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**DESTROYING THE COMMONS: THE ENCLOSURE
LANDS IN SPAIN IN THE “ANCIEN RÉGIME”**

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Abstract

The surface of common lands in Spain reduced considerably during the Ancien Régime. Its evolution was extraordinarily diverse, although their privatization and enclosure, the last step of this process, took place in extensive area of the country long before the decree of the laws that consecrated absolute property rights in the 19th c. However, in spite of the great interest with which Spanish historians have studied agrarian modernization, the role of enclosures has been scarcely analyzed. The informal and improvised nature of this phenomenon can explain, in some cases, the scarcity of research on this topic. It was not helpful, either, the adaptation of the classical English or French models. The initial disadvantage can nowadays be considered as an opportunity for new studies, if the profound criticism of these models during the last decade is taken into account (Allen, 1992; Congost, 2003). This criticism also reached the “naive theory of property rights,” based in the identification between the precise definition of property rights and the efficient resource allocation.

In Spain the English model of enclosed great property has been applied to Southern agriculture since the 18th c., especially to the large Andalusian estate, although obviously not without encountering serious problems (Pérez, 2006). However, the similarities between the regimes of land possession in the Cantabrian area or in Catalonia with the neighbouring nation, have been the fundamental reason why the French case has been more used in these zones, not without evident contradictions either (Congost, 2003). In order to reach a complete vision of the subject, the theoretical conception of contemporaries have to be approached first, to then consider the practices of enclosure that from the Middle Ages begin to be extended to certain zones of Spain, making special emphasis in the Catalonian and Andalusian examples.

Enclosure: theoretical models and their applications

Classic interpretations of agrarian modernization established a close relationship between the destruction of commons, enclosure, and economic growth. The "naive theory of property rights" defined with more precision that model: for reasons of efficiency, private and enclosed property tends to replace collective property when, in a situation of a relative resource scarcity, the increase in the value of the land coincides necessarily with a reduction of transaction costs¹.

The two models of reference were English and French agriculture at the turn of the 18th c, and both had a strong influence in the characterization of the process of agrarian modernization in Spain. In the English case, "Agrarian Revolution" was based on the application of a set of technical innovations and on the definition of property rights promoted by the English government in the 18th c at the request of great landowners (Enclosure Acts). France, however, presented a classic type of "peasant agriculture," that of small and medium producers, which combined in a not very efficient manner useful property and eminent domain. French Revolution favoured, however, "absolute property," as it eliminated any vestige of feudal rights. Nevertheless, during the two last decades, discussion of both models has opened an ample field of controversy, including the characterization of the "Agrarian Revolution". For one thing, because in no way French or English agrarian structures respond to just one evolution pattern. In addition, from a social point of view, the works of J. M. Neeson (1993), and P. Thompson (1993) or, moreover, R. C. Allen (1992, 1999, 2002) have maintained a very critical point of view on the negative effects on the commoners, while they limit considerably its alleged economic benefits. Allen analyzed first the long term phenomenon, and concluded that agrarian modernization was a gradual process and not related directly to the Enclosure Acts. His interpretation of enclosure has revived again the interest in this topic².

The refusal to accept a linear and progressive model of property rights and, specially, one based exclusively on a legal or State point of view, mainly in the French case, has been put in evidence by R. Congost (2000, 2003) or G. Beaur (2002). Their works underline the multiplicity of rights that weighed on the land and which did not disappear automatically with the liberal legislations and, conversely, the early character

¹. (Dahlman, 1980: 72-92).

². (Mingay, 1998: 148). Vid. also Pérez (1997: 257-258).

of certain practices that consecrated absolute property long before the 19th c. Anyway, most of the specialists agree in the great complexity of enclosure practices³.

In Spain, as it has been pointed out, the English model of enclosed great property has been applied to Southern agriculture since the 18th c., especially to the large Andalusian estate, although obviously not without encountering serious problems (Pérez, 2006). However, the similarities between the regimes of land possession in the Cantabrian area or in Catalonia with the neighbouring nation, have been the fundamental reason why the French case has been more used in these zones, not without evident contradictions either (Congost, 2003). In order to reach a complete vision of the subject, the theoretical conception of contemporaries have to be approached first, to then consider the practices of enclosure that from the Middle Ages begin to be extended to certain zones of Spain, making special emphasis in the Catalanian and Andalusian examples.

A theoretical approach to enclosures: the attitude of the Spanish *Ilustrés*⁴.

The right to use private property to graze livestock on the grain stubbles left after the crops had been harvested (the “*derrota de mieses*” or “common of shack”) was a traditional practice, sanctioned and regulated by privileges, municipal ordinances and royal dispositions. It generally implied the division of the arable land in two or more parts that were cultivated in alternation, so that every year there was always left a fallow zone that provided cattle with pasture. This old use had a rationality in the societies of the past, that of integrating farming and cattle raising, in order to fertilize the fields without any cost and to facilitate the pasturing there where excessive land fragmentation of agricultural exploitations made it difficult⁵.

What characterized property in the Ancien Régime was precisely the diversity of property rights and land use⁶. Sowing was an individual right; the *derrota de mieses* mentioned above, harvesting of wild fruits and herbs, hunting, fishing, etc. were communal rights; the right to pick the fruits of trees (*vuelo*), frequently, was the right of

³. (Dahlman, 1980: 160; Mingay, 1998: 158).

⁴. Vid. Sánchez (2006).

⁵. Vid. Sánchez (2002b: 83). For Andalucía López (2006).

⁶. (Grossi, 1992: 76-77, 85-86, 93-95, 108-109; Iriarte-Lana, 2006).

someone different from the landowner (*suelo*), the division of eminent and useful property was the dominant reality in some areas. Lands, even some enclosed ones, had to be open in order not to prevent the exercise of communal use.

But this concept of property was already experiencing a change in Castile in practice in the 12th c. (García Fernández, 1965). However, from a theoretical point of view, we have to wait until the 16th c and intellectuals such as Castillo de Bobadilla, although the real advancement in ideas on enclosure is only evident in the 18th c⁷.

The *Ilustrés*⁸ defended that the products of the land were the result of the effort and work of its labourers and, therefore, part of property⁹. For this reason, landowners or tenants had to profit from everything produced and should enjoy the freedom to use and cultivate the land. They only recognized the right of the landowner and demanded from the government legislation that allowed proprietors and tenants to enclose lands and suppress practices of communal use such as the *derrota de mieses*. They argued the following reasons:

1. Legal: those practices were a limitation to the individual property right. For Cicilia Coello and Jovellanos, any use of the land granted against the will of the landowner constituted usurpation, since it deprived labourers from a part of their effort (usually pasture). Campomanes considered that it was an abuse that cattle raisers, without any labour land could profit of fallows and stubbles for free. Cattle owners, for Sisternes y Feliu, had the obligation to rent the pasture. Considering communal rights as an appropriation had to facilitate their abolition without any right to compensation.

2. Economic: The *derrota de mieses* was an obstacle for agrarian growth. It did not stimulate proprietors or tenants to labour the land further, to look for more suitable seeds and more productive plants, to alternate harvests, to extend irrigated land areas and to make a better use of stubbles and dung.

⁷. “para el premio y socorro de las necesidades humanas es necesaria la propiedad de las cosas...nunca vi concordia sino donde todas las cosas están en señorío particular, porque cada cual defiende su capa: que donde son concejiles, allí está la codicia para usurparlas, y allí la discordia para apropiarlas: porque lo que es común e indiviso, mueve y excita discordias” say Castillo de Bobadilla (Tomás y Valiente, 1982: 216-217).

⁸. We take in to account especially Floridablanca y Campomanes (Memorial Ajustado, 1771); Olavide (Carande, 1956: 357-462); Cicilia Coello (1780: t. I, 197-253); M. Sisternes y Feliu (1786); L. M. Pereyra (1788); G. M. de Jovellanos (1795). Vid. also Lage (1977: 149-332) and Sánchez (2002b: 81-120).

⁹. Only Floridablanca accepted the right of commoners to graze in private property. That is why, in spite of being in favour of enclosure, he thought that whoever enclosed his lands had to have gates (*portillos*) to allow the *derrota de mieses*.

3. Social: The *Ilustrés* shared the idea that what was common really belonged to no one, making land more barren, that is, the overlapping of rights of use generated inefficiency. For Jovellanos, keeping a practice such as the *derrota de mieses* or others (looking for grain left in the fields after the harvest -*rebusca, espigueo*-, finding pannage for pigs, cut brushwood for fuel, gather berries or medicinal herbs) could only be useful to keep the herds of other people, idle people and vagabonds. They did not take into account that those practices were essential for the subsistence of the humblest families.

The English Agrarian model has exercised a powerful influence on the *Ilustrés*. For them, the triumph of individual and exclusive property, that of the enclosures, was the cause of English economic growth. Spain had to emulate this and other European countries, even if they had the model of cities in Spain such as Jerez de la Frontera, where an absolute property model had been in use long ago. Only Campomanes took into account the necessity to respect certain servitudes essential to transhumance, such as herders' paths (*cañadas*) and the access to troughs, which meant a limit to private property right.

In fact, the relationship between great property and enclosure in Great Britain was not shared by all agrarian *Ilustrés*. Jovellanos and even Olavide professed a great admiration towards small property. For Jovellanos, who considered the structure of property in the Basque Country the most productive one, there is a necessary incompatibility between great property and efficient exploitation¹⁰. The knowledge of Andalusian agriculture makes Olavide dismiss that this relation is always a necessary one, even though in general terms he considers "the extension of Andalusian latifondos the cause that no one could labour the land properly"¹¹. "Even more, when he wants to persuade his readers of the advantages of enclosure, he insists on the English case, granted that later he includes among the "cultivated nations" France, Switzerland and Holland¹².

¹⁰. Although the great state system was "débil e imperfecto" and "la cultura inmensa, cual es, por ejemplo, la de gran parte de Andalucía, es siempre mala y ruinosa" in another place he takes care to relate size with the physical environment, and thus he states "Se reprueba la gran cultura, no la mucha" o "estoy por las pequeñas (suertes): pero hay países que no las permiten en sentido absoluto" (Varela, 1988: 132). See also the commentaries of Perdices (1995).

¹¹. (Perdices, 1992: 112, 179-247).

¹². (Carande, 1956: 30, 38).

Sisternes y Feliu and Jovellanos considered that the faculty to enclose land arose from property right. For Jovellanos, enclosure was not something new in Spain. In the prosperous areas where they had lived (Catalonia and Valencia), it was usual that peasants enclosed their lands. That is why it was surprising to them that anyone could question that authority to enclose on the part of the landowner.

Obviously, for the *Illustrés*, exclusive individual property was the most efficient from an economic point of view. According to Jovellanos, only the exclusive use of the land on the part of the owner or the tenants could offer “attractiveness to the individual interest and a stimulus to the activity of that very interest” to improve the land, and thus to obtain more abundant harvest and cattle. They established that a more precise definition of property rights would promote economic growth, thus foreshadowing the New Institutional Economy formulation of the theory of property rights¹³. Agrarian progress was then the alibi that justified fences, since they would promote whatever measure that prevented the *derrota de mieses*.

The 18th c intellectuals had an influence, albeit a moderate one, on the legislation on enclosure. The only law that was promulgated to be applied all over Spain was the Royal Disposition (Cédula Real) of June 15 1782¹⁴. It was of a restricted nature, since it only allowed landowners and tenants to enclose certain lands: permanently, those with grapevines, olive and fruit trees, as well as orchards with vegetables, while mountain land with wild trees could only be enclosed temporarily, for 20 years. The aim of this law was the promotion of these crops and to avoid expenses and delays arising from having to ask for permission to enclose to the Council of Castile.

The fact that a law that suddenly made a change in the way cattle was sustained for centuries had to arouse rejection not only on the part of cattle raisers but also on that of the most humble sectors of rural society that had benefited from communal uses, bound to disappear. For this reason, rulers were cautious, as suggested by Olavide and Cicilia Coello, for whom “prudence and equity” made advisable to avoid as much as possible “all damage, violence.” Violence would be the result of resistance to the process of expropriation on the part of all of those who had had rights to private lands.

Theories on enclosure, as stated by Pellicer (2006) were absolutely timely, they gave naturalization to a process that was indeed very early in Spain. Absolute property

¹³. (North-Thomas, 1977: 229-241; 1987). Vid. also F. Toboso (1996).

¹⁴. Vid. Sánchez (2006).

was the one that had prevailed in some areas before that laws sanctioned it. In the words of Fontana (2002), the definition of property rights is the result of concrete actions, conflicts and agreements between the different groups in rural society, with varied results. These received legal sanction when their importance demanded their redefinition or when it became necessary to defend what had been obtained against those who contested.

Enclosures in practice¹⁵

As it was acknowledged by some of these intellectuals, enclosures were common practices in the Spanish field long before the 19th c and, in addition, they were present in great part of the Spanish Peninsula. In spite of that evidence, modern research on this topic is scarce. J. García Fernández (1965) was the first author to call attention to the contrast between two different landscapes in Old Castile: the West, dominated by enclosure, and the East and Centre, where open fields were predominant. Enclosures, dating from the 12th c, in some cases had the purpose of confirming the property right of the owner, and in others that of improving the exploitation of the soil, either to cultivate more intensively the land or to extend the pasture surface and the livestock.

In Castile, the Crown policy of promoting open fields since the Middle Ages not only wanted to favour local communal practices, but the protection of a powerful transhumant cattle raisers association, the *Mesta*. However, the contradictory attitude of the Crown and the strong pressure exercised by the local aristocracy was to be the germ of early enclosing initiatives. Communal and individual property rights were defended against the privileges of the *Mesta*. F. Marín (1987) and J. López-Salazar (1987) have analyzed the conflicts between the *Mesta* and both private owners and councils in the 16th and the 17th c. These enclosed open fields, created new enclosed grazing meadows (*dehesas*) and imposed penalties on *Mesta* herds. And sometimes they were able to do this with the legal support of the Crown, promoting the enclosure of some fields by granting numerous licences at the end of the 16th c so that taxes (“*millones*”) from tenants could be collected.

Besides, the tendency to temporally enclose grazing meadows was indirectly favoured by the *Mesta*, since it was a common practice to rent for their herds summer

¹⁵. A version *in extenso* of this part in Sánchez-Pérez (2006)

pasture (*agostaderos*) in enclosed fields. This fact has been confirmed in the fields of Soria by M. Diago (1994) and E. Pérez Romero (1995).

Further South, in Extremadura and Granada, where the *Mesta* herds went, there were also conflicts with authorities and local landowners in the 18th c that had as a result in some cases the enclosure of estates (Sánchez, 2002a, 2002c, 2003). In Granada, the *Mesta* was supported by a 15th c legislation that allowed free access to grazing fields. It encountered the open opposition of Councils such as the one of Lobres and of large estate owners. They were also the large estate owners the ones to find in the Royal Disposition of June 15 1778 support to enclose their lands in Extremadura. In this case, they were cattle raisers that wanted to give an end to communal use of their lands in order to devote them to their own livestock or to rent it to the *Mesta*. They had the opposition of city councils and cattle raisers that defended their *derrota de mieses* right and use of the fruit of trees (the afore mentioned *vuelo*).

The processes of agrarian individualization acquired a different profile in peripheric areas of Iberian Peninsula. In Valencia, Mediterranean Spain, since the Middle Ages, those landowners who had been granted by the Crown the privilege of *dehesa* for their estates, could make use exclusively of wild herbs and the “amprius” (hunting, recollection of wild fruits, coal making, etc.). The process of privatization moved a step forward at the beginning of the Modern Age when these landowners tried to make their estates enclosed *dehesas* and to extend the enclosure to other fields. This process encountered the opposition of the councils. However, for some property owners that did not have these privileges it was enough to claim *immemorial* property or favourable sentences from Courts of Justice to prove the enclosure (*adehesamiento*) of the fields (Millán, 1984; Bernabé, 1993). In Alcira, for example, rigorous laws decreed at the end of the 16th c established strict penalties against those who trespassed private lands without the landowners having the need to enclose to protect their orchards (Peris, 1989).

In Cantabria, in the North of Castille, enclosures also had been extended, although at a later date. According to R. Domínguez (1988) it was in Santander where the agrarian individualism was stronger. The growth of the city and its surroundings due to the prosperity of its commerce after the opening of the Reinos road (1753) and the opening of its harbour to free commerce with America (1765), made possible an intensification process that was fostered by the great estate owners. These enclosed lands to rent to grow vegetables, getting thus a considerable increase of their rent in just

a few years. At the end of the 18th c the process was extended to the waste lands, that were enclosed to cultivate vegetables and fruits.

Also in the peripheria, but with very peculiar characteristics and with a very different type of agrarian structure, we have the Catalanian and the Andalusian cases¹⁶.

The Catalanian Case

Catalonia is a region that presents great contrasts in its environment, agrarian structure and productive orientation¹⁷; that is, perhaps, why land enclosure presented a great complexity. It is particularly striking its precocity in the advance of agrarian individualism.

Bandos and *letras judiciales* are the sources that make possible the analysis of enclosure in this area (Bosch-Congost-Gifre, 1997; Pellicer, 2006). The *bandos* are municipal edicts requested by private landowners or communities and granted by the highest authorities of the *Principado* de Catalonia—the *Batlle General* in the 17th c and the *Intendente* and the President of the High Court (Audiencia) in the 18th c-. They were public proclams by which these representatives allowed enclosing certain lands and prohibited access to them, free grazing, recollection of herbs, firewood, stubbles, etc., and imposed penalties to violators. This documentation gives information on who were the demanders and their reasons to claim the edicts. Other legal documents, *letras judiciales*, dictated during a lawsuit give us the testimony of those affected by the enclosure process.

The first edict was granted in 1585. The work of Bosch-Congost-Gifre reveals an increase in the edicts in the second half of the century, and an increasing importance of demanders of lessees in an emphyteusis. Badosa Coll (1984) has also emphasized this based on another source, municipal regulations (*ordenanzas municipales*). According to him, enclosures were carried out without problems in the coastal regions and Centre-South of Catalonia, where commercial agriculture had advanced, especially grapevines. In these areas there were numerous petitions to enclose and new regulations in the second half of the 18th c forbidding the entrance of livestock in lands cultivated with grapevines, olive trees, vegetables, fruit trees, as well as the cutting of tree branches, rushes, canes, or the collection of firewood, grapes and grain after the harvest

¹⁶. The influence of law in enclosure process in 19th c in Garrabou (1986); García Sanz (1985) y Nieto (1959).

¹⁷. Two good synthesis about this region are Fernández (1985: 55-131) and Estructuras agrarias (1989: 189-212).

(*espiguelo*). Their aim was to protect not only these crops but terraces, walls, ditches, etc., from the livestock. But they also prohibited a series of communal practices that were essential for the poorest peasants.

On the other hand, in the Valleys in the Pyrenees, where cereal crops and cattle raising predominated, the advance of agrarian individualism was slower and more difficult, since it encountered the resistance of great estate and cattle owners.

Individuals requested an edict (*bando*) to legalize the private use of land, denied collective rights and be able to penalize and incarcerate those who did not respect their rights. Neighbours and communities often did not abide those proclamations, since exclusive individual property meant a plunder for all of those who had had communal rights. Social agents –communities, landowners (eminent and useful) – were in favour or against the enclosure depending on their particular expectations and interests. Tensions arising from the edicts reveal the confrontation of different rights of use and property vindicated by different social sectors and the “disintegration of the peasant community.”

Catalonian historiography has stressed that the lessees in an emphyteusis were the ones that led enclosure in this region, got rich from them, and were consolidated as an emerging social sector. The process advanced in the 18th c, in connection to the demographic growth and the increase of the price of land and forest products. Landowners saw the possibility of maximizing their benefits and increasing their rents. This meant the incorporation of the *Principado* in the market economy, but no change of the structure of property or in the legislation in force. It was carried out, as Pellicer states (2006), “without anything hardly changing.”

The Andalusian case¹⁸

In Andalusia, since the end of the 19th c, the debate on the *latifondo*, centred on a very critical vision of a type of property economically inefficient and cause of “the social problem” in the Andalusian countryside, ignored questions relating the advances of property rights. It did not lend itself to classical theory on enclosure initiated at the end of the 19th c, and forgot the contributions of some 18th c *Ilustrés*, especially that of Olavide. Research since the 60s of the 20th c has underlined the productive attitude of the landowners, the capitalist nature of the great exploitations or its capacity to adapt to

¹⁸. This part is an summary of other study: Pérez (2006).

the environment. However, references to enclosures in the most recent discussions of the topic have not approached the problem in depth yet.

And all of this in spite of the early and dynamic character of enclosures in Andalusian, as demonstrated in the latest research works. Since the Middle Ages, actions taken by landowners can be documented that show the two basic elements that define an enclosure: the construction of a wall or a ditch surrounding the property and the prohibition of certain communal uses on the part of neighbours. These practices could be temporal or affect certain properties, such as in Córdoba or Seville, but also could have a general and permanent character, as it was the case in Jerez de la Frontera (Cabrera, 1978, Ladero, 1976, Carmona, 1995, Pérez, 1997).

It is also important to stress that problems related to the reinforcement of property rights in the countryside go beyond the local and not always derived from economic factors. The conquest of those rights arose in many cases from the power relationship with other institutions: the State, combining theoretical defence of traditional commoners rights with a policy that was more and more permissive with proprietors claiming and paying enclosing licences; the powerful *Mesta*, that confronted direct and effectively the cattle raising elites in the Andalusian cities; or the neighbouring city councils, since sometime lawsuits on bordering areas had as a consequence the enclosure of those lands.

But the most serious conflicts were those within the local community. From the point of view of the social and economic consequences of enclosure, two great periods can be established:

1. Since the Middle Ages until the end of the 16th c, the progress of enclosure, legal or illegal, has immediate consequences in an ample sector of the poorest people, as it reduced considerably traditional uses, and, especially, the *derrota de mieses* (Carmona, 1995, 1998). It is not, as it has sometimes been considered, a confrontation between farmers and cattle raisers, but of one between the powerful great land and cattle owners, and those social groups that depended for their subsistence on the commons (small herders, hunters, coal makers, peasants, etc.) When the problem worsened, the affected groups claimed protection from the central government, but in practice they are the city councils that take their legal representation in lawsuits related to enclosures, and not always with good results.

Anyway, the extension of enclosure and the impression that the legal way did not always granted solutions, radicalized these conflicts since the middle of the 16th c.

Disturbances of peace related to the limitations to the right of the *derrota de mieses* are frequent in different areas of Kingdom of Seville at that time .

2. Since the end of the 16th c and until the 18th c, this type of conflicts seems to diminish. This new situation does not mean that enclosures did not increase, in fact Royal enclosing licences multiply, but that they are masked behind other circumstances that became the centre of the agrarian debate at the time: usurpations, purchases of public lands, or sales of jurisdictions. As it was the case in Jerez, selling public lands or jurisdictions were a way to extend, consolidate and enclose property and, as a consequence, prohibit community rights in those great estates. It was, therefore, a step further in that process of agrarian individualization that had begun a century before and that meant a serious obstacle to the economic stability of thousands of families.

For all of this, the interest of landowners in the enclosures was not only centred in guaranteeing an adequate and more efficient complementarity between cattle raising and farming (Bernal, 1988; López, 2006). On the contrary, they wanted to regulate and limit the intense and sometimes chaotic traffic of people and herds through the town district and private properties, which was a very threat sometimes to the *latifondo* system. Precisely enclosure meant the confirmation of the exclusive rights on the land of a limited number of neighbours in a *latifondo* regimen, the landowners (and the great lessees) and, moreover the consolidation of a type of extensive cattle and farm exploitation, subject sometimes to temporal migrations, very demanding with space but not with men, hence their high social costs.

Final considerations

The surface of common lands in Spain reduced considerably during the Ancien Régime. Its evolution was extraordinarily diverse, although their privatization and enclosure, the last step of this process, took place in extensive area of the country long before the decree of the laws that consecrated absolute property rights in the 19th c. However, in spite of the great interest with which Spanish historians have studied agrarian modernization, the role of enclosures has been scarcely analyzed. The informal and improvised nature of this phenomenon can explain, in some cases, the scarcity of research on this topic. It was not helpful, either, the adaptation of the classical English or French models. The initial disadvantage can nowadays be considered as an opportunity for new studies, if the profound criticism of these models during the last decade is taken into account (Allen, 1992; Congost, 2003)

This criticism also reached the “naive theory of property rights,” based in the identification between the precise definition of property rights and the efficient resource allocation, giving place to a fruitful exchange of ideas between economists and specialists in other scientific areas. Besides, the analysis of economic efficiency has progressively been linked to a key question nowadays, that of the sustainable management of resources. In this context, it is not strange that enclosure is considered as a priority for a new historiographic current, environmental history (Merrick, 1996; Turner, 1997). It does seem necessary to revise the legal conception of property rights that has been used until now, an exclusively legal, rigid, and excessively simplistic interpretation, which has hindered a correct understanding of early phenomena of agrarian individualism (Congost, 2003).

In Spain it is a certain fact that the *Ilustrés* considered the definition of property rights as an indispensable condition for agrarian modernization. In the 16th c sprang a long tradition along that line with jurists such as Castillo de Bobadilla. However, the meaning of enclosure differs considerable from one to another thinker, and reaches essential aspects, as the extension of common rights in enclosed properties, the more apt type of property for these practises or for its social and economic consequences.

In many cases, their argumentations reflected the extraordinary diversity of agrarian structures in Spain. This diversity is obvious, as the analysis of cases in this essay demonstrates, in the different restrictions of rights imposed by enclosures in each of the studied areas, in the types of enclosure (walls, fences..), or in the social and economic consequences, that, for example, reinforce the position of the great landowners in the South and that of small and medium lessees of emphyteusis in Catalonia. This is also an early, dynamic and extraordinarily complex phenomenon. Although it has remote origins, sometimes even medieval, enclosures not always must be understood as an irreversible and progressive process. Its evolution is marked by the rest of agrarian variables, but it also depends on social, political or military factors; that is why its back and forward steps will depend not only on the economic juncture but also, even more markedly, on the social or political situation.

For all of this, a new interpretation of the evolution of enclosure in Spain has to be based on a conception of property rights which is not linear, neither progressive or exclusively legal; this conception has to assume the geographic factor and the multiplicity of uses and rights characteristic of its different territories; furthermore, it has to take into account that there are processes sometimes promoted by city councils in

public lands; it has to assume that socioeconomic, political and cultural aspects play a sometimes crucial role; and, finally, it would be necessary that new proposals continued analyzing not only the different social and economic repercussions but also the influence of enclosure in the environment. The processes of environmental degradation have always medium and long term consequences, social as well as economic.

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