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**LAND
TENURE
CENTER**

An Institute for Research and Education
on Social Structure, Rural Institutions,
Resource Use and Development

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**LAND TENURE ISSUES IN PROJECT DESIGN AND STRATEGIES
FOR AGRICULTURAL DEVELOPMENT IN SUB-SAHARAN AFRICA**

Executive Summary

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INTRODUCTION

Land Tenure Issues in Project Design and Strategies for Agricultural Development in Sub-Saharan Africa

Executive Summary

The paper summarized here was prepared at the request of the U.S. Agency for International Development. Africa Bureau's 1984 Strategic Plan expressed a need to achieve a better understanding of the impact of land tenure patterns on its projects and programs, and the Bureau of Science and Technology's Cooperative Agreement with the Land Tenure Center provided the mechanism for this partial response to that need. It attempts to pull together what is known on the topic, to relate it specifically to the processes of project planning and implementation, and to present it in a format useful to an audience of development planners and administrators.

I owe a debt of gratitude to many people, in AID, at LTC and elsewhere, for both their encouragement and their searching comments on drafts. Their particular contributions are acknowledged in detail in the main paper, but I want to take this occasion to reiterate how much I have appreciated their efforts.

The full text, by the same title, is available from the Office of Rural Development, Bureau of Science and Technology, AID/Washington, or from the Land Tenure Center.

John W. Bruce
October 28, 1985
Land Tenure Center

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EXECUTIVE SUMMARY

Because seriously skewed land distribution is unusual in Sub-Saharan Africa, aside from situations created by European settlement and largely eliminated at the end of the colonial period, interest in land policy tends to focus less on redistributive land reform than on the adequacy or inadequacy of existing land tenure systems in responding to the demands of development. Redistributive land reform is relevant in certain limited contexts, but every country in the region faces the issue of whether reform of its land tenure institutions is necessary, and if so, what shape should be taken by the reform. Land tenure reform alters the substantive rules and institutional arrangements of indigenous land tenure systems, seeking to induce changes in land use in the interest of productivity, equity, and similar objectives.

Is land tenure a manipulable variable, a lever with which development planners and administrators can move other, more inert pieces in the problem of underdevelopment? Or is it so profoundly imbedded in the woof and warp of social structure and culture that it is itself one of the most obdurate pieces in the problem, a "bottleneck" to be eliminated? How can AID utilize tenure reform in pursuit of its development objectives? These are the questions addressed in this paper.

1. Understanding Indigenous Land Tenure

Development planners too often work with misleading stereotypes of indigenous tenure. Research from the sixties and seventies has greatly enhanced our understanding of indigenous land tenure.

1.1 Is Indigenous Land Tenure "Communal?"

Access to land in Africa is generally based upon membership in a group such as a lineage or a village, a group defined by common descent or residence, or some combination of the two principles. Tenure to pasture is often communal, in that individuals do not have exclusive rights to discrete areas of pasture. But as regards farmland, even under shifting cultivation the rights of the individual cultivator are usually clearly defined, and limited in duration by declining fertility rather than any prohibition against indefinite use. Once cultivation stabilizes land is generally held in perpetuity, inheritable by customary heirs. Any tenure system involves some element of societal control of land use, but most indigenous tenures governing farmland are better characterized as individual. They deviate from the Western concept of ownership in that land is not generally sold, but it is important that this not lead us to underestimate the strong proprietary sense and security of tenure which most African farmers enjoy with respect to their land.

Four dimensions of indigenous land tenure need to be borne in mind:

1.2 The Vertical Dimension: Social Hierarchy

In some of the more complex African traditional societies, prerogatives involving control of land use have been reserved not to a single social group but to a hierarchy of groups, pyramiding toward a paramount chief or king. Rights held by the levels in the hierarchy are sometimes referred to as estates of administration and the rights held by the cultivator as the estate of use. Where such a tenurial hierarchy exists, we must understand it in order to grasp the role which the land tenure system plays in supporting the system of social and political control. It is equally necessary, however, not to accept uncritically assertions from those in the hierarchy about who "owns" the land, but to ask persistently: who makes the actual decisions concerning the use of the land?

1.3 The Horizontal Dimension: Multi-Tenure Systems

A tenure system involves more than a single tenure because land is put to a variety of uses, and there will be separate tenures for some of these uses. The best known distinction is that between pasture and farmland, but there are many others. In addition to several primary tenures for land according to use, there will also be secondary tenures, such as sharecropping, derived from the primary tenures. This variety within a tenure system offers a potentially important source of models for tenure reform planners.

1.4 The Historical Dimension: The Pervasiveness of Change

A presumption of antiquity and stability for indigenous tenure systems is often wrong. Even in pre-colonial times, a variety of influences (agricultural innovation, famine, population growth, conquests and migrations) regularly required modification of indigenous tenure systems. No consideration of the future of a particular tenure system should ever start from a presumption that the system is static.

1.5 The Personal Dimension: The Farmer's Viewpoint

Farmers see a land tenure system as opportunities and constraints around which they develop land acquisition and retention strategies which are intimately related to the homestead or household cycle. When tenure rules are changed to promote better land use, it is the farmers to whom the rules are addressed and their behavior which one tries to change. Before we can judge how they will respond to reforms, we need to understand how the land tenure system within which they are operating looks to them.

2. A Century of Change in Indigenous Tenure Systems

2.1 Colonialism and Tenurial Dualism

European settlement created dual tenure systems in a number of colonies and these patterns have proved remarkably persistent. They usually involve a subsistence sector under indigenous tenure and a more market-oriented sector

under Western tenure types. Tenure may play some role in determining the extent of commercial production, but the differences appear to be based primarily in historically different treatment of the areas and continuing patterns of subsidy to the market-oriented sector--not on characteristics of the tenure systems themselves.

2.2 Commercialization of Agriculture and Related Forces

Where Africans became active producers for the market, tenure change often followed, usually in the direction of greater independence and security of tenure for the landholder. The classic case concerns the tenure changes which accompanied the introduction and commercialization of cocoa in West Africa. New tenure patterns emerged, sometimes with the support of the colonial judiciary, as in the case of "family land" in Ghana and Nigeria. How fast such processes are continuing at the moment is an open question, given the stagnation affecting much of African agriculture.

2.3 Changes in Local Institutions with Tenure Roles

Colonial administrations tended to establish geographically-based administrative units and to exercise authority over Africans based on their areas of residence, rather than kinship. "Chiefs" with geographical areas of control were recognized as "communal land" administrators with an essentially "public" character, while lineages and clans tended to be recognized as having "private" rights in smaller areas.

2.4 The Impact of Islamic Law

Islamic law has a clear concept of individual ownership of land and a well-developed law concerning the transfer and inheritance of land. It also holds that sporadic use of land is not sufficient to establish ownership and that such land is state owned. Islamicization thus chips away at the rights of the lineage, clan and tribe, from both the state and individual ends of the social spectrum. Its patriarchal legal models are especially disruptive of matrilineal systems.

3. Is Indigenous Tenure a Development Constraint?

Indigenous tenure systems are so varied as to rule out any flat answer to this question, but it is possible to indicate what aspects of certain tenure systems cause particular problems. It is essential to bear in mind throughout this discussion that African farmers stand with one foot in an older, subsistence-oriented system of production, and one foot in an emerging, market-oriented system. The objectives met by the older system--guaranteed access to a subsistence opportunity under farming strategies oriented toward risk-avoidance--are still very relevant to today's farmer. When we ask whether an aspect of land tenure retards innovation and investment in increased production, we must also ask what the farmer would lose in terms of economic security and risk-management if that aspect were changed. The farmer's productivity and even survival depends on how well he or she is able to balance the demands of the two sets of objectives. Land tenure evolves as the balance between the values accorded to these objectives change. That balance changes at different

rates for different farmers, and in periods of rapid change it is difficult for a tenure system to be responsive to all their different needs.

3.1 Land Use and Conservation

Shifting cultivation is rapidly becoming untenable in many areas of Africa due to increased population pressure on the land resource. Technology permitting, most indigenous land tenure systems accomplish without too much difficulty the transition to an agriculture based on fallows and rotations. The development of firm rights in fallow is the critical step from a tenure standpoint. Where there is a failure to make this transition to a rotational agriculture satisfactorily, it is more often due to lack of reliable new technologies and inputs than inflexibility in the tenure system. On the other hand, commons arrangements with respect to pasture and forest resources often do permit overutilization and long-lasting damage to resources. The creation of adequate institutional arrangements for commons management is a complex task, though certainly not inherently impossible. While individualization may be a solution in some contexts, it is no panacea. No tenure system, including freehold, is proof against destructive land use; desperate farmers sometimes must maximize short-term production in order to survive, despite long-term resource costs.

3.2 Security of Tenure and Investment in the Holding

Capital accumulation in African agriculture is an accretionary process, taking place through incremental investments of labor, cash surplus and credit in the holding over a long period of time. A farmer will not make long-term investments in his holding unless he is secure in his expectation of reaping the benefits of his investment. Most indigenous tenure systems have provided and still provide adequate security when land is plentiful, but can they do so as scarcity increases and land values rise? The experience is mixed. In many cases the system has provided the requisite security. Where it has failed to do so, this may be due to inappropriate substantive rules, or the inability of traditional land administrators to deal effectively with ethnic competition over land, land-grabbing by new elites, or arbitrary government action.

3.3 Exclusivity of Tenure and Farm Management

While indigenous tenure of farmland is not accurately characterized as communal, there may be community-sanctioned land use practices which limit the autonomy of the farmer as manager. Use of stubble as communal grazing after harvest is an example of such overlapping use arrangements. In addition, a few indigenous tenure systems provide for periodic redistribution of all land, or selective reallocation from large holdings to create holdings for new households. Permanent improvements such as fencing may be discouraged or prohibited in these circumstances. The durability of such restrictions in the face of significant incentives appears to vary considerably.

3.4 Efficiency and Equity in Land Distribution

Indigenous tenure systems often do not provide for sale of land, and offer varying degrees of resistance to sales. Change in this respect tends to be gradual, and lack of a land market in our sense is often cited as not permit-

ting an efficient allocation of resources. In African circumstances, however, some of our assumptions about the functioning of a land market may not hold true. Land purchasers may be more interested in land as a hedge against inflation or security for loans to be invested outside agriculture, than in producing on the land, and the impact of a land market upon land distribution and landlessness requires careful monitoring. The lack of a land market may also not pose so great a problem as is sometimes imagined. Under many indigenous tenure systems, land borrowing, share-cropping, possessory mortgages and other non-perpetual transactions perform some important functions of a land market.

3.5 Land-Secured Credit

While such security is not needed in most lending to smallholders, the ability to secure a loan with land can be important in the case of loans for expensive permanent improvements in the holding. The problem with mortgaging under indigenous systems lies in the danger of a permanent alienation through foreclosure and sale. As sales gain acceptance, so does mortgaging. Legalizing mortgages may not have the hoped-for impact on access to credit for smallholders, however. Mortgaging requires a predictable land market. Even where such a market exists, banks often will turn down smallholders on more general grounds of "credit-worthiness," or simply because they do not wish to incur the administrative costs of many small rural loans.

3.6 Patterns of Inheritance and Continuity in the Farm Enterprise

Matrilineal and some patrilineal systems of inheritance confer discretion on a kin group in selection of an heir. Under matrilineal systems, the heir will normally not come from among the children of the deceased landholder. An emergent commercial farmer has at the outset little with which to build except the labor of his immediate family, and it may be questioned whether such a system gives children sufficient reason to stay on the farm, for stable transgenerational development of farms. This area is not well-researched, and opinions as to the seriousness of this factor are based on fragmentary evidence and impressions.

3.7 Fragmentation and Subdivision of Holdings

The subdivision of parcels by inheritance over generations into smaller and smaller operated units have given rise to considerable concern about preservation of "viable holdings." In fact, subdivision has proved extremely difficult to regulate in the absence of alternative opportunities outside agriculture. Once subdivision has progressed to a certain point, a farmer must somehow get access to more than one parcel to put together an adequate holding. Subdivision thus contributes to the growth of fragmentation of holdings. Fragmentation involves inefficiencies due to the distance between parcels and the small scale of farming. On the other hand, it often plays a critical role in a farmer's risk management strategy, giving him access to different soils and, especially in mountainous areas, even different ecological niches.

3.8 Man/Land Ratios, Population Mobility and Citizenship

Indigenous tenure systems are generally based in kinship and ethnicity, and this sometimes prevents (or at least retards) movement of people from

areas experiencing heavy population pressure to areas with low man/land ratios. It is doubtful that this is significant in other than the fairly short run; it may be more significant in terms of limiting transfer of new technologies to new areas. "Stranger" farmers migrating beyond the borders of their own tribes have played an important role in this process in Africa.

3.9 Redistributive Reform

While the economically undifferentiated and egalitarian village is a myth, inequalities in landholding under most indigenous systems have been relatively slight and--at least in most cases--not cumulative. Some indigenous systems involved reallocation of land from holdings which came to be viewed as "too large." Redistributive land reform is most relevant in the circumstances of former European settlement, and as such usually not of very long-term concern. Where serious indigenous maldistribution does exist, as it did in Ethiopia, it often has an inter-tribal dimension and can be at least as politically explosive as in Asia or Latin America. Sharecropping or similar arrangements require careful analysis because they are often founded in patterns of tribal conquest and subjugation. These relationships are not based on arm's-length bargaining and to this extent, standard assumptions about economic behavior under sharecropping and tenancy may not provide accurate guidance in these circumstances.

In summary, there is a kernel of fact within each of the concerns about indigenous tenures and those concerns deserve to be borne in mind by those planning agricultural development projects and strategies. However:

- For any given indigenous tenure system, only some of the concerns traditionally expressed about indigenous tenure will be relevant;
- When one of them is relevant, a careful examination is necessary to determine how serious it is in that specific transitional economic and social context; and
- Insofar as a particular facet of an indigenous tenure system is perceived as posing difficulties in respect of one need of farmers, it is important to examine whether it is not meeting another need, perhaps equally or more important to the farmers.

4. Tenure Reform Models

4.1 The Variety of Tenure Reform

Some observers see tenure reform as useful in facilitating evolutionary processes, organizing and hastening a transition caused by fundamental economic forces. Others see tenure reform as a tool with which to initiate change and to alter general directions of development. It is perhaps realistic to think of land tenure as one among many mutually dependent variables, one whose manipulation may affect the course of development but which (like the others) is unlikely to produce much of an effect if manipulated alone. It is in addition a variable to be manipulated with considerable care: land tenure reform can be a powerful force for social disintegration. What are the major reform patterns?

4.2 Individualization of Tenure

Individualization is seen by many analysts as the most appropriate remedy to the asserted shortcomings of indigenous tenure. It would create a property form which would mesh more easily with the other institutions of emerging private enterprise economies, a property form which would allow land to be dealt with as a commodity.

Kenya's individualization program has been by far the most ambitious in Africa. It has been remarkably successful as a field operation, systematically surveying and registering in freehold all the good farmland in the country and many marginal areas as well. In central Kenya the program was associated with a prosperous period for smallholder agriculture, but it is virtually impossible to determine how much that prosperity owed to the tenure reform and how much to other initiatives. Micro-studies from several parts of the country indicate that the process has had a number of negative impacts and that the strategy under which "yeoman farmers" were to arise out of the reform has not played out as planned. Kenyan farmers have to a large extent failed to comply with the legislation, and where they have done so it is apparently with different objectives than those anticipated by the architects of the reform. It may be questioned whether the results have justified the effort involved.

Individualization need not involve a full conversion to freehold, and in a number of countries it has taken the form of long-term leasing of land by the state to the individual. In Lesotho, individualization means seizing the opportunity under a 1979 Act to have a long-term lease from the Commissioner of Lands of a holding originally allocated by the chief. Zambia has also used long-term leases for individualized tenure, primarily as the tenure for former white settler holdings.

4.3 Cooperativization of Production

The ujamaa program in Tanzania involved both villagization and cooperative production. That it has proved disappointing both in terms of productivity and farmer participation is widely acknowledged, but there is much less agreement as to the reasons for the disappointing results. Some commentators assume the inherent unworkability of the model, others mismanagement of the program, and still others that Tanzania peasants simply rejected the approach. Tanzania is currently moving away from production cooperation and in the direction of long-term leases for individuals. In ujamaa villages, the village would hold the land on an even longer lease, and individuals would hold as sub-lessees from the village.

In post-revolutionary Ethiopia, the impetus behind production cooperation has been more ideological, but the introduction of such arrangements has been gradual, with only about two percent of the land now collectively farmed. Individual farms are proving more productive than those farmed collectively by peasant associations; and collective farming has not been well received by the former sharecroppers who saw the revolution as their chance to at last own their own land. The government's commitment to collectivization does not, however, appear to have waned.

The Tanzanian and Ethiopian experiments, it should be noted, have both been top-down exercises involving some degree of coercion. Both have involved the creation of new local institutions as the foci for collectivization, rather than using traditional forms.

4.4 Reinstitutionalizing Indigenous Land Tenure

"Reinstitutionalization" is used here to describe reform which may involve substantive changes in tenure but emphasizes change in the institutions which administer the tenure system, while preserving the element of kin group or other community control. A "communal" dimension is maintained, and the role of the national bureaucracy is minimized. Such reforms take a variety of shapes. In Nigeria and Ghana, the courts have by analogy to English legal institutions defined a property form known as "family land." In pre-revolutionary Ethiopia, "agricultural communities" were empowered to codify their own land tenure systems. In Botswana, a system of tribal land boards was created to replace the chiefs as land administrator but left the indigenous tenure system for farmland largely intact. Another option, the Asian "land corporation," has yet to be introduced into Africa. The major attraction of the "reinstitutionalization" model is its promise of cost-effective reform with a minimum of bureaucratization and social dislocation. In some national contexts, however, it may be viewed as inadequate to the extent that it permits survival of a tenure diversity based in ethnicity.

4.5 Reforming Inheritance and Its Consequences

Africa presents a tremendous diversity of systems of kinship and inheritance. Some reforms are underway. Kenya has legislated a set of uniform rules of intestacy, though indigenous rules may be resorted to in a will. Zambia is considering such a reform, and there matrilineality is a major issue. Proposals for reforms to provide for inheritance by female children and wives may be expected to increase. Inheritance reform affects deeply internalized values and roles. It is not surprising, then, that some reforms attack not inadequacies of rules of inheritance but their undesirable consequences, such as fragmentation. The experience with consolidation of fragmented holdings in Kenya and elsewhere suggests that it may be futile to attempt to eliminate the phenomenon through consolidation without addressing its causes.

4.6 Nationalization and Bureaucratization of Land Administration

Numerous countries in Africa (Senegal, Nigeria, Sudan and Zaire, to name just a few) have since independence declared state ownership of all or nearly all land. In many of these cases indigenous tenure systems have continued to govern land use, and state ownership has been used primarily to give government a freer hand in land acquisition and distribution in development project areas. Where the state has seriously attempted to take over land administration from indigenous institutions, results have been far from satisfactory. Planners seem to consistently and drastically underestimate the amount of work done by traditional land administrators, and consequently fail to invest anything like what would be required to create a sound bureaucratic system of land administration.

4.7 Understanding Choices Among Tenure Reform Models

Choices among tenure reform models are not determined by technical considerations, but by reference to basic values and ideology. The appropriate tenure system for a given country is ultimately one which will mesh well with its other basic economic and social institutions, be they socialist, capitalist, whatever. But pious declarations by governments of the reasons why they have chosen particular reform patterns should not be uncritically accepted; tenure reform models are chosen as much to maintain and enhance power as to realize more lofty objectives. The extent of experimentation with tenure reform in the post-independence period is probably explicable by the fact that the elites achieving power at independence had little vested interest in indigenous tenure systems, and have been seeking ways to use tenure reform to enhance their power bases.

5. Land Tenure and Project Implementation

Most African farmers hold their land under indigenous tenure arrangements, and development planners confront this persistent phenomenon in the "project" context. Projects come to grief over land tenure because they are designed on incorrect assumptions--rarely explicit--about land tenure in the project area. Common errors in project design which give rise to tenure problems are:

5.1 Neglect of Social Constraints on Farmer Behavior

This may involve simple ignorance of constraints posed by indigenous tenure rules or an underestimation of their durability and persistence. Two common errors are neglect of "overlapping" use rights as between the farmer and the community, or between communities, and failure to note community controls over land use by individual farmers. The basis of such mistakes is often naive reliance on a formal legal position, which may have little or no relationship to behavior.

5.2 Miscalculation of Farmer Incentives

Inadequate understanding of existing tenure arrangements can cause project planners to misjudge the incentive effect of project-created opportunities and result in farmers rejecting those opportunities. Common examples would include the impact of insecurity of tenure on an opportunity to invest in the holding; the impact of fragmented holdings on incentives for adoption of mechanization; or disincentives involved in food-for-work labor on someone else's land.

5.3 Inadequate Framing of New Tenure Arrangements

A variety of projects, and in particular settlement, irrigation and range management projects, involve setting up new tenure arrangements. The tenure introduced may fail to elicit the responses desired. Apparent local support for the new arrangements may turn out to be for purposes quite different from those of the project planners.

5.4 Tenure Problems Caused by Project-Induced Change

Projects themselves sometimes create new situations which give rise to land tenure problems. Some of these may directly affect the project. Where intended project beneficiaries have ambiguous or insecure title to land, the value of which land appreciates dramatically due to the project, the result may be displacement of the beneficiaries by the more powerful, sometimes called "project hijacking." If such conflict does not produce displacement, it may result in a stalemate which nonetheless frustrates the objectives of the project. Serious conflict may also be generated where land is subject to overlapping use rights and the project seeks to enhance one use to the exclusion of others. Land-grabbing and other conflict may be set off by even the prospect of the project.

6. Characteristic Tenure Issues by Project Activity

6.1 Components of Broad Agricultural Development Programs

The introduction of new crops, inputs and farming practices may be affected by land distribution patterns. A small size of holding due to maldistribution may constrain a risk-adverse farmer from a major commitment to production of a non-subsistence crop for the market. The farmer may also be constrained from investment if he or she must share the benefit of the production with another right-holder in the land. Conversely, new crops, inputs and farming practices can significantly change land use practices and ultimately tenure patterns, where overlapping land uses are eliminated. The transition from shifting to rotational cultivation has profound implications for tenure patterns.

Major investments in the holding, whether of capital or labor, may raise the tenure issues noted in the preceding paragraph. Risks due to insecurity of tenure are more acute, however. The increase in the value of the land due to the investment may draw competing claims to the land and the investment will be lost with the land. Under some tenure systems, permanent improvements in the holding may antagonize the group or its representatives because they imply the arrogation of a permanent right by the landholder.

Mechanization and other labor-saving investments are important to increase the productivity of labor in African agriculture, but may have controversial impacts on land tenure. Mechanization may permit expansion of cultivation to the detriment of unintensified land-users such as pastoralists, with serious implications for relationships between ethnic groups. Although it may not be a necessary concomitant of mechanization, significant displacement of labor has in some cases resulted from mechanization, as has the absorption of some holdings by others to achieve greater scale. Tenure patterns may affect the rate of adoption of mechanization, but ultimately mechanization has considerable potential for altering tenure patterns and land distribution.

Credit opportunities which require land security for loans may not be acceptable to the local community, because of the prospect of irrevocable loss of the land to the community through foreclosure and sale.

6.2 Settlement and Irrigation Projects

In most such projects the land to be cultivated is either already owned or compulsorily acquired by the state. The project, as agent of the state, can create a land tenure system for the project by delegation of certain land rights to project participants.

In irrigation schemes there is often displacement of existing cultivation and other economic activities. Land tenure problems can be minimized by careful site selection. When displacement does occur, compensation may not be provided for under national law. Rather than automatically accepting the national standard or imposing their own standards, project planners should seek to satisfy minimum notions of fairness held by the local people affected by the project.

Allotee selection for rainfed settlement schemes is usually not related to pre-project land rights. In irrigation schemes, however, allotments are an important form of compensation for land lost to the project. Allotee selection involves hard decisions as between local groups with conflicting claims, and on pressures for land from civil servants and outside entrepreneurs. What is possible will differ from site to site and detailed guidelines are unhelpful. The donor and the national government should agree upon clear general objectives but be ready to strike balances in negotiation with local communities.

Security of tenure is clearly an incentive to production in both irrigated and non-irrigated schemes. But especially in irrigation schemes, governments tend to retain control over access to land, in order to compel compliance with a common management plan through the threat of loss of tenure. This may be argued to be necessary in light of the farmer inexperience with irrigation, and there is some merit in the argument, though it only justifies controls in the very short term. It is also argued to be necessary in the longer term, to compel production of a crop needed by the economy but not so profitable as others for the farmer. Such controls have on the whole proved inefficient. If conditionality of tenure is seen as necessary initially, it should be minimized and phased out quickly. A period of experimentation with control not by the state but by water user groups or private contractors seems both inevitable and desirable. Tenure needs to be used more as an incentive, less as a sanction.

Appropriate plot sizes in a particular project will be affected by production objectives, competing labor activities, allottees selected, common service levels, and crops. Very small plots may play an important part in the learning process, but eventual plot sizes should be decided in relation to carefully thought-out income targets. Subdivision of allotments among heirs threatens viable opportunities but control of subdivision is difficult. Success ultimately depends upon the willingness of a designated successor to resist claims by relatives, and such resistance may on balance create more problems for the successor than the benefits it confers.

Land tenure planning for such projects becomes far simpler if project objectives are consistent and clearly prioritized.

6.3 Range Management

The "tragedy of the commons" model which has dominated much recent thinking on pastoralist tenure is misleading to the extent that it assumes an open-access situation. Most "commons" are subject to some community control of access, though the extent and effectiveness of the control varies greatly. Such open access situations as exist are often due to the breakdown of indigenous systems of control under various external forces.

Where better control of range use is necessary, there are three options:

1. Consolidate management (and perhaps ownership) of all herds on the range in a single institution. This is a solution unlikely to be acceptable to most pastoralists, who prefer to retain individual ownership of animals and herd management;

2. Individualize tenure. This is problematic unless there is reliable rainfall or sufficient groundwater to provide animals with water and some fodder. The cost associated with individually owned ranches simply cannot be capitalized at any reasonable prospective off-take from the small herds which constitute the bulk of Africa's livestock. In an arid and variable environment, the ability of herds to range widely and freely is often the only economic strategy for smallholders, and an individualization scenario implies reduced access to pasture for small stockholders. Botswana's commercial ranching program is the most interesting experience to date. So far, there is a lack of evidence that individualization of tenure has produced the anticipated intensification of production through investment and better range management practices;

3. Effective regulation of grazing in a continuing situation of individually managed herds grazing a commons. The task is difficult but not insuperable, and five approaches are suggested as possible components in a strategy:

- Reduce the area of the commons to the maximum degree consistent with the environment through capital expenditures on wells, water catchment dams, etc.
- Define (re-define if necessary) the group administering the commons carefully for effective administration of the smaller commons.
- Restructure or even create local management institutions with effective internal decision-making mechanisms and the legal capacity to hold land and deal effectively with the world outside the pastoralists' society.
- Define a system of controls from a variety of options: stocking quotas, periodic closure of reserves to stock, control of grazing through control of access to water points or critical dry season grazing, and/or negotiated agreements between groups of users.
- Provide supportive linkages for local institutions to government, for enforcement of their decisions and dispute settlement, as well as technical assistance.

6.4 Forestry, Fuelwood and Resource Conservation Projects

Trees interact with land tenure more dramatically than any other crop, primarily because of their long life. The nature of the interaction depends upon the tenure of the land on which they are planted.

When trees are to be planted on individually-held land, insecurity of tenure is sometimes clearly an impediment to tree planting, as it is for most long-term investments in the holding. In other circumstances, it is equally clear, tree planting can establish and extend tenure. (Tree planters may take advantage of indigenous rules which, if they granted only limited tenure in land, clearly protected crops in the ground--however long-lived.) Tree planting can significantly alter land distribution, and project planning must proceed in an awareness that project design decisions can determine such impacts. Projects can both be hampered and assisted by tree-tenure interactions, which are predictable only on a close examination of a particular case. Such predictions are complicated by the fact that some indigenous tenure systems recognize tenure in trees distinct from tenure in land; "tree tenure" deserves new recognition as an issue in project design.

Tree-planting on commons areas raises a very different set of tenure issues, and they have seriously affected "community forestry" efforts. In some cases no convincing incentives have been created for care of the trees, while in others elites have taken over the benefits of the project. In planning such projects, particular attention must be given to: (1) development of clear community arrangements for protection of the trees; (2) clear and convincing provisions on long-term distribution among the whole community of benefits from the trees; and (3) creation of short-term incentives in particular individuals for care of the trees. Perhaps the single most important task is convincing beneficiaries that the trees are their trees, not the government's trees. If the trees are regarded as belonging to the government, their planting may well be regarded as a land-grab by government. In such circumstances, trees have a very low survival rate.

On state-owned land, creation of forest reserves often involves displacement of cultivators. There has been experimentation with taungya systems in many African countries, but the system can be exploitative and attention is increasingly focusing on means to provide participants with greater security of tenure.

Finally, assertions that trees are to be planted on land "not previously owned by anyone" should be regarded with the most profound skepticism. If the land becomes valuable, some group with a dormant claim will almost inevitably come forward to assert it.

6.5 Other Project Contexts

Land tenure can be important in project contexts where its relevance is not immediately apparent. Two examples: in rural roads projects in some African countries, even the prospect of farm to market road construction led to land-grabbing by elites, displacing the rural farmers whom the road was expected to serve; and in agricultural research, the on-farm trials connected with farming systems research appear to be flushing out tenure issues raised by particular innovations much earlier than would otherwise have been the case.

7. Dealing with Land Tenure in the Project Context

7.1 Recognizing Land Tenure Issues

Increased awareness of potential tenure problems by AID's project staff is the long-term solution, but there is also a need for much greater efforts to draw out local counterparts on tenure issues. Where the Ministry of Agriculture is not in charge of land policy and administration, linkages must be developed to the ministry with such responsibility. Land tenure problems are often neither as sensitive nor intractable as they may seem at first glance, and can often be addressed directly. When tenure problems seem likely, it is usually a vain hope that they will somehow "sort themselves out," at least within any project-relevant time horizon.

7.2 Options for Response

If some elements in the project model are not going to mesh smoothly at important points with the tenure pattern in the project area, there is a potential "land tenure problem." The range of options for response include:

1. Reframe the project activity so that the problem does not arise;
2. Change the land tenure patterns so that the problem does not arise;
3. Avoid the problem by moving the project; or
4. Move the activity to an alternative niche within the land tenure system.

Of these options, changing the land tenure pattern is the least commonly resorted to and often the most difficult. Such change may be initiated through action by national government, or through project-level approaches. Precisely because it is sometimes possible but complex, the following three sections consider some parameters in the process.

7.3 Land Tenure Reform: Action at the National Level

To test the feasibility (and adequacy) of a national-level reform to meet a problem arising in the project context, the following questions must be considered:

1. How serious are the political implications of the tenure change?
2. To the extent that the issue is politically sensitive, has government the necessary political will?
3. Can government make the necessary decisions on the tenure issue within anything like the time frame for a normal project planning exercise?
4. Is new legislation necessary, or is the necessary empowering legislation already in place with only regulations and implementation necessary?
5. Is there reason to believe that the steps which government takes will alter behavior in time to contribute to the success of the project?
6. Does government have the staff and administrative capability to implement the tenure change?
7. Does the change create continuing demands on resources for system maintenance which are beyond the capabilities of government?

8. If the project is a regional rather than a national project, is government willing and able to consider promoting tenure change on a regional basis?

The last question is uniquely important, both because many projects are regional, and because needs in particular areas of a country may differ considerably. Tenure reform usually involves law reform, which is sometimes a national prerogative, but tenure needs of particular areas of a country may vary considerably due to different ethnically-based tenure systems, different development potentials and different paces of development. A national elite may feel that reform which seeks to work only local changes perpetuates and perhaps increases divisive particularity. Local farmers may on the other hand react with suspicion to any program which treats them differently than other citizens. Where a diversity of situations requires, legislation should be framed to provide nationally uniform objectives, regional diversity in detail, and phased implementation.

It is important to emphasize that legislation, if enacted, may not affect reality beyond the pages of legislative supplements. Alternatively, they may have important impacts that bear little relation to the legislators' intention, and which may be difficult for researchers to recognize on the ground. The circumstances in which law reform can be expected to have a surer and more immediate impact are:

1. When most people have begun to behave that way, in violation of older rules or simply in a legal vacuum, and the law acts as a ratification and reinforcement of emerging practice;
2. Where some people with a personal interest in the new rules are willing to take the trouble to enforce their rights, and have access to a reliable system of enforcement;
3. Where the state itself actively monitors and effectively sanctions the breaking of the law; and
4. Where the state's administrative machinery intervenes to change facts (e.g., replanning parcels and layout) in a way which undermines the previous tenure system.

It is not law alone which changes behavior, but law which authorizes, organizes and releases other economic and social forces which, acting in conjunction with law, change behavior.

National land policy may require changes in land law and tenure much broader than those of any project. A project may serve as the occasion to press for such legislation or to demonstrate its viability through pilot implementation. Given the uncertainties connected with national legislation, only in rather limited circumstances will it be a promising approach to altering tenure to meet a particular project need. Are there other approaches?

7.4 Land Tenure Reform: Minimalist Approaches and Action at the Project Level

Where the aim is simply success in a project objective, the most practical response is often to alter the project idea a little and the tenure system a

little--the minimum adjustments needed to reach a workable accommodation. How does one strike a sound balance, and imagine workable accommodations? The planner must distance himself or herself from the project idea far enough so that the problem is seen as a mismatch between the project idea and the tenure system, rather than just a "tenure problem." The "problematic" aspect of the tenure system needs to be seen not just in terms of a tentative project scenario but also in terms of the advantages which it may have for the farmer. A tenure which at first appears to pose a problem for the project idea may on more careful examination be found to also offer opportunities. A multi-tenure system provides a tenure "menu" on which a solution to the tenure "problem" may be found. Such angles of approach can produce strategies for change which minimize both immediate project costs and longer-term social costs.

7.5 Tools of Tenure Change at the Project Level

There are a number of tools of tenure change which can be employed at project level by project managers:

(1) Community Legislation: There is a prevalent misconception of "customary" rules as deeply internalized, observed by ancestors from "time out of mind." It is often believed that such rules change only through what might be called "snowballing deviance," in which particular instances of deviance eventually become pervasive and are recognized as new custom. But "traditional" communities also legislate, acting purposefully to change rules to meet new circumstances. Projects can encourage such change in several ways, including preferential treatment of those communities which have taken the desired steps.

(2) Contract: Because projects have benefits to offer, they can sometimes be traded for changes in land tenure arrangements. Contracts can be used as a tool for regulating tenure arrangements between groups or individuals, or between the project and groups or individuals.

(3) Project Economic Leverage: Projects can affect behavior with economic leverage exerted through preferences, subsidies and a wide range of other actions, used independently or in connection with community legislation and contract.

(4) "The Land Law of the Project": Where projects are to be created on state-owned or appropriated land, as in many settlement and irrigation schemes, the state creates a land tenure system for project beneficiaries as it defines the terms of their access to land. A challenging task under any circumstances, such authority needs to be used with particular restraint when working with communities long-established in the project area.

8. Conclusions, and Implications for AID

8.1 The Role of Land Tenure in Agricultural Development

How critical is the role of land tenure in agricultural development? There has been remarkably little interaction between the macro-economic technology-transfer models which have dominated development economics and the household-firm models available for analysis of land tenure. Much of the classic eco-

conomic development literature on tenure relates to share-cropping, which is of limited importance in Africa. During the 1960s, useful qualitative research on African land tenure gradually undermined many stereotypes about "communal" land tenure, but those insights have still not been adequately absorbed by economic development theory.

In the mid-seventies, several factors combined to bring land tenure issues to the fore. There was a new concern with population absorption in agriculture, and a growing perception of land resources as both radically limited and deteriorating. These concerns, together with evidence pointing toward the continuing viability of the small farm, has redirected attention to the African farmer and the terms on which he holds his land. The "induced innovation model" sees the generation of technology as endogenous, a process in which factor endowments are critical and classic resource allocation issues are central. The "efficient but poor" thesis has been placed in question, re-opening discussion of the impact on efficiency of differential farmer factor endowments and differential freedom to innovate, as determined by social status. Finally, comparative evidence has emerged to suggest that the size distribution of farms has been a critical determinant of the demand for industrial products in developing economies, and so for balanced development. We are entering a period of what will hopefully be a profitable re-examination of the utility in the African context of the household-firm and property institution models which economists use to reason about land tenure.

Interest in African land tenure among development planners has never been higher. There has been a concurrent realization that there is little hope of success for African farmers unless a broad range of incentives for efficient production are improved dramatically. Better prices for African farmers and improved land tenure arrangements are both important ways of improving farmer incentive structures. Price increases probably have more promise as a "quick fix" to stimulate production in the short run, but responses to such increases will be disappointing if the non-price, institutional elements in the farmer's incentive structure are neglected.

8.2 Some Conclusions Concerning Reforms

While most concerns about indigenous tenure have a basis in fact, those concerns have tended to be exaggerated and "problems" have been overgeneralized. Indigenous tenures have been judged too exclusively in terms of an emerging capitalist economy, forgetting that the African farmer still stands with one foot in an older economy and society, whose demands the farmer will ignore at peril not only of progress but even subsistence.

The experience with major tenure reforms has been disappointing. Neither Kenya's freehold nor Tanzania's ujamaa has produced the reactions desired from farmers.

8.3 Implications for USAID

(1) Appropriate Involvements with Reform: The experience to date with major reforms suggests that we have a limited ability to produce predictable results through this sort of legal and social engineering. Mistakes can be costly in both social and economic terms, and the track record is not good.

It is, therefore, suggested that AID show considerable caution about committing itself to support major national programs of reform.

AID should instead actively pursue opportunities for more incremental tenure change, and opportunities for experimentation with tenure change on a more modest geographical scale. The project context is an opportunity to develop and test solutions to land tenure problems, and project design staff need to take to heart the admonition that projects should be viewed as experiments. If they are not, we learn little from them.

Where redistributive reform appears appropriate, it will require much the same of AID as redistributive reform elsewhere: a good eye for windows of political opportunity, which can be developed only through research and interaction with those who formulate land policies; the capability to react supportively, very quickly; and resoluteness in bearing the costs.

Tenure issues tend to be perceived as long-term. In a particular situation, it may well be that no immediate resolution is possible. In that case, the appropriate response is not inaction but the funding of relevant research, training of a technically competent cadre of reformers, and institution-building to create greater competence for effective reforms.

(2) Research Implications: Applied land tenure research should continue in light of several critical areas of inquiry with respect to which little or no data is available. Such research will need in the future to focus less upon descriptive treatment of tenure rules, more on dynamic forces such as inheritance and transactions, and on problems and potentials of decentralized land administration by traditional or modern local institutions.

(3) Policy Dialogue on Land Tenure Issues: Land tenure issues are usually not hopelessly "sensitive." They are probably less politically explosive than some other current topics of policy dialogue, such as decontrol of food prices for urban consumers. On the other hand, donors clearly have greater threshold credibility with African governments on "getting the prices right" than on socially intricate land tenure issues. Dialogue will need to build slowly, and on a firm basis of research, training, and project experience. In order to pursue such dialogue effectively, USAID missions will often need to build new linkages to ministries other than the Ministry of Agriculture, which administer land and other natural resources.