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PD-1111-570

**PROJECT:** Changes in Agricultural Land Use: Institutional Constraints and Opportunities (Ministry of Agriculture and Co-operatives/Land Tenure Centre, University of Wisconsin-Madison)

**Report on a Pilot Survey of Swazi Ownership and Use of Title Deed Land**

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Although Swazi citizenship can be and is conferred on eligible people of any racial and ethnic group, the term 'Swazi' in this report refers only to 'ethnic' Swazis, people of indigenous Swazi paternal descent, as evidenced in possession of Swazi lineage names.

This stricture is dictated by the overall terms of the project, which compares agricultural practices under different tenure arrangements, particularly that under communal tenure with existing alternatives.

**THE LAND REGISTER**

The Land Deeds Register provides a record of all land transactions, and a register of the ownership of all land in Swaziland, including that owned by the Ngwenyama on behalf of the people. Some 5,000 parcels of "rural" land are registered (i.e. excluding the two major urban areas of Manzini and Mbabane) varying in size from a fraction of a hectare to several hundred thousand hectares. Most of the largest of these are Swazi Nation Land, belonging to the King. Since we were interested in impact of tenure on agricultural practice, we restricted our analysis of the register to individually owned parcels of land greater in extent than 1 hectare. (The average size of arable holdings on Swazi Nation Land - 1983/4 was 2 hectares per homestead).

Table 1 shows the incidence of individual (ethnic) Swazi ownership of rural freehold land parcels.

	<u>Number in register</u>	<u>Of which in individual Swazi ownership</u>	
Parcels 1-24 hectares	1933	307	(16%)
Parcels 25 hectares +	1639	237	(14%)
<u>All parcels 1 hectare +</u>	<u>3572</u>	<u>544</u>	<u>(15%)</u>

These figures on the Swazi share of freehold land parcels are an underestimate since they are based on individually owned parcels only, omitting all company land.

The extent of Swazi participation in and control of land-owning companies is unknown, but could be estimated from a random sample of land owning companies, the details of directors of which are contained in files in the land Registry, as required by the Land Speculation Control Act of 1972, which controls and limits the transfer of land rights to non-citizens.

Table 2 shows for parcels greater than 25 ha, the broader pattern of land ownership between different categories of owner.

	<u>Number of parcels</u>	<u>% parcels</u>
Crown, Government, Ndlovukazi, Ngwenyama, (etc)	365	22.3
Swazi Railways, Swaziland Electricity Board, National Trust Commission, (etc)	33	2.0
Registered companies	503	30.7
Churches	38	2.3
Individuals	700	42.7
(Ethnic Swazi	237	14.4%)
(Others	463	28.3%)
<u>TOTAL</u>	<u>1639</u>	<u>100.0%</u>

From this table we note that a third of all these individually-owned larger parcels are Swazi-owned. A third of all parcels are owned by registered companies. We stress that these figures in no way indicate the size of land held: for example, the 24.3% of parcels that belong to Crown, Ngwenyama, National Trust Commission, etc (lines 1 and 2) together cover more than 60% of Swaziland; while individual freeholdings account for a little more than a third of the area.

Table 3 is concerned only with the 544 parcels of land greater than 1 hectare in extent and owned by (ethnic) Swazi individuals (see Table 1). These have been consolidated where an owner has more than 1 holding. We thus shift focus from 544 parcels to 414 owners. Table 3 shows the distribution of rural freehold parcels greater than 1 hectare amongst these Swazi owners. The estimate of the extent of land held in each class is based on mid-points of class interval except for holders of 1000 ha + where an exact figure is given.

Table 3 showing distribution of rural freehold land amongst Swazi owners.

Size of land held (ha)	Number of owners (%)		Estimated gross holdings (%)	
1-5	173	(41.8)	433	(0.63)
6-20	77	(18.6)	1001	(1.47)
21-99	62	(15)	3720	(5.45)
100-499	65	(15.7)	19500	(28.55)
500-999	24	(5.8)	18000	(26.35)
1000+	13	(3.1)	25650	(37.35)
	414	(100)	68304	(100)

What is striking is the very high number of rural Swazi freeholders who own very small tracts of land. 41.8% of freeholders have plots smaller than 5 ha. This 41.8% between them

have less than 1% of the rural freehold area in Swazi (individual) ownership. At the other end of the scale 3.1% of individuals own 37.55% of the land.

Table 4: Cumulative frequencies of land and owners to show inequality of access to land amongst Swazi freeholders (Plots of 1 ha +).

A. Emphasising the paucity of holdings of most owners.

<u>Size of holding</u>	<u>Percentage of owners</u>	<u>Percentage land held</u>
1-5 ha	41.8%	0.63%
6-20 ha	60.4%	2.1%
21-99 ha	75.4%	7.55%
100-499ha	91.1%	36.10%
500-999ha	96.9%	62.45%
1000+	100.0%	100.0%

B. Emphasising the extent of concentration into few hands.

<u>Size of holding</u>	<u>Percentage of owners</u>	<u>Percentage land held</u>
1000+	3.1%	37.55%
500-999	8.9%	63.90%
100-499	24.6%	92.45%
21-99	39.6%	97.9%
6-20	58.2%	99.37%
1-5	100.0%	100.0%

The 14 biggest landowners, with holdings greater than 1000 ha each, have on average 1832 ha each. The biggest single Swazi landowner has 5,500 ha (in 3 parcels).

SAMPLING SWAZI FREEHOLDERS

The register provides a very adequate sampling frame but it is extremely difficult, working from the farm reference number in the register, to locate a particular farm on the map, since the numbering of farms, their numerous subdivisions, is haphazard if not random.

We found it practicable to select a limited number of maps and for each map systematically to record the category of ownership for each farm thereon. Where a farm was individually owned by a Swazi we recorded the coordinates of the farm's position against the name of the land owner. In that way we were able, for the limited areas for which we had done the requisite mapping, to use the land register as ultimate sampling frame.

This method can be extended to select a representative sample, which should be stratified by

- (a) ecological zone (particularly the vital distinction between low rainfall lowveld and other areas)

Existing ownership maps from the Land Use Planning section of the Ministry of Natural Resources\* can serve to guide in the selection of appropriate areas where Swazi freeholders are concentrated. The selection of areas (by maps) is thus the first step in sampling, and would be purposive rather than random.

- (b) size of holding: for each selected map area, Swazi owners can be listed, and classified according to size of holding. These lists become the sampling frame in the second step of the research.

Since the thrust of this element in the research is to juxtapose freeholder producers with comparable producers under other forms of tenure, emphasis in the sample should be on the smaller producers whose holdings are comparable in size to those found under other tenurial regimes. Since 60% of all Swazi rural freeholders have holdings of less than 20 ha and 40% have holdings less than 5, such a sample need not be unrepresentative of all freeholders. A representative sample would provide vital

\*In the offices of Messrs Nkambule and Bulleid.

data on the full range of Swazi use of freehold, which would in turn enable us to evaluate the broader role of freehold within the Swazi social formation.

### SOME PRELIMINARY FINDINGS (FROM THE EXPLORATORY STUDY)

Farming is one of many activities carried out on freehold land, and needs to be seen in the context of other uses to which the land is put. These include:

- (a) the renting out of houses for high rents to foreigners without access to houses of their own;
- (b) the renting out of the land to foreign farmers, (on a less-than-three year lease, thus evading the Land Speculation Control Act of 1972 which requires registration of all leases to foreigners).
- (c) the renting out of outbuildings and farm buildings to entrepreneurs for business activity.  
From rent alone I have found fairly small tracts producing incomes in excess of R30,000 p.a.
- (d) the provision of land to kinsmen for residence and cultivation along "customary" lines.
- (e) business premises for the owner's own entrepreneurial activity; particularly transport (buses, trucks) and trade (wholesale and retail).

The owners' use of the land must be seen in the context of the owners' additional and alternative sources of non-farm income. These include:

- (a) salaries and wages - of self and family;
- (b) returns from cattle held on communal grazing on Swazi Nation Land. Even where farmers are ranching cattle or producing dairy products on freehold land they are likely to conserve their freehold by making use of their right also to communal grazing especially for hardy Nguni breeds.
- (c) Other non-farm investment and enterprises including rental from urban property.

### SOME ANTICIPATED PRACTICAL PROBLEMS

- 1) The bigger the landholder, the greater his assets, the greater his power, the less likely he will be willing to reveal data on his land, particularly as this implies a particular income level.  
The research is thus 'sensitive'. Indirect means of obtaining some information (ie., from sugar mills or cotton gins) may be useful.
- 2) Landowners are difficult to find, especially when they do not live (or do not live exclusively) on their land. Other family members are unlikely to be useful informants, particularly if the land is used for commercial production.

### "FARM DWELLERS," "SQUATTERS" AND "SETTLERS".

The Preliminary Report of the 1984 Agricultural Census records a rural population of 574 000 people in 58 000 homesteads. From an examination of the collated homestead returns by enumeration area we estimate some 2 500 homesteads to be on freehold land. At 7.8 persons per homestead (Preliminary Report Table 1 page 6) this means a population of some 20 000, or 3% of the de jure population, living on freehold land as workers or labour-tenants of the landowner.

Estimated distribution of population between freehold farms and Swazi Nation Land 1984/5

	Swazi Nation	Freehold	Absentees	Total rural
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People	437 895	20105	116 000	574 000
Homesteads	35 500	2 500	N.A.	58 000

Source: Preliminary Report 1984 Agricultural Census

This estimate confirms the annual estimate made by the CSO in its annual Survey of Individual Tenure Farms but is smaller than we would expect on the basis of a simple extrapolation of the reliable figures for 1960 reported by Holleman who surveyed all farms and found 13 704 persons, or 6.4% of the population. (Holleman 1964). However the area of freehold farms has shrunk since Holleman's survey of 1960.

In Kuper's time when settler ownership of land was at its height some 10% of the population was living on European-owned land. She described them,

"The majority of squatters or their parents, were on the land at the time of partition, and have remained because of the difficulty of obtaining good land elsewhere. Conditions vary from farm to farm; usually in return for land on which to build a homestead, cultivate gardens and graze a limited number of cattle, the landowner receives, for whatever purpose he requires, the services of the tenant and his family. Here again there is extensive variation in the conditions from farm to farm - sometimes the tenant buys exemption from labour by a cash payment; sometimes labour is supplied for six months by each adult in turn, or sometimes more than one member serves for periods ranging from three months to a year. Payment for labour is often nominal; it may be a jacket for the herdboys, the tax for the headman, a portion of the crop, or a few shillings a month. Natives accept these conditions more like those of a serf than a freeman, because of their hunger for land; they receive no right to acquire that land no matter how hard they work or how long they stay. At the whim of the farmer the tenant and his family can be removed." (Kuper 1947 pages 21-22)

The whims of farmers were eventually curtailed in legislation in 1966 and 1967, when imminent independence spurred both the guilty

white and the ambitious black politicians to protective action on behalf of this powerless minority. The Farmdwellers Act 21 of 1967 expired in 1977 but was reintroduced with minor modifications in 1982 as the Farm Dwellers Control Act 12 of 1982.

Under the Act an owner of a farm is obliged to reach a written agreement with the head of each homestead on his farm, this agreement to be "expressed so as to confer a right on the umnumzane (head) and his dependants to reside on the farm for a definite period" (Section 4(c)). The agreement has to be approved by specially constituted Farm Dwellers Tribunals, and has to specify the names of the farm dwellers liable for labour on the farm, the periods for which labour is to be provided, the payment of labour, the rations to which the farmdweller is entitled, the acreage of arable land to which the farmdweller is entitled, the number and type of stock which the farmdweller may keep on the farm. The farmowner is obliged to provide dipping facilities for the farmdwellers cattle, and is expressly forbidden to "remove, drive or cause to be removed or driven from his farm any such stock" (Section 12).

A farmdweller can still be ejected from the farm, but only for breach of the Agreement or for an act which in the opinion of the Tribunal, makes his continued residence on the farm undesirable. He can also be evicted because "the farm is reasonably required for intensive development" (Section 10,1) (a clause to encourage the foreign capitalist, but discourage the small foreign settler) However such evictions cannot be made unless "reasonable

alternative accommodation for the farmdweller is available" removal to which is at the owner's expense. The owner must pay compensation for disturbance, and cannot evict between 1st September and 31st May (the crop season). (Section 10,1)

Not every Swazi living on a farm is protected by this Act, which excludes " a person who is in the whole time employment of an owner if it is a condition of his employment that the owner shall provide him or his family with residential accommodation" (Interpretation of farmdweller, clause (g)). In other words, farmowners have the option of providing their employees with accommodation, and thus limiting their rights on the farm, or of, in effect, sharing with them, and with all others in casual employment on the farm, the land itself, by providing arable land and grazing for livestock.

The Farm Dwellers Tribunals which oversee the implementation of the Act have the powers of Magistrates Courts (Section 9(2). Appeal is solely with the Minister of Home Affairs.

This legislation, like other legislation concerned with land rights in Swaziland, carefully protects the rights of the large-scale investors under Section 10(c), allowing eviction for "intensive development", provided that reasonable alternative land is available. This is in line with Swaziland's explicit commitment to encourage foreign capitalist investment as a means of development.

Data from the 1984 Agricultural Census (private scrutiny of returns, which are not yet published) suggests that one fifth of the households on freehold land are without land there. One fifth

said, in reply to a question on means of ploughing, that they had not ploughed in the 1983 season. These would seem likely to be the families of those in full-time employment and provided with accommodation by their employers, but no surveys have been conducted on freehold farms to substantiate this.

Three percent of Swazi homesteads are on freehold farms. Some of these have land and employment since the owner is entitled to some labour if he so chooses to "agree". Others are simply employees with land rights elsewhere. Some may be totally dependent on the land and that land may supply an income of less than E41 per capita per annum. Perhaps a third fall into this latter category and are "landless"

#### REFERENCES

Holleman J.H. (ed) 1964 Experiment in Swaziland Oxford University Press.

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