colonialism in one excellent book: Susan Pedersen, *The Guardians: The League of Nations and the Crisis of Empire*, Oxford, Oxford University Press, 2015. Finally, it is important to remember a good book about Spanish colonialism that unfortunately did not address what happened in the Gulf of Guinea: Christopher Schmidt-Nowara and John M. Nieto-Philips (ed.), *Interpreting Spanish Colonialism: Empires, Nations, and Legends*, Albuquerque, University of New Mexico Press, 2005. [↑](#footnote-ref-6)
7. At least as far as I know, recently four dissertations and doctoral thesis have been finished, or are nearly finished, about Spanish colonialism in Guinea. However, two of them are limited to Franco’s dictatorship or later, so their references to Republican period are limited. On the one hand, that is the case of Joanna Allan, *Silenced Resistance. Women, Dictatorships, and Genderwashing in Western Sahara and Equatorial Guinea*, Wisconsin, The University of Wisconsin Press, 2019. I would like to take this opportunity to honestly thank Allan for providing me with her complete doctoral document. On the other hand, there is a cultural study approach. It asserts the Republican years, but I will not make extensive use of its valuable discoveries owing to its non-legal perspective. María Agustina Monasterio Baldor, *Contribuciones de sangre: Subalternity, Post-Slavery and Necropolitics Between Cuba, Morocco and Spain (1868-1936)*, dissertation, New York, New York University, 2016. Avalaible on line: <https://www.academia.edu/26663668/Contribuciones_de_sangre_Subalternity_Post-Slavery_and_Necropolitics_Between_Cuba_Morocco_and_Spain_1868-1936_>. The third one is a doctoral thesis about Francoist dictatorship: Mayka de Castro Rodríguez, *Empatía y violencia. Perspectivas transdisciplinares para “leer” el pasado colonial español en Guinea Ecuatorial durante el siglo XX*, tesis doctoral, Granada, Universidad de Granada, 2020. I have read this thesis thanks to the generosity of the author. It is possible to know a previous dissertation and a further article by the same author: *El colonialismo franquista en Guinea Ecuatorial. Una lectura crítica en clave decolonial*, Granada, Universidad de Granada, 2013. Available on line: <http://hdl.handle.net/10481/51827>. “¿Anticolonialismo colonial? Crítica y blanquitud en la obra de Guillermo Cabanellas sobre la colonización de Guinea Ecuatorial”, *Journal of Spanish Cultural Studies*, number 21 (2), 2020, pp. 187-204. The last doctoral thesis I could mention is being elaborated by my peer José Luis Bibang with the guidance of academics Carlos Petit and Carlotta Latini (universities of Huelva, Spain, and Camerino, Italy). His research is especially focused on Republican colonialism, but nothing is still published, so I hope that this working paper will be constructive. [↑](#footnote-ref-7)
8. Just an example: Harold J. Laski, *El Estado en la teoría y en la práctica*, Editorial Revista de Derecho Privado, Madrid, 1936, translation by Vicente Herrero, pp. 153 and 204. [↑](#footnote-ref-8)
9. Decree ordering rules for the best government and administration of the Spanish territories of the Gulf of Guinea, *Gaceta de Madrid,* number 204, 23 July 1931, pp. 659-661. [↑](#footnote-ref-9)
10. Donato Ndongo-Bidyogo, *Historia y tragedia de Guinea Ecuatorial*, Madrid, Editorial Cambio, 1977, pp. 46-47. [↑](#footnote-ref-10)
11. Mayka de Castro Rodríguez, *Empatía y violencia*, *op. cit.*, p. 216. In a similar way, and before: Gustau Nerín, *La última selva de España*, *op. cit.*, 273-274. [↑](#footnote-ref-11)
12. I opt for traslating the Castilian word “base” as “rule” in order to distinguish it from “article”. [↑](#footnote-ref-12)
13. Jean Suret-Canale, *French Colonialism in Tropical Africa, 1900-1945*, London, C. Hurst & Company, 1971, pp. 72 and 307-309. [↑](#footnote-ref-13)
14. A good study about military, racist and indigenous features of the Colonial Guard during monarchical regime: Gustau Nerín, *La última selva de España*, *op. cit.*, pp. 57-61. [↑](#footnote-ref-14)
15. Decree answering questions about if individuals that forms the Colonial Guard of the Gulf of Guinea has the consideration of military force, *Gaceta de Madrid,* number 336, 1 December 1932, p. 1533. [↑](#footnote-ref-15)
16. Bonny Ibhawoh, *Imperial Justice*, *op. cit.*, p. 88. [↑](#footnote-ref-16)
17. Jean Suret-Canale, *French Colonialism in Tropical Africa*, *op. cit.*, pp. 334-335. A similar assert, but related to British dominance upon India: Mark Brown, *Penal Power and Colonial Rule*, New York, Routledge, 2014, pp. 169-174. [↑](#footnote-ref-17)
18. Martin Thomas, *The French Empire between the wars. Imperialism, politics and society*, Manchester-New York, Manchester University Press, 2005, pp. 75 and 79. [↑](#footnote-ref-18)
19. Fundación Pablo Iglesias, Archivo Julián Besteiro, box 241, file 9, letter to the citizen commissioner of the Republic in Bata (1932), pp. 8-11. [↑](#footnote-ref-19)
20. Gonzalo Álvarez Chillida and Eloy Martín Corrales, “Haciendo patria en África. España en Marruecos y en el golfo de Guinea”, in Javier Moreno Luzón y Xosé M. Núñez Seixas (coords.), *Ser españoles: imaginarios nacionalistas en el siglo XX*, Barcelona, RBA, 2013, pp. 399-432, especially pp. 420-421. [↑](#footnote-ref-20)
21. About judicial tasks developed by Colonial Guard with assistance of “traditional bosses” and the final supervision of the governor-general during the monarchy: Gustau Nerín, *La última selva de España*, *op. cit.*, pp. 58 and 137-139. [↑](#footnote-ref-21)
22. Sebastián Martín Martín, “Derechos y libertades en el constitucionalismo de la II República”, in Ana Martínez Rus and Raquel Sánchez García (coords.), *Las dos repúblicas en España*, Madrid, Editorial Pablo Iglesias, 2018, pp. 43-78. [↑](#footnote-ref-22)
23. Fundación Pablo Iglesias, Archivo Julián Besteiro, box 241, file 9, letter to the citizen commissioner of the Republic in Bata (1932), pp. 8-11. [↑](#footnote-ref-23)
24. Gustau Nerín, *La última selva de España*, *op. cit.*, pp. 138-139, 212-216 and 227-228. [↑](#footnote-ref-24)
25. “La leyenda negra contra España”, *África y América: revista política y comercial consagrada a la defensa de los intereses españoles en Marruecos, Costa del Sahara y Golfo de Guinea*, number 239, 1 August 1932, pp. 3236-3237. [↑](#footnote-ref-25)
26. Archivo del Congreso de los Diputados, box 671, file 1, Memoria sobre el proyecto de presupuestos de gastos e ingresos de las posesiones españolas del Golfo de Guinea para 1935, p. 8. [↑](#footnote-ref-26)
27. Alicia Campos Serrano, “El régimen colonial franquista en el Golfo de Guinea”, *Revista Jurídica Universidad Autónoma de Madrid*, number 3, 2000, pp. 79-108, see pp. 94-95. The malfunctioning of these courts would be permanent. Army officers who knew neither local rules nor Spanish law, presided over these courts more often than not. Gustau Nerín, *Guinea Ecuatorial, historia en blanco y negro*, *op. cit.*, pp. 200-201. Jesús Sánchez Azañedo, “La represión del bwiti en la Guinea española: el caso de Fernando Poo (1939-1962)”, *Éndoxa: Series Filosóficas*, number 37, 2016, pp. 363-383. [↑](#footnote-ref-27)
28. Gabriel Martínez de Aragón y Urbiztondo, *Memoria elevada al Gobierno de la República con motivo de la solemne apertura de los tribunales el día 15 de septiembre de 1932*, Madrid, Editorial Reus, 1932, p. 20. [↑](#footnote-ref-28)
29. Luis Jiménez de Asúa, *Manual de Derecho penal conforme al programa del tercer ejercicio de las oposiciones al cuerpo de aspirantes a la judicatura y de acuerdo con el programa de cátedra del autor*, vol. II, Madrid, Editorial Reus, 1933, pp. 245-246. Santiago Sentís Melendo, *Derecho procesal civil, criminal y organización judicial*, Madrid, Editorial Reus, 1934, pp. 175-176. [↑](#footnote-ref-29)
30. Jean Suret-Canale, *French Colonialism in Tropical Africa*, *op. cit.*, p. 331. Henri Grimal, *Decolonization. The British, French, Dutch and Belgian Empires 1919-1963*, London-Henley, Routledge & Kegan Paul, 1978, p. 61. Martin Thomas, *The French Empire between the wars*, *op. cit.*, pp. 56-60 and 83. [↑](#footnote-ref-30)
31. *Les Cahiers des Droits de l’Homme* (Paris), 10 June 1928, p. 8. [↑](#footnote-ref-31)
32. Bartolomé Clavero, *Derecho indígena y cultura constitucional en América*, México D. F., Siglo XXI, 1994, pp. 5-19. [↑](#footnote-ref-32)
33. Some news about that situation: “La situación de la Guinea Española”, *África y América: revista política y comercial consagrada a la defensa de los intereses españoles en Marruecos, Costa del Sahara y Golfo de Guinea*, number 241/242, 1 October 1932, p. 3262. [↑](#footnote-ref-33)
34. Enrique Martino Martín, “Corrupción y contrabando: funcionarios españoles y traficantes en la economía de Fernando Poo (1936-1968)”, *Ayer*, number 109, 2018 (1), pp. 169-195, see pp. 177-180. [↑](#footnote-ref-34)
35. Quote in Mayca de Castro Rodríguez, *El colonialismo franquista en Guinea Ecuatorial*, *op. cit.*,pp. 26 and 44. More in depth, about tasks developed by the Curatorship and the Patronat: Alicia Campos Serrano, “Colonia, derecho y territorio en el Golfo de Guinea: tensiones del colonialismo español en el siglo XX”, *Quaderni fiorentini per la storia del pensiero giuridico moderno*, vol. 33/34, number 2, 2004/2005, pp. 865-898, see pp. 879-880 and 886-888. [↑](#footnote-ref-35)
36. Real order approving the Estatute about the Patronat of Indians, *Gaceta de Madrid,* number 204, 22 July 1928, pp. 425-431. The status of “emancipated indigenous people” looked like the status of “*indigènes d’élite*” in Congo, “a distinct socio-legal category” in favour of native chiefs and intermediaries. It was a “preferential legal status” that played a role functional to colonial domination, “but not full citizenship”. See Martin Thomas, *The French Empire between the wars*, *op. cit.*, p. 56. It can be note a similar racist categorization consisting of three groups (“colonial citizens”, “indigenous people” and “assimilated people”) in Portuguese Mozambique since 1929: Boaventura de Sousa Santos, *Sociología jurídica crítica. Para un nuevo sentido común en el derecho*, Madrid, ILSA-Trotta, 2009, p. 279. [↑](#footnote-ref-36)
37. Carlos Garriga, “¿Cómo escribir una historia ‘descolonizada’ del derecho en América latina?”, in Jesús Vallejo and Sebastián Martín (coords.), *En Antídora. Homenaje a Bartolomé Clavero*, Cizur Menor, Aranzadi, 2019, pp. 325-376, see p. 356. [↑](#footnote-ref-37)
38. About judicial activities inside the “republics of Indians” in Latin America, but also before metropolitan courts: *ibíd*., pp. 361 and 364. [↑](#footnote-ref-38)
39. Bartolomé Clavero, “¡Libraos de Ultramaria! El fruto podrido de Cádiz”, in José María Portillo and José María Iñurritegui Rodríguez (eds.), *Constitución en España: orígenes y destinos*, Madrid, Centro de Estudios Políticos y Constitucionales, 1998, pp. 109-137, see pp. 124 and 126. [↑](#footnote-ref-39)
40. Jean Suret-Canale, *French Colonialism in Tropical Africa*, *op. cit.*, p. 348. [↑](#footnote-ref-40)
41. Henri Grimal, *Decolonization*, *op. cit.*, p. 63. [↑](#footnote-ref-41)
42. Elizabeth A. Foster, *Faith in Empire. Religion, politics, and colonial rule in French Senegal, 1880-1940*, Stanford, Stanford University Press, 2013, p. 145. [↑](#footnote-ref-42)
43. Partha Chatterjee, *The Black Hole of Empire. History of a Global Practice of Power*, Princeton-Oxford, Princeton University Press, 2012, pp. 153 and 155. [↑](#footnote-ref-43)
44. Josep Fontana, “Capitalismo y esclavitud”, in Jesús Vallejo and Sebastián Martín (coords.), *En Antídora. Homenaje a Bartolomé Clavero*, Cizur Menor, Aranzadi, 2019, pp. 319-323. [↑](#footnote-ref-44)
45. For example, see the reminder of the State Council in file number 20.279, tackled in the extraordinary session of 2 February 1935. Archivo del Consejo de Estado, Libro de Actas de la Comisión Permanente, 1934-1935, p. 135. [↑](#footnote-ref-45)
46. Anthony D. Smith, *State and Nation in the Third World. The Western State and African Nationalism*, Sussex, Wheatsheaf, 1983, pp. 27-28. [↑](#footnote-ref-46)
47. It is possible to read the real order of 27 July 1903 in Agustín Miranda Junco, *Leyes coloniales*, Madrid, Sucesores de Rivadeneyra, 1945, pp. 246-247. [↑](#footnote-ref-47)
48. Fundación Pablo Iglesias, Archivo Julián Besteiro, box 241, file 9, letters dated in 1 January 1932 and 19 February 1932 from the president of the Agricultural and Forestry Official Chamber from Continental Spanish Guinea, Francisco Padrón Melián, to the president of the Spanish Republican Parliament, pp. 17-18. [↑](#footnote-ref-48)
49. With regards to forced recruitments, see the chilling story: *ibíd*., Exposition that the Agricultural and Forestry Official Chamber from Continental Spanish Guinea amount to Prime Minister of the Spanish Republic (14 October 1931), pp. 2-3 vº. [↑](#footnote-ref-49)
50. Archivo del Congreso de los Diputados, file 671, document 1, p. 8. [↑](#footnote-ref-50)
51. Archivo Histórico Nacional, contemporary funds, High Court, special processes section, reserved, file 10, cassation appeal number 675/1934. This case has been studied by Gustau Nerín Abad, “Socialismo utópico y tiranía: la isla de Annobón bajo el cabo Restituto García (1931-1932)”, *Afro-Hispanic Review*, number 28 (2), 2009, pp. 311-330. [↑](#footnote-ref-51)
52. See the reserved vote signed in 12 July 1934 by magistrates Gonzalo F. de Castro and Francisco González Palomino. [↑](#footnote-ref-52)
53. Sentence by *Audiencia provincial de Las Palmas* number 131 (11 July 1934). Third reasoning. It is located in the Archivo Histórico Nacional, as it was detailed in previous notes. [↑](#footnote-ref-53)
54. Gustau Nerín, *La última selva de España*, *op. cit.*, pp. 263-264. [↑](#footnote-ref-54)
55. Archivo Histórico Nacional, Governmental Ministery fund, A serie, box 18/2, file 12, number 10, telegram number 1309 from civil governor of Santa Cruz de Tenerife to the minister of Government (30 March 1932). [↑](#footnote-ref-55)
56. I refer to Enrique Martino Martín, “Corrupción y contrabando: funcionarios españoles y traficantes en la economía de Fernando Poo (1936-1968)”, *op. cit.*, p. 195. On investigations by the League of Nations: Jonathan Derrick, *Africa’s ‘Agitators’. Militant Anti-Colonialism in Africa and the West, 1918-1939*, London, Hurst & Company, 2008, pp. 215-216. [↑](#footnote-ref-56)
57. *Diario de sesiones de las Cortes Constituyentes*, number 83, 1 December 1931, p. 2755. [↑](#footnote-ref-57)
58. María Agustina Monasterio Baldor, *Contribuciones de sangre, op. cit.*, pp. 286-287 and 294. [↑](#footnote-ref-58)
59. Mark Mazower, *No Enchanted Palace. The End of Empire and the Ideological Origins of the United Nations*, Princeton-Oxford, Princeton University Press, 2009, pp. 23, 81-83 and 104-105. Bartolomé Clavero, *Derecho global: por una historia verosímil de los derechos humanos*, Madrid, Trotta, 2014, p. 226. [↑](#footnote-ref-59)
60. The well-known military case must be noted, but together with two more examples: one related to judiciaries and another about legal thought and official legal advisors. Related to the former: Francisco Espinosa Maestre, *La justicia de Queipo. Violencia selectiva y terror fascista en la II División en 1936: Sevilla, Huelva, Cádiz, Córdoba, Málaga y Badajoz*, Barcelona, Crítica, 2006, pp. 17-37. With regards to the second: Rubén Pérez Trujillano, “Cuando la República llegó, la justicia ya estaba allí. Notas para el estudio del poder judicial en la España contemporánea”, *Jueces para la democracia. Información y debate*, number 97, April 2020, pp. 90-108. Regarding the latter, I must mention three elemental works. Federico Fernández-Crehuet, *El Leviathan franquista. Notas sobre la teoría del Estado bajo la Dictadura*, Granada, Comares, 2017. Sebastián Martín, “Modernización doctrinal, compromiso técnico, desafección política. Los juristas ante la Segunda República”, in Luis I. Gordillo Pérez, Sebastián Martín and Víctor J. Vázquez Alonso (dirs.), *Constitución de 1931: estudios jurídicos sobre el momento republicano español*, Madrid, Marcial Pons, 2017, pp. 45-75. Daniel J. García López, *La máquina teo-antropo-legal. La persona en la teoría jurídica franquista*, Madrid, Universidad Carlos III de Madrid-Dykinson, 2020. [↑](#footnote-ref-60)
61. I base this on session of 18 December 1931. Archivo del Consejo de Estado, Libro de Actas de la Comisión Permanente, 1930-1932, p. 288. Preston has studied corruption like that in the Spanish protectorate of Morocco. See Paul Preston, *Un pueblo traicionado. España de 1874 a nuestros días: corrupción, incompetencia política y división social*, Madrid, Debate, 2019, translation by Jordi Ainaud, pp. 156-158 and 164-165. [↑](#footnote-ref-61)
62. An aseptic exposure: Rafael de Pina, *Manual de Derecho procesal penal*, Madrid, Editorial Reus, 1934, p. 368. [↑](#footnote-ref-62)
63. Although Muslims’ participation in municipal courts of Algeria remained discriminatory criteria: Martin Thomas, *The French Empire between the wars*, *op. cit.*, pp. 59 and 71. [↑](#footnote-ref-63)
64. Order from the General Direction of Morocco and Colonies appointing José Monche García as a municipal judge to Continental Guinea, *Gaceta de Madrid,* number 220, 7 August 1932, p. 1022. For the second, conservative biennium of the Republic: order appointing Julián Cortés Ossorio, *ibídem*, number 37, 6 February 1935, p. 1101. [↑](#footnote-ref-64)
65. Rafael de Pina, *Manual de Derecho procesal penal*, *op. cit.*, p. 368. [↑](#footnote-ref-65)
66. Bartolomé Clavero, “Bioko, 1837-1876: constitucionalismo de Europa en África, derecho internacional consuetudinario del trabajo mediante”, *Quaderni fiorentini per la storia del pensiero giuridico moderno*, vol. 35, number 1, 2006, pp. 429-556. [↑](#footnote-ref-66)
67. Carlos Petit, “*Detrimentum Rei Publicae*. Constitución de España en Guinea”, in José María Portillo and José María Iñurritegui Rodríguez (eds.), *Constitución en España: orígenes y destinos*, Madrid, Centro de Estudios Políticos y Constitucionales, 1998, pp. 425-494. [↑](#footnote-ref-67)
68. Agustín Miranda Junco, *Leyes coloniales*, *op. cit.*, pp. 205-210 to see the regulation of 1906 (articles 70-74), pp. 392-397 to its reform by decree of 27 July 1913 and pp. 925-927 to one decree more of 12 February 1935. Quotes are in the second decree. [↑](#footnote-ref-68)
69. Jean Suret-Canale, *French Colonialism in Tropical Africa*, *op. cit.*, pp. 331-332. Testimonies of forced labour in West Africa under French domination during interwar period: Elizabeth A. Foster, *Faith in Empire*, *op. cit.*, p. 165. [↑](#footnote-ref-69)
70. Martin Thomas, *The French Empire between the wars*, *op. cit.*, p. 56. [↑](#footnote-ref-70)
71. Luis Gargallo Vaamonde, *Desarrollo y destrucción del sistema liberal de prisiones en España. De la Restauración a la guerra civil*, Albacete, Universidad de Castilla-La Mancha, 2016, pp. 235-263. [↑](#footnote-ref-71)
72. Archivo General de la Administración, Spanish Administration in Africa funds, box 81/8156, G-1887, document 6. [↑](#footnote-ref-72)
73. Agustín Miranda Junco, *Leyes coloniales*, *op. cit.*, pp. 990-991 on *ordenanza* of 28 June 1936 by governor-general. [↑](#footnote-ref-73)
74. We have interesting references about labour forced in Spanish Guinea during 1931-1936 period in Enrique Martino Martín, “*Corrupción y contrabando: funcionarios españoles y traficantes en la economía de Fernando Poo (1936-1968)*”, *op. cit.* [↑](#footnote-ref-74)
75. For Equatorial Guinea: Sebastián Martín and José María Portillo, “Derecho internacional y colonialismo desde la Paz de Westfalia hasta la I Guerra Mundial”, in Marta Lorente and Jesús Vallejo (coords.), *Manual de historia del derecho*, Valencia, Tirant lo Blanch, 2012, pp. 485-526, see p. 522. [↑](#footnote-ref-75)
76. Rubén Pérez Trujillano, *Creación de Constitución, destrucción de Estado*, *op. cit.*, pp. 46-47. [↑](#footnote-ref-76)
77. The same artful absence took place with the special regime of French colonies from 1854 to 1954: Jean Suret-Canale, *French Colonialism in Tropical Africa*, *op. cit.*, p. 71. [↑](#footnote-ref-77)
78. Rubén Pérez Trujillano, *Creación de Constitución, destrucción de Estado*, *op. cit.*, pp. 250-297. [↑](#footnote-ref-78)
79. Jean Suret-Canale, *French Colonialism in Tropical Africa*, *op. cit.*, p. 307. [↑](#footnote-ref-79)
80. Luis Ángel Sánchez Gómez, “África en Sevilla: la exhibición colonial de la Exposición Iberoamericana de 1929”, *Hispania. Revista Española de Historia*, 2006, vol. LXVI, number 224, pp. 1045-1082, see pp. 1065-1067. [↑](#footnote-ref-80)
81. In that sense, Spanish Guinea was similar to French Tropical Africa: Jean Suret-Canale, *French Colonialism in Tropical Africa*, *op. cit.*, p. 73. [↑](#footnote-ref-81)
82. See the sentence dicted by the *Audiencia provincial de Barcelona* in 23 June 1933. Arxiu Central del Tribunal Superior de Justicia de Catalunya, Audiencia provincial de Barcelona funds, Libro de sentencias de 1933, vol. 4, number 161. [↑](#footnote-ref-82)
83. Sentence of the same tribunal, 18 January 1934. Arxiu Central del Tribunal Superior de Justicia de Catalunya, Audiencia provincial de Barcelona funds, Libro de sentencias de 1934, vol. 1, number 164. [↑](#footnote-ref-83)
84. To see some historials of these strikers: Arxiu Nacional de Catalunya, Generalitat de Catalunya funds, box 9488. [↑](#footnote-ref-84)
85. Guinea had been used as a penal colony for Cuban detainees in XIX century. Gustau Nerín, *La última selva de España*, *op. cit.*, p. 187. [↑](#footnote-ref-85)
86. Archivo Histórico Nacional, Governmental Ministery fund, A serie, box 18/2, file 9, number 1, telegram number 694 by the Agricultural and Forestry Official Chamber for Continental Guinea to the Minister for Security (17 February 1932). [↑](#footnote-ref-86)
87. *Ibíd*., telegram number 227 by the governor-general of Guinea to the minister (7 March 1932). [↑](#footnote-ref-87)
88. *Ibíd*., telegram number 1294 by the chief of the ship *Buenos Aires* to the minister (30 March 1932) and telegram number 103 by the governor of Villa Cisneros to the minister (3 April 1932). [↑](#footnote-ref-88)
89. Sentence by the Audiencia provincial de Barcelona of 25 January 1933. Arxiu Central del Tribunal Superior de Justicia de Catalunya, Audiencia provincial de Barcelona funds, Libro de sentencias de 1933, vol. 1, number 158. [↑](#footnote-ref-89)
90. “145 deportados a África”, *Gaceta Jurídica de Guerra y Marina* (Madrid), August 1932, pp. 137-138. [↑](#footnote-ref-90)
91. In that sense, the task of the League and its Permanent Commission “was extremely unobtrusive”. Henri Grimal, *Decolonization*, *op. cit.*, p. 16. [↑](#footnote-ref-91)
92. Bartolomé Clavero, “Derecho bajo asedio, 1936-1939. República española y Sociedad de Naciones en el escenario europeo entre constitucionalismo y dictadura”, *Quaderni fiorentini per la storia del pensiero giuridico moderno*, vol. 47, number 1, 2018, pp. 257-315, quote in p. 276. [↑](#footnote-ref-92)
93. Centro de Estudios Andaluces, Archivo de Blas Infante, Criterio de la Junta Liberalista sobre el problema de Marruecos (193?), p. 5. I reflected on relationships between Andalusian nationalism, republicanism and colonialism in Rubén Pérez Trujillano, “A propósito de Blas Infante. Un debate con Bartolomé Clavero”, *Pasos a la Izquierda*, number 15, 2019. Available on line: <https://pasosalaizquierda.com/a-proposito-de-blas-infante-un-debate-con-bartolome-clavero/>. [↑](#footnote-ref-93)
94. Jonathan Derrick, *Africa’s ‘Agitators’*, *op. cit.*, pp. 364-365. [↑](#footnote-ref-94)
95. Regarding enmities and similarities between republican colonialism and Africanist colonialism: Gustau Nerín, *La guerra que vino de África*, Barcelona, Crítica, 2005, especially pp. 82-86 and 101-103. [↑](#footnote-ref-95)