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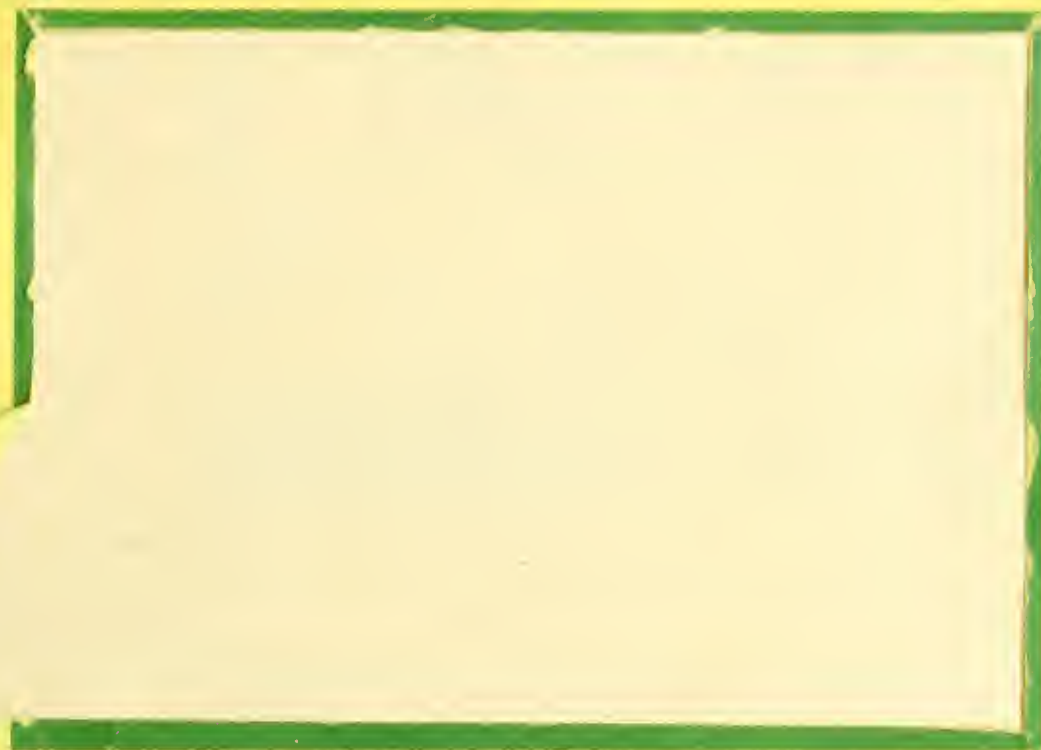
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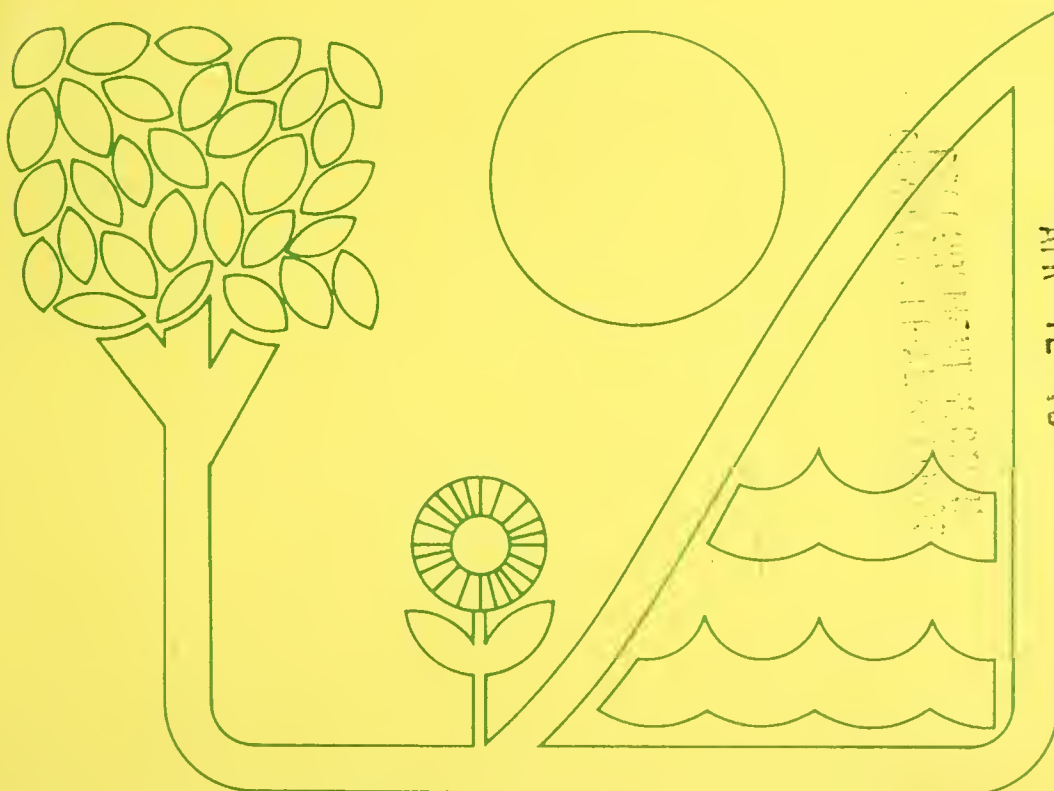
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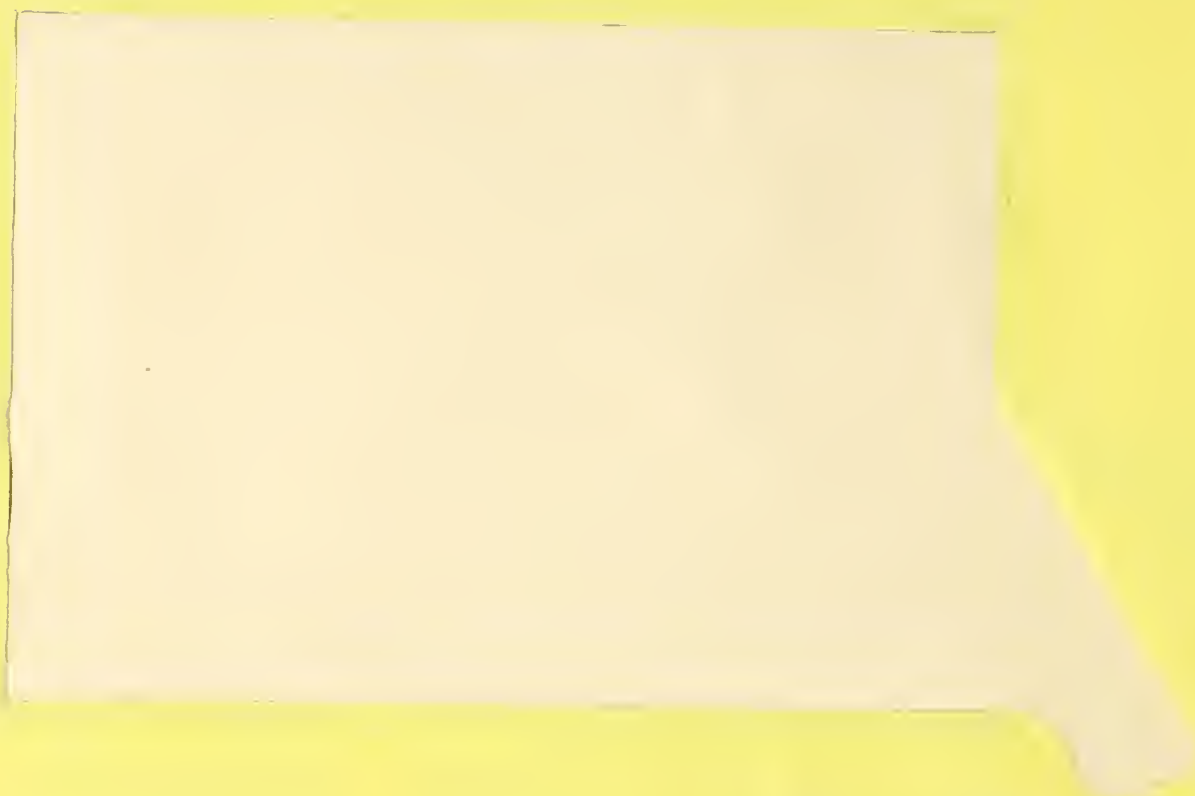
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NO. 56

LAND REFORM IN SUB-SAHARAN AFRICA:

AN ANNOTATED BIBLIOGRAPHY

This study was prepared in partial fulfillment of a reimbursable agreement between AID and NRE. It is being submitted as a working paper to bring the issues of African land reform to the attention of other researchers in the Division and Agency.

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ESCS-NRED

INTRODUCTION

The purpose of this annotated bibliography is to summarize the views presented in recent books and articles that have studied the relationship between land tenure and economic development in Sub-Saharan Africa. This summary is divided into the following five annotation sections: (1) The Group-Ownership Pattern; (2) The Individualization Process; (3) New Land Tenure Problems Created by the Individualization Process; (4) Land Registration and Consolidation: Possible Solutions to the Problems of Uncertainty and Fragmentation; and (5) Land Reform in Kenya. Each section reviews a specific land reform issue or set of related issues. The bibliography section accompanying each annotation then lists the books and articles which present in-depth analyses of those issues. A number of publications which discuss several issues are therefore cited in more than one bibliography section.

Neither the annotations nor the bibliographies are intended to be exhaustive. There are undoubtedly a number of land reform issues and a corresponding number of publications discussing these issues which are not identified in this report. However, since this report attempts to identify a consensus among the commentators on the key issues and answers, an exhaustive survey is simply not feasible. Specifically, those views which are presented and those issues which are raised in only one or two publications are not discussed in the annotations, and thus the publications are also not cited in the bibliographies.

I. The Group Ownership Pattern

During the past fifteen years, those who have studied African land tenure have agreed that its role in the economic development process has varied considerably among the different agricultural areas of Sub-Saharan region. Some have studied areas where traditional customary tenure institutions have apparently impeded the modernization process, while others have discovered areas where these institutions have changed considerably in response to the demands of economic development in ways that are at least consistent with development efforts.

Those who have identified customary tenure institutions as impediments to growth have also identified a number of specific features of customary tenure which are at fault. Perhaps the one dominant tenure pattern that is most frequently cited and criticized is the division of land ownership among social groups. Under traditional customary tenure, the ultimate or allodial title to most land is vested in a tribal, kinship, or familial group rather than the individual farmer. The group entity itself does not employ its land as a single production unit, but instead subdivides the land into a number of separate units which are periodically distributed to families or individuals who then conduct their own separate farming operations. This separation of farm operation from the ultimate ownership of farm land is said to be responsible for the following three major tenurial impediments to the efficient use of farm land: (1) the lack of security of tenure; (2) the inability of individuals to freely transfer rights in land; and (3) the inability of farmers to obtain sufficient credit to finance investments in land

improvements.

With regard to tenure insecurity, a few commentators have observed that tribal group leaders often have the power to periodically (e.g., after each harvest) confiscate and reallocate the use rights of individuals in group land. This possibility clearly discourages long-term investments in projects to increase productivity or conserve soil quality, since farmers are understandably fearful that group leaders will repossess improved land for their own use, or for their close friends or relatives, as soon as the investments begin to yield benefits. However, the majority of commentators agree that in most areas of Sub-Saharan Africa during the past thirty years, group control over land has gradually diminished -- partially in response to the demands of the economic development process -- so that today many of those who own use rights enjoy secure life-time interests in the same plot or plots of land that they or their families were initially granted by the group. Secure use-rights can usually also be acquired in any group-owned forest land which the individual clears and puts into cultivation. This continued right of the usufructuary interest holder to occupy his land for life is subject only to the condition that he farm the land on a more or less continuous year-to-year basis.

In many areas, however, this greater security of tenure has not yet provided individuals with the right to freely transfer their use-rights to other individuals. Most inter vivos conveyances of land can be made only to other members of the landholding group, and must first be approved either by group leaders or by the entire group membership.

Because of the difficulty of securing such consent, vast areas of farm land are, for practical purposes, inalienable. This inability to buy or sell land discourages long-term investments in land for two reasons. It eliminates the potential for realization of higher profits from larger farming units than can take advantage of economies of scale, and it denies farmers the opportunity to realize the capital gains that could be earned from the eventual sale of their improved property.

Group control over the transfer of land by individuals has also effectively prohibited the use of land as security for loans, and has therefore caused a shortage in the supply of investment credit. Non-group lenders who have been unwilling to make unsecured loans, have also been unwilling to make loans secured by mortgages on individual use rights in land, for such mortgages can rarely be foreclosed in view of the group's unwillingness to allow an outsider to dispossess a group member.

These tenure-related constraints on the development of African agriculture are discussed in the publications listed below. Most, but not all, the authors cited are also convinced that land reform programs are necessary to remove these constraints, and a few offer specific proposals, some of which will be reviewed in later sections of this report.

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II. The Individualization Process

As was mentioned in Section I, the traditional customary tenure system in parts of Sub-Saharan Africa has changed considerably in response to the demands of economic development. To understand why this change has occurred, the role of traditional tenure in the pre-market subsistence economy that prevailed prior to the start of the development process must first be examined.

From the standpoint of land tenure, the most important feature of subsistence agriculture in pre-modern Africa was the bush-fallow method of cultivation. Since land was in plentiful supply in most areas, farmers could meet their subsistence needs by farming only a small portion of the total available supply. The remaining land could be left fallow in order to regenerate its fertility. In this way, enough land of sufficiently high fertility could always be made available for production of the required food supply.

Traditional customary tenure supported the bush-fallow system because it guaranteed the cultivator who belonged to a landholding group a continuous right to farm enough land to meet his own personal needs. Moreover, each farmer who remained a life-long member of the group was assured that his descendants would similarly enjoy the right to farm enough group-land to meet their needs for life. Individual farmers therefore had no incentive to sell their land or pledge it as security

for loans. Indeed, such conveyances were regarded as violations of the rights of future generations to a guaranteed subsistence income.

Traditional customary tenure and bush-fallow farming were therefore efficient systems for the production of subsistence food crops. But the need for change became apparent soon after African governments, beginning with the colonial British administrations in the late nineteenth century, first introduced new forms of commercial farming based on cash crops. Many of these were tree crops such as cocoa, coffee, and palm oil, which require much longer growing periods than do the traditional food crops. Cocoa for instance requires three to five years to reach maturity, and lasts for up to fifty years. Bush-fallow cultivation and the periodic re-allocation of use-rights by group leaders were therefore no longer feasible, for those farmers who initially cleared the land and planted the trees needed to be assured of the right to continued use of the land until their crops were harvested at least once, or until the trees no longer produced at all. The ultimate result of this greater fixity of tenure has been a growing recognition that cocoa and other tree crop farmers are the de facto permanent "owners" of the land on which their trees are located. This natural evolution towards a more individualized tenure has also enhanced the freedom of individual farmers to use and dispose of the land as they choose, and has therefore reduced the power of group leaders to prevent land transactions by individuals.

One particularly significant transaction that has emerged is the pledging of cocoa trees to secure loans. This transaction has developed

in response to the growing demand for both credit and land. Group members who own use-rights in cocoa land often need immediate cash to pay for consumption-items such as weddings, funerals, and the education of their children. Non-group members on the other hand may have the funds and the desire to produce tree crops, but own no rights in any group-held land. To obtain land the latter will lend cash to group members who will "pledge" their use rights in part or all of their land to secure the loan. The lender -- "pledgee" -- thus acquires absolute ownership of all crops that are produced on the pledged land up until the time the loan is fully repaid. Since this output constitutes the interest payment on the loan, the borrower -- "pledgor" -- usually cannot redeem the loan until the pledgee has profited from the sale of at least one harvest, for otherwise the pledgee would earn no interest at all. Thus, the typical pledge of tree crop land often operates as a de facto or informal lease of the land for a period of time sufficient to allow production of at least one crop (e.g., three to five years for cocoa). Moreover, since the crop harvested by the pledgee constitutes the entire interest payment, the pledgor can, at the end of this period, redeem the loan and repossess the land simply by repaying the amount of cash he borrowed.

In some areas of Sub-Saharan Africa, the trend towards more individualized property rights, which began with this practice of pledging trees for consumption loans, has eventually led to the recognition of a virtually complete freedom to sell or lease property. This is especially true in much of Ghana, where cocoa and other tree crops have been

harvested for nearly a century. Here the courts have long recognized that those who own use-rights in group-held land have complete security of tenure and cannot be divested by group leaders. By the 1950's courts in some areas had further held that use-right holders could freely sell or mortgage their rights to any purchaser -- whether or not a group member -- without having to obtain the consent of the group leaders. As a result, use-rights in much of Ghana have become the equivalent of the fee simple interest in English and American property law. Although the group as a whole may still be regarded as the "ultimate" owner of the land, this ownership no longer has substantive meaning, since the group can no longer control the use or disposition of the land.

In other areas of Sub-Saharan Africa, group control is still evident in the requirement that proposed sales, leases, or mortgages of land by use-right holders to non-group members must first be approved by the group as a whole. However, even in these areas the individualization process has caused a significant increase in the number of transactions in land and the development of a vigorous land market. The failure of the legal system to formally recognize complete individual rights in land has not prevented farmers from realizing the increasing value of land as a scarce resource in the production of high-income crops.

This natural individualization process has therefore convinced a few commentators that land tenure is no longer a significant obstacle to economic development, especially in places such as Ghana where the freedom of individuals to sell and mortgage their land rights is well-

established. Other commentators have argued, however, that the greater individual freedom to use and dispose of land, and the development of a land market have simply replaced the old tenure-related obstacles to economic growth with new and more complicated problems. These will be discussed in the next two sections.

The following list of articles and monographs discuss the individualization process in the entire Sub-Saharan region. In addition, a number of articles deal specifically with those areas in Ghana, and to a lesser extent Nigeria, where the process is virtually complete.

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III. New Land Tenure Problems Created by the Individualization Process

The individualization process that has accompanied the commercialization of agriculture in different areas of Africa has undoubtedly encouraged the adoption of improved farming techniques by those who have been fortunate enough to have acquired secure private rights in land. Farmers in Ghana, Nigeria and elsewhere who belong to landholding groups, and who enjoy use rights that are equivalent to fee simple interests should have the incentive to make the long-term investments that are needed to increase productivity and ensure conservation of soil fertility.

Security of tenure should encourage investments by guaranteeing that the farmer will realize all the benefits of his investments. Freedom to transfer land rights should encourage creditors to extend more credit for investment to farmers who can pledge their use rights to secure the loans.

It is therefore not surprising that the few published studies in Africa that have attempted to determine the impact of land tenure on farm productivity have found that the productivity of land farmed under individualized tenure is significantly greater than that of land farmed under customary tenure. These findings suggest that where the individualization process is most nearly complete, land tenure is no longer an impediment to further economic growth. The implication is that if the rate of growth is still inadequate in these areas, the solution must be something other than additional tenure reforms.

Land tenure may in fact no longer be an impediment to economic development in certain highly commercialized areas in West Africa where tree crops have been harvested for many years. However, in many other areas the individualization process, although nearly complete, has either failed to prevent, or has actually contributed to the emergence of new problems in the area of land law and tenure.

Consider for example the status of those farmers known as strangers, who are not members of land holding groups, and who have therefore not benefited from the greater security of tenure and greater freedom to buy and sell land that use-right holders have enjoyed. Because of their status as unaffiliated outsiders, strangers today are often unable to

acquire secure ownership or leasehold rights in any land held by a tribal or family group. Instead they are usually limited to employment as tenant or wage laborers under landlords who do belong to landholding groups. These landlords are often accused by many observers of imposing such oppressive and exploitative terms that strangers are unable to obtain more than a subsistence income from their farming operations.

To fully understand this plight of the stranger in today's modern commercialized farming environment, an understanding of why stranger-status was really not a disadvantage in the pre-modern subsistence economy may be helpful. The bush-fallow method of cultivation that prevailed in most of traditional agriculture succeeded in producing enough to satisfy rural society's food requirements as long as land was in plentiful supply. Until recently population density had been low enough to allow relatively efficient bush-fallow farming. In such an environment, landholding groups usually held enough surplus land at all times to permit migrating strangers to farm part of it on a seasonal basis in order to produce for their own consumption. Although they could be evicted at any time by the landholding group, strangers often enjoyed a de facto security of tenure as long as the total supply of group land remained adequate. Thus, for purposes of producing food to meet their own needs, the position of strangers was often no different than that of the farmer who belonged to a landholding group.

Recently, this situation changed as a result of the combined effect of the introduction of cash crops, and a substantial increase in the demand for and value of land. Members of landholding groups discovered

that with the income produced by cash crops they could purchase many of the new products being manufactured in urban areas or imported from western countries. But the opportunity to obtain these benefits was not made available to most stranger-farmers, who in many areas have been completely prohibited from growing permanent cash crops such as cocoa and oil palm trees. This prohibition is designed to prevent strangers from acquiring the type of permanent long-term interest in group property that will be established simply through ownership of trees which can yield crops for up to fifty years. Even in areas where strangers are permitted to grow tree crops, they are usually limited to farming under insecure tenancy arrangements with group members who can force tenants to accept whatever terms they wish to impose. Thus, the stranger-tenant's status is often that of a tenant-at-will, whose continued occupancy is always entirely dependent on the favorable attitude of a landlord who knows he can evict the tenant at any time. The stranger also must often pay exorbitant rents in the form of a share of the crop or a fixed seasonal cash or in kind payment. These high rents, combined with an insecure tenure discourage the stranger from making the investments required to maintain or increase productivity or conserve soil fertility, for he cannot reasonably expect that his tenure will last long enough, or that his rental payments will be low enough to enable him to enjoy the benefits that the investments may yield.

This discriminatory treatment of strangers has clearly contributed to the problem of an increasingly inequitable income distribution that often characterizes the newly emerging commercialized rural

areas of Sub-Saharan Africa. It has also operated to impede governmental efforts to further increase agricultural productivity, because it has prevented a large class of farmers from effectively competing in the production process. The ultimate result has been a loss to society of the greater output and efficiency of production that the adoption of investment-oriented practices by all of agricultural labor -- strangers as well as group members -- could promote.

The inefficient allocation of resources caused by barriers to full participation by strangers in the development process is perhaps most evident in countries such as Nigeria, where community exclusiveness has prevented much of the rural labor force from effectively responding to the economic opportunities offered in different areas of the country. Stranger-farmers living in densely populated coastal areas, where land is scarce, are discouraged from migrating to the sparsely populated interior regions, where land is currently underutilized, because they are either completely prohibited from buying or leasing land owned by tribal groups, or are limited to farming such crops under the type of insecure tenure arrangement that was described earlier.

In addition to this failure to ensure that all members of the agricultural community will benefit from the economic gains it has generated, the individualization process has also failed to prevent the recent emergence of a serious fragmentation of land holdings among farmers in areas that have experienced rapid rates of population growth. Fragmentation is an ownership pattern characterized by individual farming operations that cultivate various noncontiguous parcels of land

scattered throughout a given farming area. It has developed in most areas because most use rights are inherited according to laws of interstate succession which guarantee each descendant a right to some share of the testator's land. In many areas, large families, polygamous marriages, and the recognition of inheritance rights for two or three generations have combined to create such extensive fragmentation that the average size of individual holdings has also been substantially reduced.

Most economists view small farm size and fragmented holdings as obstacles to economic development in Africa because they impede efficient use of labor and capital resources. Fragmentation in particular is regarded as a cause of increased production costs and lower productivity because it requires substantial time and energy to be expended in the periodic reallocation of labor and equipment among widely-separated land parcels. Fragmentation has also caused growing confusion over the location of boundaries and an increase in the costly and time-consuming litigation needed to resolve boundary disputes. This confusion has been particularly damaging to government efforts to purchase large tracts of land to be farmed by cooperative organizations. The purchase of enough contiguous land to support an efficient cooperative venture typically requires negotiations with large numbers of individuals each of whom must consent to the transfer of land in which he owns use-rights. When disputes over boundaries affect many individual parcels, the time and costs spent on the litigation that is required to resolve the disputes so that a final purchase of the land can be made may be so

substantial that the entire cooperative venture may have to be abandoned.

This problem of uncertain boundary locations is only one of many examples of how the evolution towards a more commercialized agricultural economy and a more individualized tenure system in much of Sub-Saharan Africa has contributed to a growing uncertainty about the basic rules of real property law and, in particular, the manner in which property rights are to be allocated among the conflicting claims of different individuals and tribal groups. A further analysis of this uncertainty problem will therefore be undertaken in the next section of this report.

The articles and monographs listed in the following bibliography section are primarily concerned with the problems that have just been discussed: the status of strangers who lack security of tenure and incentives to invest, and the trend towards an increased fragmentation and subdivision of land. As was the case in Section II, many of the articles cited here are concerned specifically with tenure problems in Ghana and Nigeria. However, most of these articles also reach conclusions that are generally applicable to agricultural areas throughout the entire Sub-Saharan region.

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IV. Land Registration and Consolidation: Possible Solutions to the Problems of Uncertainty and Fragmentation

In much of Sub-Saharan Africa the trend towards a more individualized tenure that has accompanied the commercialization of the agricultural economy has outpaced corresponding changes in the formal law of real property as it is established in statutes and court decisions. The result has been a conflict between a de facto individualized tenure and a formal land law that still incorporates elements of traditional customary tenure. The uncertainty created by this conflict is viewed by many observers as a separate and distinct impediment to further economic growth in the agricultural sector, because it is responsible for unacceptably high transactions costs in the land market.

The reason uncertain land laws cause excessive transaction costs can perhaps be most clearly revealed if one considers the typical case of an entrepreneur who attempts to purchase or lease land for farming or other productive activities in a rural area of Sub-Saharan Africa. Even if the purchaser is in an area where a de facto individualized tenure is well established, his attempt to acquire a clear and certain interest in the land will often encounter several major legal problems. For example, if the current occupant is a member of a landholding tribal

group -- as is often the case -- the purchaser will probably have to determine whether a conveyance can be made without the consent of other group members who may also have an interest in the land. Yet the established customary law is often unclear on this issue, for the law was designed to serve a subsistence economy which did not even recognize the conveyance of land rights as an acceptable practice. The result is that the purchaser may be forced to resort to costly court litigation to determine whose consent must be obtained for each particular sale or lease. Moreover, if the court decides that the consent of others is required, additional time and expense may have to be expended to obtain it.

The potential purchaser or leasee of land will also encounter the problem of ensuring that the interest he is purchasing or leasing will be secure against possible future challenges by those who may argue that the seller did not have a valid claim to the land when he purported to sell it, and that the purchaser's claim must therefore be voided in favor of a prior interest asserted by the challengers. Conflicting claims to the land may also result from disagreements concerning the exact location of the boundaries. Yet the conveyee may discover that since written records of prior land rights, transactions, and boundaries are rarely maintained, even an exhaustive search of the evidence will fail to clearly resolve these challenges and disputes. Moreover, the absence of reliable land records or any other written evidence of prior transactions or claims will also reduce the chance that resort to court action, however thorough, will achieve a fair and final determination

of all the issues. The courts must often make decisions based almost entirely on incomplete oral evidence supplied by biased witnesses who cannot remember the critical details of events relating to land transactions that may have occurred many years prior to the court action. The potential purchaser or leasee therefore realizes that even after court litigation, the interest he obtains may still be subject to challenge. Thus, he may never enjoy the security of tenure that is necessary if he is to have the incentive to make the investments that are required to increase the productivity of his farming operations or maintain the fertility of his soil. Moreover, even if he does feel secure enough to make long-term investments, he may be unable to obtain the necessary funds, since creditors may be unwilling to accept his potentially defective claim to ownership of the land as security for loans.

Many observers therefore believe that as the demand for scarce land continues to increase in response to high rates of rural population growth, the problems of uncertainty caused by the conflict between continuing de facto individualization of land tenure and unclear and outdated customary laws will present an increasingly serious threat to further efforts to promote economic growth in the agricultural sector. Most of those observers further argue that a substantial clarification of property laws and rights must be achieved through the implementation of a land registration system that will provide secure and enforceable rights to all who own interests in land, and ensure that all conveyances of land can be accomplished quickly, efficiently, and at a low

transaction cost.

Specifically, the objective of land registration is to establish a single record of all interests in all land subject to the registration process. The record is to be the sole authority that determines who owns the various interests, and the legal rights these interest provide. The registration process usually begins with a cadastral survey, which is a series of maps based on aerial photographs of the land to be registered. These maps identify the parcels of land in which individuals and groups will own the various property interests. On the basis of these maps final boundaries for each parcel are determined. All interests in land are then recorded in a register maintained by a state agency.

Those who own registered interests in land enjoy complete security of tenure. They can transfer their interests to others simply by conveying the prescribed documents and recording the appropriate changes in the register. Moreover, the rules governing the register will resolve once and for all such issues as whether an individual can transfer his interest without first obtaining the consent of his tribal group, and whether the approval of all group members or just a majority of the group leaders is necessary for this consent to be obtained.

Registration will therefore encourage the successful farmer to expand his operations through acquisition of additional land. He will be able to purchase or lease any registered parcel at a low transaction cost simply by checking the register to determine the boundaries of the parcel and all the interest-holders who must consent to the desired transaction, and then by making the appropriate changes on the register.

He will no longer have to waste time and money on efforts to determine whether there are any conflicting claims to the parcel, for the register will be the final and unimpeachable authority. Thus, expensive court litigation will no longer be necessary to resolve disputes. Owners and long-term leases will also have the incentive to make the long-term investments needed to increase farm productivity, and they will be able to obtain the credit for such commitments from lenders who will now be willing to accept registered property interests as collateral.

This great potential of a registration program to eliminate the problems caused by uncertain customary property laws and rights suggests that such a program is most appropriate for areas where the costs of uncertainty are highest, and where uncertainty is therefore most detrimental to efforts to promote agricultural development. These are primarily areas where an increasing competition for land for cultivation of permanent cash crops, and a rapid rate of population growth have caused a substantial individualization of tenure and a substantial increase in the value of land. The high cost of time-consuming disputes and litigation caused by uncertainty about boundary locations and the validity of conflicting claims to ownership will be especially damaging to efforts to promote economic growth in these areas because the most essential requirements of an efficient individualized system will be missing. Specifically, entrepreneurs in these areas will be unable to either efficiently allocate increasingly scarce land at low transaction costs, or utilize secure claims to land as a basis for the long-term investments and improvements that are essential to successful cultivation of

permanent crops.

Alternatively, in areas where traditional customary tenure and bush fallow farming still dominate, and where land transactions and disputes over ownership claims and boundary location rarely occur, registration will yield few benefits. However, as rural population continues to grow, and governments continue to encourage migration from densely populated to sparsely populated regions, the number of areas that will be able to continue to successfully practice bush fallow farming will decline.

Increasing population pressure and competition for land also reveal the need in many areas for programs designed to consolidate fragmented holdings and enlarge subdivided holdings to the extent necessary for efficient resource allocation and use. These consolidation programs can be effectively combined with a registration program so that the new claims of individuals and groups to the redistributed and reorganized land parcels will be clearly and securely established. Consolidation and registration can also be beneficial without forcing a particular tenure system to adopt a greater degree of individualization than has already occurred in response to population pressure and economic change. For example, if policy-makers wish to maintain a tenure system that has evolved only to the point where it recognizes the permanence of individual use-rights in group-held property, but still does not permit individuals to mortgage or sell their rights without the consent of the group, the newly created and registered property interests in the reorganized parcels can be defined so that the group's authority to

to control land transactions will be clearly affirmed. This can be accomplished through the registration of the group's superior interest as well as the individual usufructuary interests. Of course, if complete individualization is desired, the elimination of group control can be accomplished by registering the individual's claim as a fee simple absolute, and by simply not including the group's interest on the register.

Registration and consolidation programs should also include provisions designed to ensure that the greater freedom to buy and sell land that registration will give to individual owners of registered interests will not result in the monopolization of land by a few wealthy farmers. This problem has already developed to some extent in areas of Northern Nigeria. Recent studies indicate that purchases of land by wealthy farmers in these areas have already caused a substantial increase in the number of landless farmers who are unable to find alternative employment.

The registration and consolidation programs that are discussed in the articles and monographs cited in the following bibliography section have been offered as potential future tenure reforms in parts of every country in Sub-Saharan Africa, except perhaps Kenya, where substantial consolidation and registration programs have already been implemented. Indeed, as will be discussed more fully in the next section of this review, some observers have argued that the Kenyan programs have to a great extent already achieved a tenure system which clearly defines and allocates property rights, and which eliminates the costly disputes and

litigation over conflicting claims and imprecise boundaries that had previously impeded efforts to promote improved land use and higher productivity. The Kenyan experience is therefore often cited as an example of how future tenure reforms should be implemented.

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V. Land Reform in Kenya

Two major land reform programs have been implemented in Kenya since the mid 1950's. The first was a consolidation and registration program, known as the Swynnerton Plan, which was implemented in the Central Province region known as Kikuyuland. The second was a resettle-

ment program which transferred land in the Highlands area from a small number of European settlers, who had farmed large estates, to a large number of small-scale African farmers. Although both programs have attempted to accomplish many of the tenure reforms that commentators have advocated for much of Sub-Saharan Africa, the Swynnerton Plan is especially significant because of its attempt to solve the overpopulation and land fragmentation problem which had already adversely affected productivity and soil fertility in the Kikuyu area by the early 1950's. A review of the costs and benefits of the Swynnerton Plan's efforts to consolidate and register Kikuyu land could therefore be of great benefit to future efforts to formulate and implement consolidation programs in areas where the land fragmentation problem is becoming more and more serious.

The actual decision to implement the Swynnerton Plan was a response to a rural revolt among members of the Mau Mau Tribe, who had lost their traditional use-rights in land as a result of the gradual emergence of a more individualized tenure system throughout the Kikuyu region. This individualization process had produced a relatively small number of wealthy freeholders and a large landless class. The revolt was also a protest against the maintenance of an exclusively European farming settlement in the Highlands region. The anger of the Africans over this exclusiveness was aggravated by their awareness that the European method of estate farming greatly underutilized the land, and thus contrasted sharply with the necessarily highly labor-intensive subsistence farming in Kikuyuland. The decision to consolidate and register Kikuyu

land was therefore motivated primarily by a desire to divert African attention from the Highlands, and to create a large class of loyal and secure native landowners who would support the colonial administration's efforts to end the Mau Mau rebellion.

Thus, the first step in the implementation process was to remove most of the Kikuyu from their homesteads, and to resettle them in temporary emergency villages. This isolated the revolutionaries and enabled administrators to quickly proceed with consolidation in 1956. The government then established local committees to determine the status of all existing claims to ownership of all land fragments in a given "adjudication area". Once a final determination had been made the committees gave each successful claimant a consolidated holding approximately equivalent to the sum of his previously fragmented holdings. Exact boundaries were then drawn and confirmed by aerial surveys and maps. In addition, each owner's interest was guaranteed by a registered title.

By the early 1960's the consolidation and registration process in Kikuyuland had been nearly completed. Since then, similar reform programs have been implemented to a lesser extent in other areas of Kenya. Additional programs are currently being undertaken, and current planning contemplates even more in the future. Registration programs without consolidation have also been administered in areas where fragmentation has not been a serious obstacle to agricultural development.

Although the immediate goal of the consolidation part of the Swynnerton Plan was to isolate the revolutionaries and strengthen peasant

support for the colonial administration, the more significant long-term goal was to initiate a fundamental change in the dominant system of farming from one characterized by communal grazing of migrating livestock and bush-fallow cultivation of crops, to one characterized by modern investment-oriented farming that relies on efficient animal husbandry practices and improved cultivation practices such as fertilizer use, crop rotation, and soil and water conservation. To achieve this, the program emphasized the role of those newly registered family farm-owners who were expected to own enough consolidated and contiguous land (i.e., more than four acres) to allow for the continuous and simultaneous operation of three farming enterprises: 1) the production of food crops; 2) the grazing of livestock on enclosed pastures; and 3) the production of cash crops for export.

The program administrators realized that to establish family-operated farming units large enough to accomplish this objective, the number of farming units registered as freeholds to be operated by single family owners would have to be much lower than the number of available farming families. Thus, they realized that consolidation would further increase the size of the already large group of landless farmers who would have to seek employment as wage laborers. To meet this need the administrators hoped to promote cash crop farming by owner-operators as the primary source of opportunities for wage employment. Moreover, they hoped that owner-operators would also devote enough land to the production of food crops and the grazing of livestock to meet the subsistence needs of the entire Kikuyu region. However, most observers agree that

this goal of establishing a multi-enterprise owner-operated unit as the primary production and employment unit in the agricultural sector has been achieved only to a limited extent. While a few consolidated farms have in fact been large enough to successfully operate the three contemplated enterprises and provide wage employment on cash crop land, many more farms have been informally subdivided by owners who have tried to accommodate landless relatives and friends by allocating them small portions of their freeholds for subsistence farming. The result has been that while many four or five acre parcels are formally registered as units owned by a single farm family, they are in fact accommodating several families. To accomplish this, most such parcels are devoted entirely to subsistence crops, so that no land is available for livestock or cash crops.

Yet even though the results of the consolidation program -- when viewed as a separate part of the Swynnerton Plan -- have been disappointing, the Plan has achieved much greater success in accomplishing the objectives of its land registration program. The security of tenure enjoyed by newly registered freeholders has encouraged these owner-operators to use their land rights as collateral to obtain loans for long-term investments. A number of studies from different areas have therefore shown that once the land was registered, the amount of land secured credit extended to farmers increased significantly. The registration of secure freehold interests has also greatly reduced the time and expense that was previously required to resolve land disputes, which can now be quickly settled simply by a search of the register.

Expensive court litigation is also no longer necessary.

The government has also protected the farmer-operator from unscrupulous speculators who may try to take advantage of the new owner's ignorance about the true value of his land by offering to purchase it for immediate cash at a price that is much lower than the market value. The Land Control Act of 1967 provides that no transaction in registered land can be made without the prior approval of a local land control board which is responsible for ensuring that the transaction will not be harmful to community interests. These control boards have therefore protected land-owners from loss of their land not only through sales at unfair prices, but also through excessive mortgaging to lenders who can acquire the land through foreclosure. This protection has no doubt helped to prevent the type of gradual monopolization of land by a few wealthy farmers that has already occurred in countries such as Nigeria, where the government has done little to regulate the natural individualization process.

Much greater security of tenure has also been provided to tenant farmers as a result of the Registered Land Act of 1963 which requires registration of all leasehold interests. This has had the effect of providing prima facie written evidence of the length of tenure the landlord has agreed to give the tenant, so that landlords can no longer evict their tenants at any time or for any reason they choose.

Thus, even though the consolidation part of the Swynnerton Plan has not yet accomplished its objective of establishing a large class of owner-operators who can provide enough employment opportunities to meet

the needs of a growing class of landless farmers, the success of the land registration program justifies the conclusion that the Swynnerton Plan as a whole can serve as a model for reform programs in other Sub-Saharan countries where a combination of fragmented land, unclear property laws, and insecure property rights continue to impede efforts to promote agricultural development.

The second major Kenyan land reform effort, the transfer of land in the Highlands region from Europeans to Africans, may not be as useful as the Swynnerton Plan as a guide for the formulation or implementation of future reform programs elsewhere in Africa, because in no other African country today--except perhaps for the white minority states--does there exist a group of foreign settlers who can be evicted in mass from a well-defined geographic area and replaced by native settlers. However, the method by which the Highlands program in Kenya was financed may still serve as a useful model for the financing of similar reform programs in Latin America, where the land reform goal is to redistribute land from very large land-extensive estate farms to small labor-intensive family farms.

Briefly, the transfer of the highlands property in Kenya to African settlers was quickly accomplished by immediate cash payments to the Europeans by the British government. The land was transferred to a Central Land Board which in 1961 began to sell parcels to African settlers in return for purchase money mortgages which obligated the settlers to pay approximately two-thirds of the purchase price over a thirty year period. The other one-third was paid directly by grants

from the United Kingdom. Ten year loans from the British, the West Germans and the World Bank provided the settlers initial funds for capital investment. Land was sold both to individuals mainly for cultivation of cash crops, and to cooperative societies for the operation of group cattle ranches.

By 1968 approximately 30,000 farming families had been settled on approximately 1,320,000 acres of land. Whether or not these settlers have or will develop successful farming operations is not yet clear. However, most observers agree that the resettlement was a necessary political action to diffuse the growing unrest of the Kikuyu tribe. It has also succeeded in restoring social stability and in establishing a strong tenure foundation for future governmental efforts to promote improved farming practices.

The articles and monographs cited in the following bibliography section present a wide range of opinion on the costs and benefits of the two major Kenyan land reform programs. On the whole they may present to other reviewers a view that is much more pessimistic and critical of the reforms than the view presented in the previous annotation. However, many of the studies that are most critical of the reforms analyzed only the problems encountered by the consolidation part of the Swynnerton Plan. Thus, their failure to account separately for the much greater success of the land registration program may mislead readers into believing that the reforms were almost total failures, despite the evidence to the contrary.

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