

**LAND TENURE, LAND RIGHTS AND LAND
COMMUNITIES ON SWAZI NATION LAND
IN SWAZILAND: A DISCUSSION OF SOME
INTER-RELATIONSHIPS BETWEEN THE
TRADITIONAL TENURIAL SYSTEM AND
PROBLEMS OF AGRARIAN DEVELOPMENT**

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A monograph of the Institution of ... Research

1972

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DURBAN

1972.

SYNOPSIS

This work examines various features of the traditional Swazi system of land tenure, the whole set of customary rules and regulations whereby rights to use land are acquired. It also discusses the ways in which this system could inhibit essential agrarian development.

Part I is primarily descriptive. It covers the main characteristics of the physical environment, and the historical background to the present situation in Swaziland.

Part II starts with a discussion of the best way in which to describe and analyse a non-western tenurial system, and suggests a theoretical framework for this purpose. It moves on to deal with the different types of "land community" found among the Swazi today. The point is made that modern Swazi society does know "landlords", but that these are communities and not individuals. Starting with the small Homestead Groups, larger and larger communities are examined in turn; and the whole complex of customary rules which govern relationships between different levels in the land community hierarchy, and between different communities at the same level. The formal procedures through which rights to use specific parcels of land are acquired, and how these rights can be lost, are also described and discussed.

Part III is concerned primarily with some of the results of this system, and the effects on the system of various agricultural innovations. The analysis is designed to show how these innovations have, on occasion, threatened the whole existing pattern of socio-legal relationships and social control, and how the acceptance of technical innovations has been governed by the need to maintain social order. In addition, the many roles that land plays in modern Swazi society are examined at some length. The point is made that "income provision" is only one of these roles and not necessarily the most important or most desirable one in the eyes of many Swazi.

The main purpose of this section is to demonstrate clearly that radical changes (either in customary land law or in the ways in which land is used) which western economists or agriculturalists might consider "obviously" desirable might not seem so obviously desirable to many Swazi. Steps designed to speed economic development will serve no useful purpose if they merely result in social chaos. The fact that many simple and "obvious" methods of dealing with the current economic malaise of the Swazi rural areas could have these disastrous side effects must be appreciated by all responsible for development planning.

To be acceptable and effective, development plans must take account of these factors, and may necessitate complementary

legislation, apparently quite unconnected with land matters, to take care of these unfortunate side effects.

Part IV is primarily an expansion of this last theme, and discusses some of the techniques whereby development could perhaps be brought about through deliberate efforts to work with, or within the framework of, Swazi customary land law.

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ACKNOWLEDGEMENTS

This study could not have been completed without the assistance of many people and organizations. I wish to acknowledge my gratitude to my erstwhile colleagues at the Institute for Social Research at the University of Natal; to the government of Swaziland; and to the government of the United Kingdom for the funds (provided under the Commonwealth Development and Welfare Scheme) which financed the major part of the field work involved.

My thanks are also due to all those government officials who treated me and my family as one of themselves during our stay in Swaziland; to those officials of the Swazi National organization without whose collaboration this research would have been impossible; to Mr. Esau (Magumedze) Nkosi, who had the unenviable task of accompanying me on my wanderings and explaining the purpose of my activities; to the Deputy Prime Minister of Swaziland and all other Ministers who assisted me in various ways in my later investigations; and to those Swazi Chiefs and private individuals who strove so hard to explain to me the intricacies of their traditional system of social and political organization.

Special thanks are of course due to His Majesty King Sobhuza II, K.C.B.E., for giving his official approval to this research project.

I owe a debt of gratitude to Professor J.F. Holleman, former Director of the Institute for Social Research, whose influence on the theoretical aspects of this study will be obvious to all familiar with his work; and to Sir Brian Marwick, K.C.B.E., formerly Resident Commissioner of Swaziland, who helped so often and in so many ways.

I am specially grateful to Professor E.J. Krige, my academic supervisor, whose wide knowledge of the peoples of Southern Africa was of the greatest assistance to me, and who suggested improvements to so many earlier drafts of this study.

I must express my gratitude to my wife, who put up with many months under canvas, drew up many of the diagrams, helped with the typing of many earlier drafts of this work, and whose first-hand experience of the conditions with which it deals was invaluable to me while it was being written.

Finally, I would like to say how grateful I am to all those others who helped in one way or another but whom I have not mentioned by name.

INTRODUCTION

Historical accident has been responsible to a considerable extent both for the establishment and for the survival as separate political units of the three Southern African states which until recently were known collectively as the High Commission Territories. Lesotho (formerly Basutoland), Botswana (Bechuanaland) and Swaziland are all situated in areas where the interests of Boer and Briton clashed during the struggles in the nineteenth century for political control of the subcontinent. In the case of Botswana and Lesotho the problem was resolved by giving these territories the status of British protectorates prior to the Anglo-Boer war; a status from which they have only recently emerged. Swaziland, however, remained technically independent until 1894, when the South African Republic (the Transvaal)¹ established a protectorate over the country, as the result of an agreement reached with the British in 1893 it was only after the Peace of Vereeniging that the British assumed political control².

One of the former High Commission Territories, Lesotho, has been described as "an African Switzerland". If we were to use a similar analogy for Swaziland it could, with some justification, be called "an African Andorra". There are some interesting parallels which could be drawn between Swaziland, situated as it is on the mountainous border between the Transvaal, Mozambique, and Natal, and the minute Pyrenean state that has survived for a millennium or more among the mountains along the Franco-Spanish frontier.

For those unfamiliar with its history, it should be pointed out that Andorra provides a classical example of the political truism that divided rule means no rule; or, to be more exact, no effective rule by those appointed as its dual rulers. Pounded according to tradition by Charlemagne, Andorra was from 1278 onwards under the joint suzerainty of the Comte de Folx (on the French side of the mountain barrier) and the Bishop of Urgal (in Spain). The rights of the former have now passed to the President of the French Republic; but it seems that neither Count nor President have ever been able to make sufficient common cause with the Bishop to allow for any effective intervention by either of the co-rulers in the internal affairs of the little state. Nor, for that matter, has either been prepared to permit his partner, or any other power, to establish any undue influence there. Thus Andorra, although lying on what has frequently been an ideological as well as a political frontier, has managed to survive under the protection (it could be said) of the mutual jealousies of its powerful neighbours.

¹ To avoid confusion I shall henceforth refer to the South African Republic which ceased to exist in 1902 as "the Transvaal"; and use the term "South Africa" to designate the present Republic of South Africa and its predecessor, the Union of South Africa.

² See Hilda Rupert, *An African Aristocracy*, pp. 27- 29 and pp. 50 ff, below

A similar situation existed with regard to Swaziland before the Anglo-Boer War. Both Britain and the Transvaal were constantly on the watch to see that the other did not establish too great an influence over this strategically vital area; a situation which persisted even after the establishment of the Transvaal's protectorate in 1894. From 1902 onwards, the direct political conflict became of less immediate importance, but what we might call a state of "dual dependence" still existed. Swaziland was (and still is) included in the South African customs area, uses South African currency and is in many ways dependent economically on its special relationship with South Africa; yet at the same time it was politically controlled by the United Kingdom until granted full independence in September 1968³.

Swazi politicians have always been very conscious of the clause included in the South African constitution at the time of Union in 1910 which provided for the possible incorporation of the High Commission Territories into the Union at some later date. It is an open secret that during the discussions preceding the granting of the 1963 Constitution to Swaziland some Swazi argued that incorporation into South Africa would be preferable to accepting the constitutional arrangements favoured by the United Kingdom. Therefore, although there is now no official joint suzerainty over Swaziland similar to that in Andorra, there are some remarkable resemblances between the situations in the two territories, due to Swaziland's close ties with South Africa.

One should not push this analogy too far. Any arguments based primarily on analogy (whether overtly or by implication) have their dangers; particularly when one is dealing with societies so fundamentally different from one another as those of western Europe and Bantu Africa. My purpose in drawing this parallel was to bring out, and highlight, one very important feature of the Swaziland situation; namely that the present system of indigenous Swazi social and political organization has evolved in this atmosphere of "protection".

I am well aware that many Swazi, and the Swazi National authorities, contend that this protection (whether provided by the mutual political jealousies of Boer and Briton before 1894, or by the more formal relationships established with the protecting powers after that date) has not always operated to the benefit of the Swazi people. Nor do I deny that in many cases they can produce a great deal of evidence in support of this contention. Here I am not particularly concerned with the question of whether it was "good" or "bad" from any particular point of view; but I am anxious to bring out the fact that this form of protection has existed, in one form or another for the best part of a century. I would submit that unless we appreciate this fact we cannot hope to gain an adequate understanding of the present Swazi

³ Cf: J.G. Borchert, Swaziland apart, A.O - Reeks, Amsterdam, 1968. "Swaziland-Wedergeboorte vaneen Afrikaans Komngkrijk" in *Spiegel Historiae*, Sept. 1968, pp 478 ff.

way of life; nor of the way in which their indigenous governmental and social institutions have developed.

LAND TENURE AND THE ECONOMIC SITUATION.

Here we are concerned primarily with the traditional Swazi system of land tenure. This is obviously closely linked with the economic bases of their life. So, a brief outline of the main economic problems now facing Swaziland and its inhabitants might help to put the specifically "agrarian" aspects of these problems into a better perspective.

The Swazi are faced with two difficulties that are common, in a more or less acute form, to the greater part of Bantu Africa; that of adjusting their traditional way of life to the technically-oriented exchange economy into which they are being drawn with ever-increasing rapidity; and that of accommodating an increasing population on a fixed (or nearly fixed) amount of land. Economic developments in the Territory since 1945 have brought a host of new opportunities, but they have also brought into being an economic environment totally different from that in which the Swazi social system developed during the century or so before this. All the indications are that the tempo of economic change will increase in the near future. This can only mean that the traditional Swazi system will be subjected to even greater strains and problems of adjustment. At the same time, there is ample evidence to suggest that its primary economic basis, subsistence agricultures⁴ coupled with stock rearing, is already suffering from more direct strains. Soil erosion, over-grazing and falling soil fertility are all prevalent; and malnutrition and deficiency diseases are still lamentably common.

The general picture is one of a population that could have a relatively brilliant and secure economic future; but which in fact seems to be moving rapidly into a Malthusian nightmare of over-population (in terms of existing techniques), hunger, poverty, and the continued dissipation of human resources between a thoroughly uneconomic agriculture and inadequately developed alternative economic outlets.

It is pertinent to ask why this situation should have arisen, since the Swazi have access to natural resources which should enable them to avoid this fate. It is hard to escape the conclusion that the fault must lie in the manner in which these natural resources are currently being exploited. In particular, the traditional system of land tenure has been blamed; both by experienced officials of the Administration and by numerous Swazi. Many of the latter have backed their opinion by

⁴ That is, agricultural production designed primarily for home consumption, rather than for the market. The many meanings that can be given to this term "subsistence" are mentioned below; pp. 267 ff.

moving away from areas in which traditional tenure operates and settling on plots or farms that they have acquired elsewhere.

Yet it is an anthropological truism that land tenure, particularly in technically unsophisticated societies, can never be considered in isolation, simply as an economic matter. In tribal African society the rules of tenure are normally most intimately linked with the whole system of social organization and social control. Therefore, tenurial changes will inevitably have widespread repercussions, and will tend to be resisted by those who wish to preserve the traditional system. This view is formulated in precise terms by those Swazi who argue that any change in land tenure would result in the collapse of the whole Swazi way of life, and would sound the death knell of the Swazi as a nation.

This, then, is the essence of the practical problem. Vast changes in the economic environment have already occurred; more are undoubtedly coming. The traditional system is showing signs of being unable to adjust adequately to these changes.

The present density of population is not unduly high, being persons per square mile for the whole country in 1906, and approximately 75 persons per square mile in Swazi Nation Land rural areas⁵. However, this population is not evenly distributed, and predictions suggest that it is likely to grow rapidly in numbers during the next few decades⁶. This will soon aggravate all the present problems unless the economy changes so as to allow for this increase. Even now the rural economy is clearly failing to fulfil its earlier function of providing for most of the needs of those who live in the rural areas. At the same time, the potential of the land as a producer is in danger of being drastically reduced as a result of the agricultural methods now in use.

With regard to cattle, which are so essential a feature of the traditional way of life, the position is already acute. There are already far more cattle in most parts of the Swazi Area than can be carried indefinitely on the grazing available⁷. Some radical changes are clearly essential if this slide towards economic and ecological disaster is to be halted. Yet, it is also clear that little useful purpose would be served by any changes that will bring social chaos in their wake.

Today, the need for some changes in the traditional tenurial system is a very live issue indeed in Swaziland; and has been for some years past⁸. Any changes which may come are almost certain to be

⁵ Since the modal size of Homestead Groups was 7, this would mean that each family would, on average, have access to approximately 42 acres of land. See H.M. Jones, Report on the 1966 Swaziland Population Census, pp. 84-86, 202.

⁶ Jones, op. cit., p. 214.

⁷ J.B. Mel. Daniel, "The Swazi Rural Economy" in Experiment in Swaziland, (Cape Town 1964). pp. 236-250

⁸ See pp. 237-238

"guided" to a considerable extent by those responsible for framing governmental policy. My primary aim in this study is not to indulge in special pleading in favour of any particular course of action (or inaction). Rather, I wish to examine as objectively as possible the links between the present Swazi tenurial system and other aspects of their social and political organisation; in the belief that any policy which is not based on an adequate appreciation of the nature of these links is most unlikely to succeed.

LAND TENURE AND THE INDIGENOUS POLITICAL SYSTEM

To describe these links we shall have to deal in some detail with the indigenous Swazi political organization. In particular, we shall have to examine what we could call the "local governmental system"; that whole complex of arrangements and notions which are designed to define the formal pattern of relationships between local Chiefdoms (and sub-sections of these) and the Swazi Central Authority,⁹ the central tribal organization for the whole Swazi People.

Many of the rules governing land holding and land allocation are closely bound up with "small scale" groupings of people with relationships between close kin, neighbours and members of the same small, localized "face to face" territorial community. Yet land tenure is also the concern of the wider communities, of varying degrees of extension, to which these smaller groupings belong. Moreover, the Swazi Central Authority has expressed very definite views from time to time regarding this matter, and the degree of control which they themselves should have.

So, if we wish to study the "Swazi" tenurial system we shall have to look at the situation at all these levels, and also describe and examine many other aspects of the local organization which are closely connected with land tenure.

The Swazi are not an unstudied people. In particular, I must mention the works of R.A. Marwick¹⁰ and Hilda Kuper.¹¹ These earlier studies made my own task immeasurably easier. Without access to Kuper's brilliant analysis of the workings of the Swazi Central Authority in *An African Aristocracy* it would have been impossible for me (in the time at my disposal) to have gained an adequate insight into the relationship between the Central Authority and the local Chiefdoms. Similarly, Marwick's work gave many clues with regard to Swazi behaviour, particularly at the level of small scale local groupings.

⁹ Definitions of the sense in which these terms are used here are given below; see p.67-68, 101 ff; 155 ff.

¹⁰ B.A. Marwick, *The Swazi*, (Cambridge), 1940.

¹¹ H. Kuper, *An African Aristocracy*, (London), 1947 *The Uniform of Colour* (Johannesburg), 1947; *The Swazi*, (London), 1952.

As these other studies are available, I have made no attempt to describe or analyse many facets of Swazi life which were not, in my opinion, of direct relevance to our central theme. This is intended to be an investigation of the Swazi tenurial system; not a new monograph on Swazi social organization as a whole. Nevertheless, it has been necessary to cover again some of the ground which has already been covered by these earlier investigators. Diligent readers of Marwick's and Kuper's works, for example, could undoubtedly piece together an adequate picture of the workings of the local governmental system. But in neither case was the main emphasis of these works on matters of local government, or on land holding. Marwick is concerned more with the minutiae of custom in certain specific situations; Kuper with the workings of the Central Authority.

It was also felt that it was essential for this present work to be reasonably self-contained; having in mind in particular the reader who might not have an intimate knowledge of, or ready access to, these earlier authorities.

Therefore, the political organization, at various levels has been described in some detail, and the functions of those political institutions which have a direct connection with tenurial matters analysed. Special attention has been paid to the local governmental system, and to the relationships between local institutions (such as the Chiefdoms) and the Central Authority. In my opinion these are aspects of Swazi traditional life which have not been adequately covered in previous works. In addition, some space has been devoted to statistical analyses; to give an impression of the nature and sizes of the smaller social groupings with which we deal.

These descriptions and analyses were essential, if the reader were not to be forced to refer constantly to other works. It is impossible to discuss Swazi land tenure without constant reference to various indigenous governmental institutions (both local and National). For these references to be meaningful, it is equally essential to have defined in clear terms what these institutions are, and what they do.

FIELD WORK

This was mostly carried out between April 1958 and May 1960 on behalf of the Institute for Social Research of the University of Natal (to which I belonged) and of the Swaziland Government.

There were two reasons for the presence of the Institute and myself in Swaziland. Initially, we were commissioned by the Swaziland Government simply to investigate the indigenous Swazi system of land tenure. However, our early investigations soon brought to light a host of other research needs and the emphasis of our whole investigatory exercise was changed considerably after it was decided to mount a relatively massive sample socio-economic survey of the entire

Swazi area. A pilot survey was conducted in mid-1959, and the main survey in mid-1960. Findings were incorporated in numerous reports to the Swaziland Government, and in the publication of the Institute for Social Research entitled *Experiment in Swaziland*.¹²

The sample survey was a combined operation between the Institute and the Swaziland Government. It also involved members of the University belonging to many different disciplines.¹³ I, myself, as the only full-time servant of the Institute based in Swaziland, was deeply involved in the preparations for the two surveys that we carried out in that country; and also in the later processing and analysis of the data gathered, which continued until 1962. The reports submitted to the Swaziland Government, and *Experiment in Swaziland* offered convenient vehicles for the rapid dissemination of scientific findings; findings gleaned not only from the cold, quantitative data collected during the sample survey, but also in part from my own fieldwork.¹⁴

Where these data have a direct relevance to arguments advanced in this study they have been used again here; together with any other data that may have a bearing on the subject under discussion. In all cases full references to sources are given. Information gathered from the sample survey was of particular value in that it complemented that obtained from my own intensive studies and has enabled a far more generalized picture of the situation to be presented here.

Where the 1966 Population Census of Swaziland covered the same ground as the 1960 sample survey, figures from this more recent study have been used.

The results of my earlier investigations were initially published in 1964, in the form of a report of which only a limited number of copies were produced.¹⁵ Since 1962 I have been engaged, among other things, on similar investigations of traditional systems of land tenure in other areas occupied by African tribal societies. These have convinced me that, the general situation and the problems which I found in Swaziland, are certainly not unique to that country alone. I have endeavoured to keep abreast of the Swaziland situation through correspondence and regular perusal of the press and official reports. In March 1969, I made a further visit to the country, to see whether my impressions that little had, in fact, changed with regard to the traditional tenurial system were justified.

¹² J.F. Holleman (Ed), *Experiment in Swaziland* (O.U.P.), Cape Town, 1964.

¹³ Holleman, *op. cit.*, pp. vi, 2-5

¹⁴ cf. A.J.H. Hughes, "Incomes of Rural Homestead Groups" in *Experiment in Swaziland* pp. 251 ff. "Size and composition of rural Homestead Groups; pp. 121 ff; "Religious affiliations", *op. ci* pp. 1.51 ff.

¹⁵ A.J.B. Hughes, *Swazi Land Tenure*, (duplicated), Institute for Social Research, University of Natal, 1964

In the interim, there had been considerable changes in other directions. Swaziland had achieved full independence in September 1968. Now enterprises had been established, and considerably boosted the gross national product of the country. A predominantly Swazi Parliament, Swazi Ministers and Swazi senior officials have replaced the system of overall control by British appointed officials which I had known before. I was fortunate in that many of those Swazi were old friends, who readily granted my requests for interviews and answered my questions without any reserve. This frankness was sometimes frustrating, since there were some things which I was told in confidence which cannot be recorded here.

Many of those people knew the nature of the work on which I had been engaged before, and had read my 1964 report. This simplified discussion greatly, since they knew in advance the type of things in which I was interested and were able to comment on these most meaningfully.

The same applied to many senior expatriate European officials, whom I had known well and worked with in the past, and for whose assistance during this most recent "field tour" I shall be forever grateful.

I also took the opportunity of visiting parts of the "Swazi Area"¹⁶ both those in which I had lived and worked formerly and others where I was unknown, and discussing the situation with ordinary Swazi cultivators. I was gratified to find that I had retained sufficient command of the siSwati language to be able to do so without difficulty. I also had the opportunity of discussions with members of the Swazi National Council, and with Mr. Esau Nkosi, Rural Development Officer, who had been appointed by the King as his *lincusa* (Envoy) to assist me in my field investigations from 1958 to 1960.

Last, but certainly not least, I was fortunate to find that once again there was an anthropologist doing field work in Swaziland. Mr. John Allen, of Engineering and Power Consultants (a firm of consultants to F.A.O.) was primarily concerned with the sociological implications of recommended development schemes, but was inevitably also interested in traditional land tenure. I had the benefit of several most fruitful discussions with him, and was so enabled to avail myself of his recent experience in Chiefdoms remote from the National capitals.

These investigations and discussions convinced me of one thing; This is that, despite the considerable economic and political

¹⁶ It is gratifying for an ethnographer to find a word which he originally coined (it was used in my 1964 report) has passed into common usage; this now has in Swaziland. In this study "Swazi Nation Land" (or-S.N.L) instead, a category which had not been legally defined in 1964.

changes which have occurred, during the past few years, the situation with regard to traditional land tenure has virtually not changed at all.

A few new experiments have been tried; and some trends which were evident a decade ago may have become slightly more pronounced. Where relevant, these are mentioned in the text of this study. However, the overall situation with regard to land tenure, and the problems to which this system of tenure can give rise, were clearly very much the same in 1969 as they had been in 1960.

Where I have departed considerably from the pattern of the earlier report is the greater emphasis on theoretical considerations, on agricultural possibilities and on possible directions which future agricultural extension activities could take. The 1964 report was written primarily for agriculturalists, who (I was well aware) knew what "sociological obstacles" were hindering their work. The present study is designed more for the general reader, and I have therefore sought to "spell out" in slightly greater detail the connection between so esoteric a subject as the study of a traditional tenurial system and the highly practical question of whether a large number of people are going to have enough to eat in the near future.

Techniques of investigation: Field studies of tenurial systems can be complicated by mistaken, preconceived ideas about what exactly is being studied.

In Swaziland, as I explain later on, the question of land ownership arouses strong emotions.¹⁷ When I was first introduced to the Swazi National Council, and given the services of an Envoy (*lincusa*) by the King to assist me in any work, it was suggested that I should start fieldwork at Lobamba, the main National capital. There was widespread belief there that my work was somehow connected with this question of land ownership; and that my main function was to make out a strong case for an increase in the area of the "communally" held Swazi Nation Land.

There was a natural disappointment in certain quarters when I explained that I was not, professionally, very interested in the exact area of land over which the traditional system of tenure operated, but was more concerned with how this system worked.

I adopted the traditional anthropological approach of settling in various rural areas and initially trying to get a general picture of "who was who", and how the total social system operated in that area. I had previously learned Rhodesian Ndebele (a dialect very close to Zulu), so it was easy to learn the minor differences of accent and terminology needed to speak Swazi (which is also very close to Zulu). I make no claim to being a brilliant linguist (though I did, as a test to satisfy

¹⁷ pp. 44 ff; 51 ff.

myself, sit and pass the Swaziland Government's intermediate examination in the language); but I acquired sufficient fluency to be able to conduct much of my fieldwork without recourse to an interpreter.

As a result, much of this investigatory work was not conducted in formal interview situations, but through the medium of casual discussions with a host of individuals. In due course, formal interviews became the most efficient method of acquiring information, and these were undoubtedly made easier due to the fact that I had usually discussed the same matters informally at some earlier date with many members of the group I was interviewing.

In every area in which I and my family settled, we submitted to a great deal of questioning about the aims and objects of my work, and we became progressively more accepted as "part of the scenery" once these were understood. It also became possible at this stage to employ local Swazi as information gatherers.

We adopted this approach in several different Chiefdoms apart from the Lobamba area. We lived in the Highveld near the South African border; in the Lowveld; in the Middleveld in Shishelweni District in the far South; in the Lomati Valley in the North and in other areas for shorter periods.

In passing, I was intrigued in 1969, to discover that I was still a "landholder" in at least one of these Chiefdoms. A hut which I built there in 1958 is still standing; and I was told that this hut and the area immediately around were still regarded as my *tindzala* (old Homestead site) to which I could lay a claim at any time.

Actual methods of study varied. Once I had established the general pattern of the traditional system of tenure I relied to a great extent on case studies; who had acquired a particular set of land rights and by what process. To facilitate this type of research I made a large number of sketch maps and then investigated the history of every field and every Homestead group shown on these maps. Much of the material gained in this manner is not given here, because it is repetitious. Nevertheless, this work was necessary before I could make many of the statements which I do make in this study with complete confidence. Later I taught locally employed Swazi to use a prismatic compass for compass and pace surveying and so obtained some quantitative measures of arable holdings.¹⁸

I or my assistants attended numerous cases in Chief's courts and the National courts. Records of those cases gave me many insights into aspects of Swazi social organization which are covered in this study.

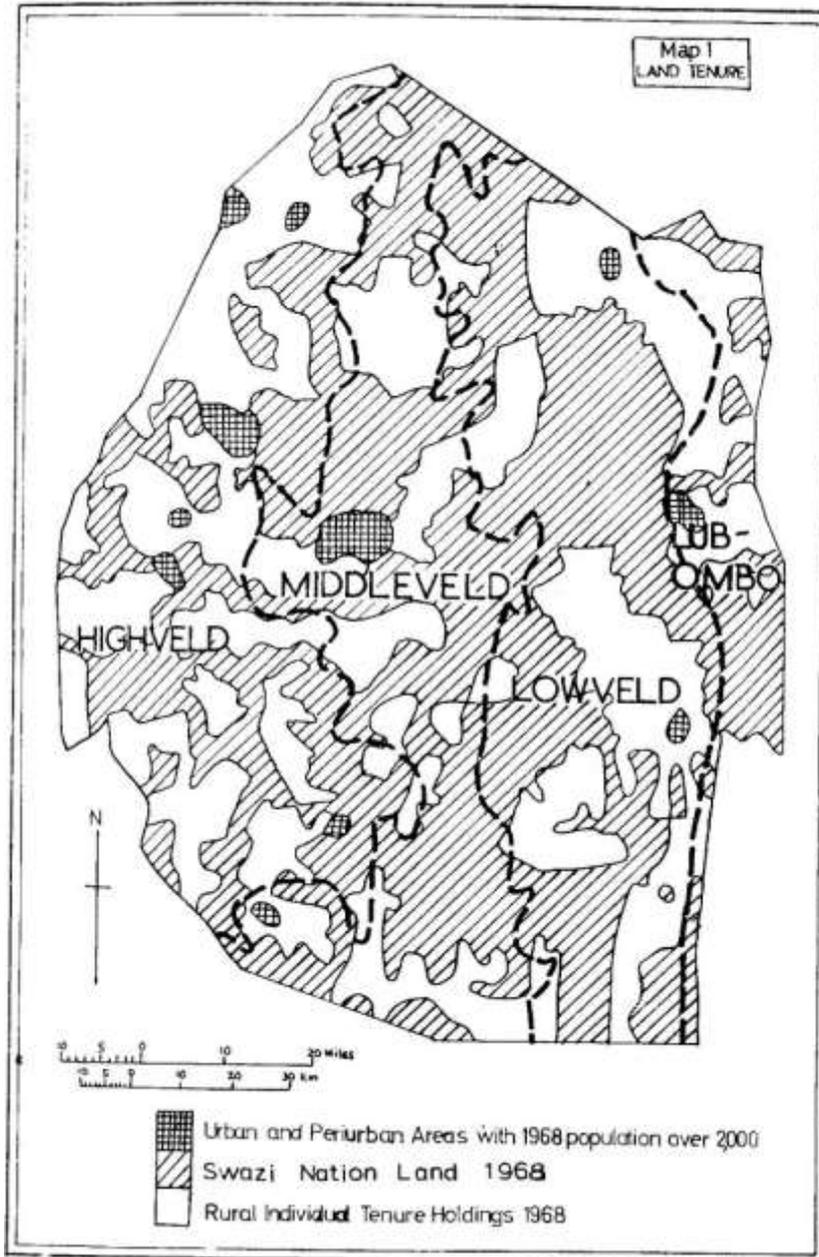
¹⁸ pp. 201 ff

Once the pattern of various aspects of the tenurial situation had become clearer it became possible to operate on a more theoretical basis; to visit Chiefdoms which I had not studied in depth, and at meetings of knowledgeable men discuss the principles of the tenurial system. These meetings often provoked lively discussion, and served to demonstrate in which areas of customary law big differences of opinion existed. I was able to use this same technique on a limited scale during my visit to Swaziland in 1969.

In the case of this particular study, one further "research technique" has been possible. As I mentioned earlier, a report of mine on traditional land tenure was submitted to the Swaziland government in 1964. - I had made it clear to many people in Swaziland that any criticism would be welcome. This report has been criticised (primarily, I gather, because it did not provide a "do-it-yourself" manual for agrarian development), but I am still awaiting challenges regarding questions of fact.

Finally, I must stress that, although most of the points covered here have been discussed with many Swazi in all walks of life, and with many expatriate officials serving the Swaziland government, the responsibility for the interpretations and conclusions reached in this study is mine alone.

Map 1
LAND TENURE



PART ONE – THE BACKGROUND

CHAPTER I

THE PHYSICAL AND ECONOMIC ENVIRONMENT

GEOGRAPHY AND CLIMATE

Swaziland has been succinctly described as being "compact in shape, the maximum distance from north to south being less than 120 miles, and from east to west less than 90 miles. Most of the country is between the 26th and 27th parallels of south latitude, and the 31st and 32nd east meridians."¹⁹ It is the smallest of the three former High Commission Territories, occupying a mere 6,703 square miles²⁰ on the eastern edge of the inland plateau of South Africa. On the north, west and south it is bordered by the South African province of the Transvaal; and on the east by Natal and the Portuguese territory of Mozambique.

Internally it is divided into four very distinct physiographic regions. The locations of these are shown on Map 1. Their boundaries all run approximately from north to south and, as all the regions are at different altitudes and the transition from one to another is normally marked by steep ascents or descents, we could describe the country as being made up of a series of gigantic steps. Starting from the Transvaal border on the west, there are first three steps down; the Highveld, Middleveld and Lowveld.²¹ These are followed by a further step up, the Lubombo range, in the extreme east of the country. Each region has completely different physical and climatic characteristics; and each offers a completely different type of challenge to the Swazi cultivator.

The first of these "steps", the Highveld (Sw. *inkangala*) has an average altitude of between 3,500 and 4,500 feet.²² It is a rugged, mountainous land of steep slopes, short grass and many bare rock faces. Its climate is temperate, and the rainfall high (from 1016 to 2286 mm a year).²³ It is also frequently shrouded in mist. There are many mountain streams and springs, even near the summits of the ridges; so surface water is plentiful. The main rivers of Swaziland all pass through the Highveld in their upper reaches and the majority of streams in these parts are perennial, even those which are only a mile or so in length. Little natural forest cover has been left,²⁴ but this has now been replaced in many areas by a multitude of wattle plantations. The natural

¹⁹ Swaziland Annual Report, (London, H.M.S.O.) 1958 P. 5.

²⁰ 4,291,000 acres

²¹ Usually called the "Bushveld" in Swaziland

²² The highest point in the Territory is slightly more than 6,000 feet above sea level.

²³ All rainfall figures refer to mean annual precipitation.

²⁴ Experts disagree regarding the question of the natural climatic vegetation of the Swaziland Highveld. It is, however, noticeable that in certain inaccessible and broken

grasses here are mostly "sour", poor in nutritive value for cattle, but they have been found to be adequate for the grazing of sheep. This region, with its thin soil cover in many parts, and its steep slopes, is not ideally suited for the type of agriculture traditionally practised by the Swazi. Gulley erosion is an ever-present menace, unless the arable lands are adequately protected.

The next "step", the Middleveld, has no Swazi name. It is called simply *live* (the country), or *live lakaNgwane* (the country of the Swazi).²⁵ Lying mostly between 2,000 and 2,500 feet above sea level, it offers considerably better grazing than the Highveld; and far larger areas of relatively flat ground suitable for cultivation. The rainfall is normally adequate (over 730 mm.), although there are drought years.

The third region, the Lowveld, most of which lies at less than 1,000 foot above sea level, has been described as "almost tropical and definitely sub-humid, 20 to 30 inches mean annual rainfall".²⁶ This rainfall is also extremely erratic. Over large parts of the zone an annual fall of 30 inches (considered the minimum necessary for agricultural purposes here) may occur in only one or two years out of ten.²⁷ Surface water is rare. Only the few large rivers which flow down from the higher regions are perennial.

The soils, however, are often remarkably fertile when rain falls at the right times, or when they can be irrigated.

Physically, this is a relatively flat region, and it has retained in most areas a dense bush cover. It is also the only part of the country where game has survived to any appreciable extent.²⁸

From the eastern edge of the Lowveld rises the impressive barrier of the Lubombo escarpment. This culminates in a gently rolling plateau, with only a slight dip towards the east inside Swaziland. Down the dip slope, towards the Mozambique border, deeper dissection occurs, with poor soil cover except in the valley bottoms. In the north, near Lomahasha, this dissection has produced true mountains and valleys. The best farming land on the Lubombo is towards the west, near the scarp face. Proximity to the sea makes for an equable climate,²⁹ while the orographic rain and frequent mists makes

parts there is a thick cover of indigenous trees and bush. Outside the S.N.L. large conifer forests have been established.

²⁵ Literally, "the country of *Ngwane*" (grandfather of Sobhuza I). However, since Swazi refer to themselves as "the people of *Ngwane*" (*bakaNgwane*) the translation given above is acceptable to English speakers among them.

²⁶ Swaziland Annual Report, 1958, p.60

²⁷ Swaziland Annual Report, 1958, p.61

²⁸ A Survival due in part to the game-preservation policies of the present King.

²⁹ Although the highest temperature ever officially recorded in Swaziland (49.05°C) was reported from Stegi, on the Lubombo. Swaziland Annual Reports, 1958, p.62; 1966, p. 108

agriculture a far less hazardous occupation than in the nearby Lowveld, and also ensure adequate supplies of surface water.

Rainfall and Temperatures: There are great differences in mean annual precipitation from place to place, ranging from 500 mm to 2286 mm. These figures, however, do not bring out the varying dates of the start of the heavy rains from year to year, nor the differences in annual rainfall recorded at the same stations. We have already mentioned, the effect these annual variations have on the economy of the Lowveld, where most European farmers now only attempt crop husbandry on any large scale when irrigation is possible. Typical of these annual differences are the 2,716 mm. recorded by the Havelock Mine Station in 1955 and the 201.4 mm. recorded at Gollel (in the Lowveld) in 1935. The greater part of the rain falls in the summer, which is therefore the agricultural season for all dry-land farming.

High temperatures are not common, due to Swaziland's location south of the tropics and the altitude of much of the country, except in the Lowveld. The lowest temperature ever officially recorded was -9°C . Snow occasionally falls in the Highveld. Night frosts are common in winter in the Highveld and Middleveld, and in valley bottoms in the other two physiographic regions.

Water Supplies: Swaziland is one of the best watered parts of southern Africa. The abundance of surface water in the Highveld has already been mentioned, and supplies are normally adequate in the Middleveld and the Lubombo. Only in the Lowveld does one regularly encounter the dry river bed, elsewhere so typical a feature of the southern African scene; and only here has lack of surface water proved a serious impediment to settlement. Water from the major rivers is increasingly being used for irrigation in the Lowveld and elsewhere, and is also now being used for the production of hydroelectric power.

Areas and boundaries of the four physiographic regions: There are some differences of opinion among geographers who have studied Swaziland regarding the exact boundaries between the different physiographic regions. No recent workers have based their classifications purely on altitude. Climate, geomorphology and the natural flora has also been considered. The fourfold division that we have adopted here does not allow for the transitional zones where one region merges into another, and which it is impossible to assign (except on the basis of purely arbitrary criteria) to one or the other. It also ignores the small intrusions of one type of country into areas which are predominantly of another physiographic type; as in the Nkondo and Komati valleys, where riverain strips of typical Lowveld country penetrate right into the Highveld; and the upper Usutu valley, which is situated in the midst of the Highveld but shows typical Middleveld characteristics.

These atypical areas however cover only a small fraction of the country. While the regional boundaries given on our map (Map 1)³⁰ do not show all these detail of the micro-geography, they do illustrate the spatial relationships between the major physiographic regions. For our purposes this is sufficient, since it is these major divisions (with their very different climates, flora and topography) that dominate the local geographical scene.

Tables I and III show the areas and percentages of all land in Swaziland, occupied by each of these four physiographic regions.

DISTRIBUTION OF POPULATION

Cutting across all geographical divisions is the legal division between Swazi Nation Land (S.N.L.) and the rest of the country. Tenure of Swazi Nation Land is according to traditional Swazi law and custom; where as elsewhere it is on an individualized basis, and is based on the laws of Swaziland. It is with the former, the areas of so-called "communal" tenure, that we are mainly concerned in this study.

Until recently, Swazi Nation Land was divided into three legally distinct, categories; Native Areas, *Lifa* Land, and Swazi Land Settlement areas.³¹ This breakdown is shown on Map 2 (as it existed in 1960), since these differences are of historical significance; and there is a slight possibility that they could affect the tenurial situation in the future.

Swazi Nation Land occupied 54.4% of Swaziland in 1968. Its distribution during that year is shown in Map 1, and the situation is summarized diagrammatically in Figure 1. From the last and Table III it can be seen that slightly over half the SNL is located in the Highveld and Middleveld with the largest areas being in the Lowveld (38.9%) -

Table I
Areas of SNL and other land in
different physiographic regions
(Square miles)

	High- veld	Middle- veld	Low- veld	Lubombo	Total
SNL	770	1,190	1,420	270	3,650
Other Land	1,230	590	980	270	3,070
All Land	2,000	1,780	2,400	540	6,720

³⁰ Which follow the classification of G. Murdoch. An alternative classification is that of Harm Bijl, "The concept of the physiographic region applied to Swaziland", *Journal for Geography*. Vol. 1, No. 7, September, 1960.

³¹ See pp. 52-53; 230

Table II
 Percentages of SNL and other land
 in different physiographic regions

	High- veld	Middle- veld	Low- veld	Lubombo	Total
SNL	38.5	66.9	59.2	50.0	54.4
Other Land	61.5	33.1	40.8	50.0	45.6
All Land	2,000= 100.0%	1,780= 100.0%	2,400= 100.0%	540= 100.0%	6,720= 100.0%

Table III
 Percentage of SNL and other land
 in each physiographic regions

	High- veld	Middle- veld	Low- veld	Lubombo	Total
SNL	21.5	32.3	38.9	7.4	3,650 = 100.1%
Other Land	40.1	19.3	31.9	8.8	3,070 = 100.1%
All Land	29.8	26.4	35.7	8.0	6,720 = 99.9%

Based on G Murdoch, Soils and Land Capability
 in Swaziland, (Bulletin No. 23, Swaziland Ministry of Agriculture),
 1968, p. 101.

MAP 2



Of the total SNL area approximately 140 square miles are covered by cattle holding grounds, agricultural research stations and game reserves; where traditional tenure does not operate. This has led one authority to coin the term "Communal and National Land" (CNL), to overcome the terminological difficulties raised by the fact that traditional tenure does not operate throughout the entire area that is classed as SNL.³²

In this study I have retained the term SNL (or Swazi Nation Land) as a convenient and reasonably self-explanatory descriptive term for those areas in which traditional tenure operates. It must be remembered that it is normally used here in this particular sense, and that, unless the contrary is clear from the context it is not intended to cover those small areas that are currently being used for the special purposes mentioned above.

When Europeans first began to arrive in Swaziland the bulk of the population appears to have been concentrated in the Middleveld. Histories of Chiefdoms in the Highveld suggest that it was only in the last third of the nineteenth century that the Swazi started to occupy this region to any appreciable extent; subjugating or driving off the small Sotho clans that had been living there before.³³

There also seems to have been little permanent settlement in the Lowveld at this time. This region was, however, used as a grazing ground for cattle, and hunting expeditions into it were apparently not uncommon.

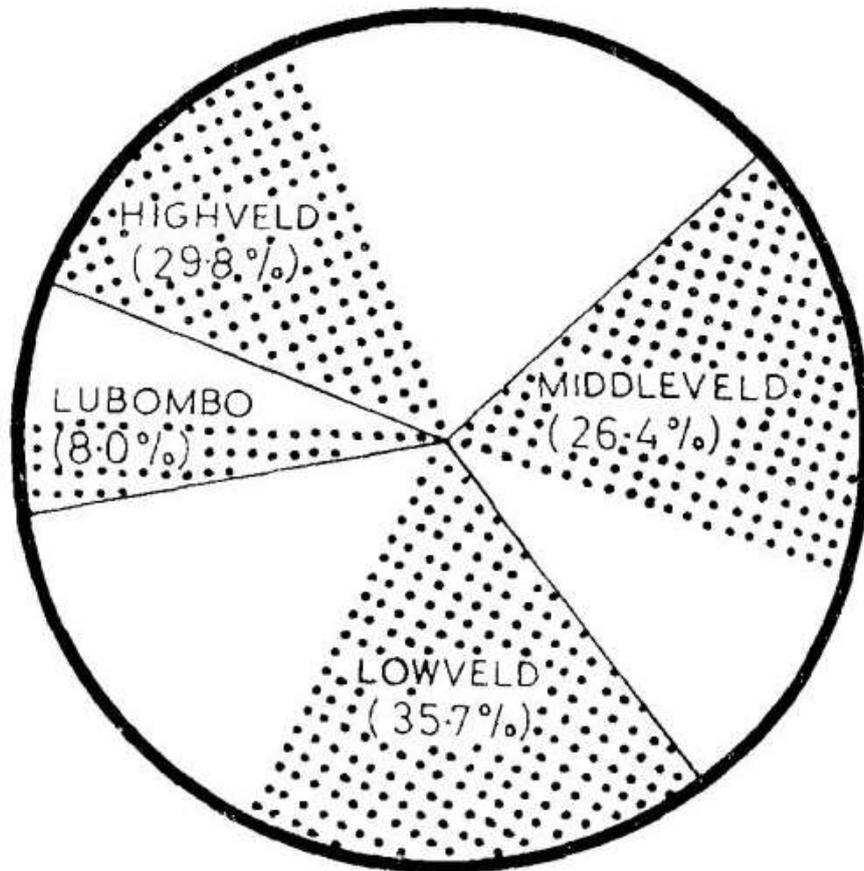
It must be appreciated that although the Lowveld is the largest of all the physiographic regions, it is made up of a narrow strip of country, seldom more than 30 miles wide. The traveller there is seldom out of sight of one of the higher and more salubrious regions. Therefore, in these early times it was possible for cattle posts or other settlements to be based near permanent water at the edge of the Middleveld or Lubombo, and for cattle or humans to penetrate far into the Lowveld from these centres in search of grazing or game.

³² G. Murdoch, *op. cit.*, p. 71. But the Swaziland Annual Report, 1966, p. 33 states that SNL covered 56% of Swaziland in that year. These small discrepancies could be explained in many ways, and have no real relevance to the main line of argument in this study.

³³ See pp. 22 ; 12-13.

FIGURE 1

PROPORTION OF SWAZILAND OCCUPIED BY EACH OF THE FOUR MAIN PHYSIOGRAPHIC REGIONS, AND THE PROPORTION OF EACH REGION OCCUPIED BY SWAZI NATION LAND.



FIGURES IN BRACKETS represent the percentage of the total area of Swaziland occupied by each physiographic region.

SHADED PORTION represents Swazi Nation Land (SNL)

The Middleveld still has the largest Swazi population, but since the British occupation there has been a steady movement of people into both the Highveld and the Lowveld. Population pressure in the Middleveld has undoubtedly been one cause of this, while at the same time facilities for living in the other hitherto unflavoured regions have been considerably improved. The provision of water supplies (through the construction of dams), and the virtual elimination of malaria, has made the excellent grazing of the Lowveld more easily accessible to the Swazi cattle owner. Also the establishment of large enterprises, such as the irrigation projects at Big Bend and Mhlume, offer the possibility of permanent or seasonal employment to those living near them.

Movement into the Highveld may also have been stimulated to some extent by the increased employment opportunities after the British occupation. But other factors, such as the ability to construct housing better suited to the climate and, above all, the opportunity of obtaining more suitable and warmer clothing, may well have been equally important.

In 1960 over nine-tenths of Swaziland Swazi³⁴ were resident on Swazi Nation Land.³⁵ About 13,000 were living as squatters on European farms and a few thousand on Crown Land; while some 9,000 were permanently or temporarily (but mostly temporarily) resident in urban or peri-urban areas.³⁶

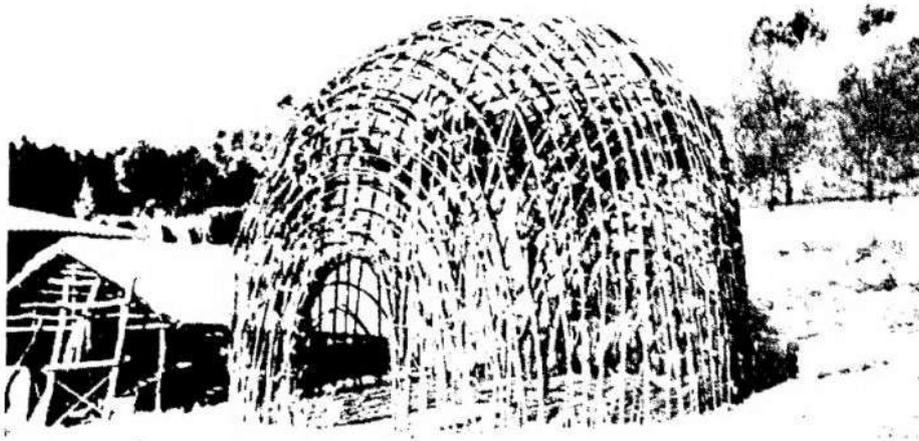
Since that date there appears to have been a considerable drift towards urban areas and the I.T.H. (individual tenure holdings). The 1966 Census records that out of total "African component" of 362,367 (which includes non-Swazi Africans), 260,554 (72.0%) were living in the "Rural Area" - which approximates to the SNL - 79,854 (21.9%) were on "Freehold Farms" and 21,959 (6.1%) were in urban areas.³⁷

³⁴ It has been estimated that only approximately three-fifths of the total Swazi population live in Swaziland; the bulk of the remainder living in South Africa. Kuper, *The Swazi*, p-7

³⁵ That is, what is now called Swazi Nation Land. This category of Land had not been established in 1960.

³⁶ Holleman. *Experiment in Swaziland*, p. 34

³⁷ H.M. Jones, *Report on the 1966 Swaziland Population Census*, pp. 19, 85



IV. Swazi architecture; framework of beehive hut.



V. New palace for official functions; Lobamba.

Murdoch, using a slightly different basis of calculation, states that "All 'nucleated settlement' in Swaziland accounted for 75,000 out of 197,000 people enumerated at the 1966 Census. The remaining 117,000 may be termed 'dispersed' and occupy about 6,570 square miles."³⁸

THE TRADITIONAL ECONOMY.

Despite the totally different, challenges that the wide range of physical and climatic environments offer to the Swazi cultivator, the response to these challenges has been remarkably uniform in all parts of the country. From the crags and moors of the Highveld to the arid thornbush of the Lowveld one finds the people living in individual family settlements (Homesteads); each with its own fields and stock, and each family attempting to satisfy its own subsistence needs by its own labour.

Only in the Lowveld does one find some evidence of agricultural specialization. Swazi living there tend to concentrate on cattle rearing, and appear to realize that they may have to obtain many of their vegetable foodstuffs from other sources.³⁹ But nonetheless they still plant considerable acreages of food crops every year, even though they appreciate that in most years their chances of getting a reasonable return are slight indeed.

Agriculture: The cultivation of maize and the rearing of cattle are the principal elements in the traditional Swazi farming system. Maize is the staple food, and even in areas unsuited to this crop efforts are still made to grow it. The more drought-resistant sorghums (*emabele*), which would offer hopes of a far more sure return in the drier areas, are traditionally used mainly for the production of the local beer (*tshwala*); and there are still only a small proportion of Swazi cultivators who have made serious efforts to grow it as a food crop in lieu of maize.

Pumpkins, beans, ground beans and groundnuts are also widely grown; often inter-sown with maize. Sweet potatoes are another widely grown crop, but these are usually only produced on a "garden crop" scale, for use as a supplement to the diet. There is some production of recently introduced exotic crops such as potatoes and other "European" vegetables, usually on small irrigated gardens (*emagadi*). These are grown mainly for sale; but they are now increasingly finding their way into the rural Swazi diet. Bananas and other fruit are also grown to some extent; again mainly for sale. Other cash crops grown, but not on a very extensive scale as yet, include cotton and tobacco. The

³⁸ Murdoch, op. cit. , p. 98 - These figures include non-Africans, and some 20,567 "temporary absentees" who were "partially" enumerated in the 1966 Census. Cf. Jones, op. cit., p. 81.

³⁹ I exclude those few Swazi Living on organised settlement schemes (which are not strictly speaking part of the SNL) and growing specialised crops.

significance of these and other cash crops, in the economy of the Swazi rural areas is discussed later in this study.

Formerly the fields were prepared for planting by hand, by women using hoes. The ox-drawn plough has now replaced this technique virtually everywhere; though hoes are still used for weeding (*kuhlagula*) among the standing crops, and for land preparation in the small irrigated gardens (*emagadi*). Other ox-drawn agricultural implements (such as harrows, cultivators and planters) are becoming increasingly common. Tractor ploughing is known, but is not yet widespread. The same could be said of contract ploughing, both with tractors and oxen. The majority of families still plough, plant and (sometimes) weed their own fields with their own labour, and with the use of their own or borrowed draught animals.

Stock: Cattle still have for the Swazi much of the social, ritual and emotional significance that they had in the semi-migratory past, when they were virtually the only form of easily-transportable wealth. Nor has there been much change in theories of cattle management. The Swazi still hold to the view that each independent Homestead should have its own cattle byre (*sibaya*) and cattle to fill it; and that these cattle should subsist on whatever grazing they can find in the communal grazing areas. In the winter, after the harvest, the fields are traditionally thrown open for grazing, and at this the cattle are merely released from their byres in the mornings and left free to range. In the summer, they are more carefully herded, to prevent them from damaging the growing crops.

Herding was traditionally the task of the boys. In some areas the traditional pattern has been complicated by the desire of parents for their sons to attend school from an early age. On occasions this has assisted the Administration's efforts to introduce systems of rotational grazing; either through the construction of fenced "camps" in the communal grazing areas, or by convincing the men (who often take over the herding while the boys are at school) to combine forces (and their herds) to ensure that certain areas of grazing are "rested" during the summer months.

Cattle have nowadays acquired a money value and new roles in the farming system. These have tended to reinforce traditional Swazi attitudes regarding the importance of cattle ownership. They are needed to draw the ploughs. Their manure is needed to maintain the fertility of the arable lands, which now usually have to be cultivated continuously, as against the older pattern of abandoning a field after a few years and carving a new one out of the grazing area. They are also still very obvious "value objects", which can be readily converted into money when the need arises, and which have the additional advantage of multiplying themselves without any great efforts on the part of their owners.

They are also, in their present numbers, one of the greatest menaces to the continued wellbeing of the Swazi, rural areas. This is another matter which we shall be discussing at greater length later.

Many Swazi also keep some small stock and chickens with an occasional horse to provide personal transport. Donkeys are kept by some and used as pack animals, and occasionally as draught animals when their owners lack sufficient cattle for this task. Goats, much detested by those responsible for implementing the Administration's soil conservation policies, are kept in large numbers, partly because they are required on so many ritual occasions.

Other raw materials: The rural environment also provides a host of other raw materials used by the Swazi in their day to day lives. Among these are grass for building, and for making mats and ropes; clay for pots and for the smearing of walls and floors; reeds for the wind-breaks; fibre for the making of strings and ornaments; wood for fuel and building. On the nutritional side it also provides many essential additions to the Swazi diet in the form of the various "spinaches" (*imbita*) that the women gather from the veld. In earlier times it also offered the hope of additional protein in the form of game meat. The virtual extinction of game in most parts of Swaziland has now reduced the significance of this particular role to virtually nothing.

The rural Swazi can still obtain nearly all his building materials free; unless he insists on manufactured luxuries such as glazed windows or hinged doors. The traditional dwelling was the "beehive" hut, made of saplings and grass thatch tied together with locally made string. This had many advantages, including that of being easily portable whenever the family moved. It is now being replaced by square or round huts with upright walls and separate roofs. Kimberley brick, very occasionally home-made burned bricks, or stones may be used for the walls, but one of the most popular techniques is to use sods (*emasoyi*) packed into a light wooden framework. These are then smeared with clay, to provide smooth walls inside the hut and a waterproof covering outside. Thatch is almost universally used for roofing.

Up to the beginning of the 20th century the rural environment also provided most of the clothing of the people; the skin skirts (*tidwaba*) and goat skin aprons (*tidziya*) of the married women, the skin kilts of the men and most of the decorations and regalia required by a warrior. However, the adoption of the colourful "traditional" dress seen today has now made the Swazi dependent on bought textiles for their clothing, regardless of whether they dress in the traditional or in western style.

THE DECLINE OF SELF SUFFICIENCY

In earlier times the rural Swazi Homestead Groups as well as forming a recognized social and local governmental unit, was also almost entirely self-supporting. Virtually all its needs could be satisfied from the immediate locality, and its members could supply all the necessary labour. The boys herded the cattle and small stock; the women tilled the fields; the men built the huts and other structures and the women thatched; while both sexes had assigned to them certain crafts designed to satisfy other domestic needs.

Swazi still pay lip service to the ideal of Homestead self sufficiency, but their involvement in a money economy has greatly complicated the situation. New wants have been introduced, for articles which the rural Swazi cannot produce himself. New ways of satisfying these (and other) needs are possible, due to the increased opportunities for earning money. Now money is used only for "imports" which cannot be produced in the rural areas, but increasingly for food and other things which could.

The land, formerly the provider of subsistence needs, and of those only, now has other potentialities. At the same time it is no longer, as before, the exclusive provider of all that is needed by the rural family.

However, the Swazi rural economy is not yet geared for production for the market. Whether or not we could legitimately describe it as a "subsistence economy" is a subject to which we shall return later. But here we can say that, as far as their farming activities are concerned, these are still mainly directed to the satisfaction of subsistence needs.

CHAPTER 2

THE DEVELOPMENT OF THE SWAZI STATE

An understanding of the history of the Swazi state, and of the conditions under which their present system of social and political organization evolved, is absolutely essential for a true appreciation of the position with regard to land.

It must be remembered that the state organization of the Swazi was still in a condition of flux, and of growth, when they first came under external political control in 1894. The relatively shallow historical depth of the phenomena that he is studying is constantly brought home to the research worker investigating settlement histories. One hears time and time again how the grandfather or great-grandfather of the local Chief, usually accompanied by only a handful of followers, came into what was virtually empty country and settled there. In some cases there is the tradition of the subjugation or eviction of a few Sotho.⁴⁰ In others it is claimed that the area was completely unpopulated. It was under these conditions, when land was abundant, and the possession of a large and loyal following was of far greater practical importance than precise rights over clearly demarcated territories, that the Swazi state system developed; and the traditional tenurial system.

Some may find the concept of the development of the "traditional" puzzling. Let us, therefore, briefly examine the possible meanings of this much used, and much abused, term.

Kuper has already made the telling point (also with reference to the Swazi) that "to split up each part of an existing culture and apportion the constituent elements to the "traditional" culture and to "western" culture gives as little idea of the real emergent culture as the dissection of a corpse would give of the personality of the individual when alive."⁴¹ She is here referring specifically to the effect of western influences; but the same argument could be used with regard to those earlier periods when the Swazi were influencing, and being influenced by, other Bantu groups in southern and central Africa. For the ethno-historian such "dissections" can reveal very valuable material indeed; as have physical dissections for anatomists and physiologists. But this is not primarily an ethno-historical study. Therefore, when I speak here of the "traditional" Swazi way of life, I do not confine this term only to those customs and traits the origins of which are lost in some distant and unremembered past.

⁴⁰ In at least one area the pre-Swazi inhabitants are said to have been of Bush stock (*ticwe*).

⁴¹ Kuper, *An African Aristocracy*, p. II

Just as the present colourful "traditional" Swazi dress is known to have come in at the turn of the century, so many features of the social and political organization may well have acquired their present forms at some relatively recent date. Nonetheless, they are specifically Swazi and traditional now. It is in this sense, therefore, that "traditional" is used here; to distinguish between what Swazi today consider to belong to their own culture, and that which the majority still regard as coming from alien sources.

Phases of Swazi History: It is possible to suggest a variety of ways in which Swazi history could be divided into significantly different phases. While it is true that all such divisions must be to some extent arbitrary⁴², they nevertheless do serve to provide a useful conceptual framework for our discussion.

One division which has been suggested is into main eras; before and after "the initial recognition of the Native King as the leader of his people".⁴³ The earlier of these would presumably correspond to the so-called "time of the clans"⁴⁴ the semi-migratory period before the bantu-speaking peoples of southern Africa began to organize centralized states, and when political affiliations depended primarily on agnatic⁴⁵ ties. These two periods do, very obviously, correspond to two very different phases in Swazi history. The difficulty lies in establishing exactly when this "initial recognition" actually occurred; in deciding when the genealogically senior male of the Nkosi Dlamini clan⁴⁶ became what we could reasonably describe as a "Native King", as distinct from a mere clan lender.

Another possible division is into three main phases; the pre-state period;⁴⁷ The period of the politically independent Swazi state; and the period after that state came under external political control. A fourth period is just commencing with Swazi politically dominant in the independent, state of Swaziland.

However, for our study of the indigenous tenurial system, neither of these is really suitable. Instead, it would be preferable to adopt a threefold division differing slightly from that suggested in the previous paragraph. In this breakdown the three phases would be:-

⁴² c f. Oswald Spongier, *The Decline of the West*, pp. 9f., 172 ff., 238 ff.

⁴³ Kuper, *An African Aristocracy*, p. 11

⁴⁴ "Clan" is used for an exogamous unilineal kin group, in which the exact kinship links between all members are not necessarily known. Swazi clans are patrilineal and all members of a clan are distinguished by bearing the same surname, (*sibongo*).

⁴⁵ Kin Links traced through males only.

⁴⁶ Members of the Swazi ruling house say that their true surname (*sibongo*) is NKOSI; and that the more commonly used DLAMINI is merely a subsidiary surname (*sinanatelo*). However, since the Nkosi clan has now split into several branches between which intermarriage is permitted, I shall henceforth use "Dlamini" alone to distinguish the clan of the rulers.

⁴⁷ See Appendix A for a discussion of the meaning of this term "state".

- (1) The time of the clans and the emergent state up to the reign of Sobhuza 1 (died circa 1839);
- (2) The concessions period; from the reign of Mswati, (son of Sobhuza 1) until the Partition of 1907; and
- (3) The Post-Partition period.

THE CLANS AND THE EMERGENT STATE

The Dlamini clan have been the politically dominant element in the Swazi state since its beginnings. So, their family history (or as much of this as we can reconstruct) gives a picture of the early development of this state.

At a time variously estimated as being between the fourteenth and the sixteenth centuries A.D., Bantu speaking peoples began to migrate in some numbers into the southern African region. One version of Swazi traditional history is that a man named Dlamini, of the Nkosi clan and Embo-Nguni stock, led his followers from the central highlands down the course of the Komati River, to settle near where Lourenco Marques stands to-day. Other versions suggest a more southerly migration route, through modern Zululand, and that there was a period of settlement further north along the East African coast, near Inhambane. However, there is general agreement that this period in the coastal lowlands lasted for several generations; and the Dlamini still on occasion refer to themselves as Tonga (*ematonga*), their name for the peoples living below the Lubombo escarpment to the coast.

Little is known of the detailed history of those times. There are vague traditions of the building of named Dlamini Homesteads, and of contact with other tribal groups. The names of some of the earlier Dlamini rulers are remembered, but there is no agreement on the order of these before the latter half of the eighteenth century. The political organization appears to have resembled that of other Nguni at this period, where there were no large-scale state systems and agnatic kin groups provided the basis, or framework, of the political structure. One of these agnatic groups might on occasion come to dominate others, as the Dlamini seemingly did the ancestors of many other groups which eventually accompanied them to Swaziland. Also, from time to time, sections of the agnatic group might hive off and establish partial or complete independence of the parent group. Since marriages were forbidden between individuals with the same surname, wives normally held to be sought from other political units, thus producing a web of kinship ties which cut across political divisions.

The "ever dividing Homestead": These autonomous agnatic groups naturally tended to expand. Holleman has given us a vivid picture of the mechanics of this expansion among a similar people, the Zulu; and he shows how eventually large political groupings could be based on

the agnatic ties between the heads of a large number of Homesteads which were all ultimately derived from a single "parent" Homestead.⁴⁸

The Zulu Homestead is internally divided into well defined sections of the "right hand" (*kimono*), the "left hand" (*kohlwa*), and of the "great hut" (*indlu inkulu*). When such a family Homestead split up for any reason, the resulting segments would still be described as belonging to the "right hand", "left hand" or "great hut" section of the "parent" group. In some contexts these segments would be treated as if they were still members of that original group. Each "daughter" group could expand and split in the same way. By the same token, each "parent" Homestead was also a "daughter" of another. That is, it was part of a hierarchy of genealogically structured groupings; until one reached the widest local agnatic grouping, comprising all those Homesteads "descended" from the first Homestead of that agnatic group to be established in the area (the *inzalamizi*, or "bearer of Homesteads").

Such genealogical structuring could also extend across political boundaries, as is evidenced by the claims of Nguni tribal groups today to kinship with other groups now politically independent; and to genealogical superiority or subordination in the original parent group.

Whether the Dlamini ever had this clear-cut division into "right", "left" and "great hut" sections is a moot point. They certainly do not have it to-day. When a modern Swazi Homestead divides, the relationships between the resulting segments are based on different principles. But there is ample evidence to suggest that, whatever internal divisions were recognised in the past, the general principle of the "ever-dividing Homestead", and of a consequent genealogical structuring of political relationships, were an integral feature of the pre-state system.

Kinship ties and political organization: As in all such systems of which we have any record, this simple schema of a political organization based entirely on the genealogical structure of an agnatic group was complicated by two factors; the incorporation of males belonging to other clans⁴⁹, and the varying degrees of authority exercised by the heads of genealogically senior agnatic segments over those segments which were genealogically junior to them. There were apparently males belonging to other clans in the group under Dlamini political control from the earliest times for which we have any reliable traditions, just as there were in the Zulu "clan" in pre-Shakan times.⁵⁰ There was also a certain amount of hiving off of agnatic segments which ultimately became politically independent; such as the Hlubi and

⁴⁸J.P. Holleman, "Die Zulu insigedi" in *Bantu Studies*, XV. 2, June 1941 and XV. 3 September 1941.

⁴⁹ Females of other clans were, of course, constantly being incorporated, but this was inherent in the whole system of exogamous clans.

⁵⁰ Krige, *The Social System of the Zulus*, p. 217

Natal Dlamini. Other groups remained under Dlamini political control, but came to rank as separate clans, often with a considerable degree of autonomy.

The numerical strength of the group under Dlamini control in those times is not known, but it was probably small.⁵¹ This was a world of constant movement, of constantly changing political alignments and one in which subordinate sections of agnatic groups were expected to acquire a greater degree of independence as time passed and their numbers increased; especially when such a subordinate segment settled at some distance from its parent group.

Secession was not necessarily regarded as an overt act of rebellion against the ruling section, as it would be in a territorially-defined western state. It was an ever-present possibility, a "built-in" feature of the system of political organization based on the principle of the "ever-dividing Homestead". A genealogically senior segment might attempt to restrain a junior segment from asserting too great a degree of independence for the senior group's liking; but such assertions of increasing independence could always be expected, and were ultimately inevitable. What was treasonable, however, was an attempt to usurp the position of the senior male in the genealogically senior segment. Since there were frequent differences of opinion regarding which section was senior, the histories of the Swazi and other Nguni abound with stories of armed conflicts resulting from this cause.

Migrations: I have described the way of life at this time as "semi-migratory". This is not meant to imply that these people undertook the regular seasonal migrations of the true nomad, rigidly controlled as these are by the cycle of the seasons; but rather that they accepted the relatively frequent movement of dwelling sites and cultivated lands as part of the normal pattern of living. The Swazi material culture was well suited to such constant moves. Their main wealth was in the conveniently mobile form of cattle. Their beehive huts could be easily dismantled and carried a few miles to a new site.⁵² There was always ample unused land for new fields.

Such a move might be only over a short distance, as when a family left fields that were showing signs of declining fertility to carve out others nearby. Or it could be over a distance of several miles. In extreme cases it could involve the migration of a sizeable group in search of a new home in distant parts.

One of these longer distance migrations was undertaken by the Dlamini towards the end of the eighteenth century. For some reason they and their followers of other clans left their home in the coastal lowlands, crossed the Lubombo range under the leadership of their

⁵¹ See p. 39.

⁵² Kuper, *op. cit.*, Plate III

ruler Ngwane,⁵³ and finally settled on the northern banks of the Pongola River. Some versions claim that Ngwane first penetrated further south, and that there was a period of settlement at Magudu (in Zululand) before the move to the Pongola. Other versions state that this settlement at Magudu was much earlier, before the Dlamini went to the coast, and there were two distinct crossings of the Lubombo range. Whatever the truth may be, these wanderings across the Lubombo impressed the Swazi traditional historians sufficiently for the phrase "you who pushed back and forth across the Lubombo" among the principal "praises" (*tibongo*) of the Dlamini family.

The Sequence of Dlamini rulers: We have now reached a period when tradition becomes more reliable and detailed, and can be checked against the records and traditions of other groups. In order to put the remainder of this narrative into clearer historical perspective, I give the names of the various Swazi rulers from the time of Ngwane onwards, with the actual or approximate date of the death of each:

Ngwane I	(died circa. 1780)
Ndugunye	(c. 1815)
Sobhuza I	(Somhlolo) (c.1839)
Mswati	(1868)
Ludovonga	(1874)
Mbandzeni	(1889)
Nunu	(Ngwane II) (1899)
Sobhuza II	(still reigning)

We have already told how Ngwane led his followers into the vicinity of modern Swaziland and settled on the Pongola. While there, he quarrelled with Zwide,⁵⁴ the powerful leader of the Ndwandwe, and was forced to move further north. He then settled at Eshiselweni, in Southern Swaziland, which is generally revered by Swazi today as the birthplace of their nation.

Ngwane died at Eshiselweni, to be succeeded by Ndugunye, who in turn was succeeded by Somhlolo (Sobhuza I). To the south, the wars of expansion of Zwide, Dingiswayo and (later) of Shaka were throwing all south-eastern Africa into a turmoil. To the north of Eshiselweni the country was inhabited by small Sotho clans, with scatterings of Bushmen who had fled to the rugged hill country as refugees from the Bantu invaders. Near the Dlamini were settled at least one other major group of their agnates, the Mamba, who had broken off and taken another clan name (*sibongu*), but who still recognized the authority of the Dlamini ruler.

The general, turbulence of the lands to the south was reflected here. Raids by Ndwandwe armies, and afterwards by the Zulu,

⁵³ Sometimes called Ngwane I.

⁵⁴ Known as Zidze in Swazi.

dominated Swazi life until they were finally checked by Shepstone at a much later date. After two devastating Ndwandwe raids, Somhlolo decided to leave Eshiselweni and move further north. This he did with a small following; finally reaching the Dlomodlomo ridge, near the modern town of Barberton. The Mamba remained behind, met the Ndwandwe army in the field, and defeated it. Then, tradition has it, the remnants of the groups that had owed allegiance to Somhlolo wished to recognize the Mamba Chief, Mbatshane, as their overlord; but the latter refused to accept this arrangement on the grounds that Somhlolo was his genealogical senior and was still alive.

Somehow Mbatshane discovered Somhlolo's whereabouts, and sent a messenger asking him to return. This Somhlolo did, and built⁵⁵ his capital far to the north of Eshiselweni, on Nokwane Hill near the Little Usutu River. As a reward for their loyalty he granted the Mamba the right to hold their own First Fruits Ceremony (known as *luselwa*) and the right to have a "sacred enclosure" (*inhlambelo*) similar to that used by the Dlamini in the national Incwala ceremony in their own principal cattle byre. The Mamba Chief is also the only subordinate Chief in Swaziland to have his own regimental system, quite independent of the National system.

In this instance it seems clear that the principle of the "ever-dividing Homestead" had led to the Mamba acquiring something very close to complete independence, with the full agreement of the Dlamini ruler of the time.

Histories of settlement of Chiefdoms in southern Swaziland show that the Mamba were not the only group to remain behind when Somhlolo fled northwards. Many others among his erstwhile subjects seem to have sought refuge independently; like the Khumalo of Enkwondzeni (a royal cattle post), who moved to their present home because it was sited conveniently close to a large cave in which they could conceal themselves and their cattle during raids.

My own reconstruction of the course of events is that there was a period of confusion, during which the Dlamini lost contact with many groups which had formerly admitted their overlordship, and that it was only after Somhlolo had been summoned back by Mbatshane Mamba, and had re-established himself near the Little Usutu, that some sort of re-integration of the embryo Swazi state began. This interpretation is supported not only by evidence from the south, but also by traditional histories of settlement in the north of Swaziland. There Swazi settlements seem to have been thin on the ground, and control slight, until at least the end of Somhlolo's reign; or possibly even the beginning of Mswati's.

⁵⁵ To be strictly accurate one should say "rebuilt" since all the three royal Homesteads which Somhlolo established near Nokwane Hill (Lobamba, Ezulwini and Elangeni) had existed previously near Eshiselweni.

The first written estimate of the total Swazi population was made towards the end of Somhlolo's reign. Captain Gardiner in 1836 set the male population at 100, and the total number of persons at 1,200. He remarks that the population was "now greatly diminished"; possibly due to the upheavals resulting from the earlier raids.⁵⁶ Murdoch suggests that "with Pedi and other vassals perhaps 10,000 inhabitants of the country then is not an inflated estimate".⁵⁷

Whichever estimate one prefers, it is clear that in these times the Swazi population was minute, compared with its present size.

Gardiner also states that the population (under Somhlolo's direct control) was confined to two villages; old Lobamba, near the present site of Goedgegun and Elangoni, at the mouth of the Ezulwini valley. Jones remarks that this "is no more than indicative of the relatively small size of the Dlamini clan, and suggests a concentration of settlement not found to-day".

Inevitably, different groups and different individuals give different emphasis to various aspects of the traditional history of this time. Dlamini panegyrists argue that Somhlolo did not flee, but was engaged on an aggressive exploring expedition when he went north. Yet there is a persistent story, repeated even by many living in the vicinity of the present Swazi capitals and indubitably "close to the fire", that he was so poorly supported that he was forced to offer allegiance to a small Sotho Chief when he reached the Dlomodlomo ridge, before his recall by Mbatshane Mamba. The same problem arises when one tries to fix a date for the beginning of the Swazi state system in anything like its present form. The ancestors in the male line of the present ruler are remembered for many generations back, and are all described as "kings" (*emakosi*). One can hardly call this incorrect, since the Swazi term *inkosi* covers a far wider range of meaning than the English word "king".⁵⁸ Yet the balance of the evidence is that the "kingship" of the ancestors of Somhlolo was something very different from the type of authority wielded by some of his descendants.

Perhaps the situation is best summed up in the words of a reliable informant who stated that "before Somhlolo there was no kingship (*bukosi*). In those days people were ruled according to the "houses" to which they belonged".⁵⁹ This agrees with evidence available from many other sources. Hence my choice of the reign of Somhlolo as marking the end of what I have called the "pre-state" period of Swazi history.

⁵⁶ A.F. Gardiner, *Narrative of a journey to the Zulu country in South Africa*, London, 1936, p. 167 quoted in Jones, *op. cit.*, p. 10.

⁵⁷ Murdoch, *op. cit.* .p. 383

⁵⁸ See pp. 88 ff

⁵⁹ See pp. 175-170

CHAPTER 3

CONSOLIDATION AND CONTACT

THE CONCESSIONS

By the end of the reign of Mswati, Somhlolo's successor, the power of the centralised Swazi state was firmly established. Mswati continued his father's practice of demanding allegiance from the various small groups (mostly Sotho) which he found already established in the country, and of resorting to arms if this were refused. It was he who introduced the system of nationwide age regiments, modelled on the Zulu pattern, which cut across all local and kinship ties and formed the basis of the state's military organization. It was from him that the name "Swazi" was derived.⁶⁰ It was during his reign that the first regular contacts with whites occurred; and it was he who granted the first concession to these strangers.

This last move was to have momentous consequences as we shall see later.

This was a period of nation-building in south-eastern Africa. Much of the detail of the Swazi state organization, perhaps even the very idea of a centralised state, may have been borrowed from other peoples; possibly the Zulu.⁶¹ In particular, the idea of "kingship" (*bukosi*) must, have come to imply something rather different from whatever it had implied in earlier times.

Mswati undoubtedly introduced many innovations to meet these changed circumstances. It was either he or Somhlolo who acquired powerful rain medicines from some of the conquered Sotho clans (principally from the Magagula, Mnisi and Maseko) and made rainmaking a royal prerogative.⁶² Even the Incwala ritual⁶³ nowadays so closely associated with Dlamini rule, seems to have taken approximately its present form only in Mswati's time, and to have incorporated many elements borrowed from Zwide's Ndwandwe.⁶⁴

Mswati established his "bachelor's quarters" (*tilawu*), or personal capital⁶⁵ on the far north of Swaziland in what is now Hhohho District. The reason for this choice may well have been the continuing Zulu raids. Those persisted into the life times of the parents of people now living,⁶⁶ and must have complicated relationships between the

⁶⁰ The Zulu form of his name is Mswazi. Most Swazi, the more traditionally minded in particular, still refer to themselves as "the people of Ngwane" (*BakaNgwane*)

⁶¹ Kuper, *An African Aristocracy*, p. 15

⁶² An activity in which the Ndlovukazi (Queen Mother) plays an important part

⁶³ See Appendix B.

⁶⁴ Kuper, *op. cit.* PP. 197 ff.

⁶⁵ Kuper, *op. cit.* PP- 41,47.

⁶⁶ S.T.M. Sukati - personal communication

Swazi rulers and their people. They certainly seem to have inhibited settlement in some parts of the country. Many leading subjects who had been granted control of territories in the Mdzimba area of central Swaziland migrated northwards with Mswati, and only appear to have started settling (or possibly resettling) their lands near the Mdzimba towards the end of his reign; or possibly even later.

Under such conditions, as in the pre-state period, land had little value in itself. It could only be exploited with a modicum of security if one had a reasonably powerful protector nearby; or a convenient, and inaccessible, refuge for both people and stock in the vicinity. These are factors, which must be borne in mind when we consider the history of the concessions, and present-day Swazi attitudes towards land and rights over land.

The expansion of Dlamini power: As a result of Mswati's move to the north it is here that nowadays one finds the greatest concentration of Chiefdoms under cadet branches of the Dlamini family.⁶⁷ This was one of the ways in which the Dlamini rulers physically extended the area, over which they had political control. When a ruler died he normally left a large number of sons by different wives; only one of which could succeed to the position of supreme power. Swazi political theory holds that it would be most unwise to leave the other senior sons living near the chosen heir without any particular political role, since they might be tempted to usurp the bothers's position.

Therefore, on the analogy offered by the rules of inheritance operating in all Swazi polygynous families these other sons were provided with followings and territories of their own to govern. They were still subject to the overall control of the Swazi Central Authority, but as far as the affairs of their own areas were concerned they had a considerable degree of autonomy.

This political device served the triple purpose of giving these junior sons positions commensurate with their rank; of reducing the risk of dynastic quarrels; and at the same time providing nuclei from which Dlamini influence could spread to many different parts of the country.

Another device for the physical extension of Dlamini political control was for the ruler to found other Homesteads or cattle-posts (*tinhlonhla*) of his own; possibly place some of his wives in these; and put them under the administrative control of chosen Lieutenants (*tindvuna*).⁶⁸ When the land became more thickly settled these "Lieutenancies" provided a convenient "pool" from which to provide territories, and subjects, for future generations of junior sons of

⁶⁷ The Royals (*bantfwabenkosi*); see pp. 174; 175

⁶⁸ See pp. 171

Dlamini rulers.

Many of the Sotho and Nguni clan leader whom the Swazi found already established in the country were allowed to retain control of their own groups and territories, provided that they admitted the overlordship of the Dlamini. These, together with other groups that arrived in the country later under their own Chiefs and offered allegiance to the Dlamini, ultimately came to form the most numerous element in the Swazi population.

The concession hunters: The Swazi state system had barely been established when a further complication was introduced by the arrival of Europeans. Apart from individual traders and hunters who happened to enter Swazi territory in the course of their wanderings, there were also organized parties of Voortrekkers, offshoots from those groups which were establishing republics in the South African highveld. These last wished to acquire land; sometimes only for winter grazing, but also sometimes with an eye to permanent settlement. Naturally, they also wished to gain as much control as possible over any land that they did acquire.

This in itself did not present any completely new problem of adjustment to the Swazi. They themselves had undertaken several migrations in search of new homes, and there were innumerable other groups in Africa at that time engaged on similar projects. When the Swazi came into contact with such a group which was willing to offer them allegiance, or could be conquered, they absorbed them into their political system. Those who sought to conquer them, and were (like the Zulu) too strong to be defeated, could be evaded or placated. With those whom it was impracticable to attempt to conquer, yet who offered no immediate threat, amicable diplomatic relations could be maintained; such as those which the Swazi had with the Shangana state.

The Bantu-speaking peoples recognised the right of a conqueror to the land and cattle of the conquered. So, if one wished to retain control of one's own land and cattle, it was politically wise to try and come to terms with any groups whose strength made them a potential menace. The Voortrekkers clearly had this strength: and what they wanted was land, a commodity which at that time was not in obviously short supply. Furthermore, most of the land in which they were interested lay on the chilly highveld plateau, where Swazi seldom penetrated; and to which their claims, in any case, might often have been challenged.

So the Swazi began to grant concessions. After the Voortrekkers came other whites, many seeking minerals and the concessions needed to work them. In the reign of Mswati's son, Mbandzeni, concession seekers flocked to the Swazi capitals. They brought money, trade goods, liquor and even more exotic offerings such as peacocks and greyhounds, all designed to win the favour of an

African monarch. This they did. Concession after concession was granted, until the Swazi had signed way (several times over) all rights to all land to which they could advance any conceivable claim.

This was a good time materially for the Swazi ruler, and for all those in court circles. Any Swazi official who had the ruler's ear, or claimed to have it, could rely on frequent and sizeable gifts from concession seekers. The income of Mbandzeni himself at the height of the "concessions rush" has been estimated at between £15,000 and £20,000 a year.

The land concessions: While it is true that the early concession seekers did not present the Swazi with a completely new type of problem of adjustment, they did introduce certain legal concepts that were completely foreign to them. Among these were the signed agreement; and the notion that the actual wording of such a written agreement (which was usually in a European language) should carry more weight than the memories of witnesses regarding the sense of what had been agreed. They also introduced the idea that once an individual had acquired rights over a specific parcel of land, he automatically had the right to exclude others from using it; regardless of whether or not he was actually occupying it at that time.

Traditional African law recognizes the right of an individual to control the use of specific pieces of land; but there is also the implicit assumption that he will occupy and utilize that land, either in his own person or through his dependants. From this flows the complementary rule that if a right holder fails for an appreciable time to occupy or utilize land over which he has been granted rights, then any prescriptive right he may have is automatically weakened.

Concessionaire (some of them governments) acquired large tracts of land from the Swazi rulers, and then left these lying empty for years. During their normal short distance migrations many Swazi settled on this land, being quite unaware (one assumes) that it was subject to a concession. They were horrified when the concessionaires, many years later, claimed that land. In this way many Swazi found themselves living outside the Swaziland borders, when these were accurately demarcated.

Nowadays, the "official" Swazi argument is that they assumed the concessionaires were acquiring their land rights "as Swazi". That is, that they were only granted the right to live on and make reasonable use of that land for as long as the Swazi community as a whole was agreeable to this; not any absolute, exclusive right to the land as such.

However, in many cases the Swazi at the time do seem to have accepted that they must relinquish all claims to land granted under a concession. Forbes records how the first Scottish settlers at Amsterdam (now in the Transvaal) were approached shortly after their arrival by a

Swazi official, who demanded payment of the balance of the amount (calculated in cattle and trade goods) promised by the Transvaal government in exchange for the land on which they settled. Once this had been paid, the Swazi seem to have been satisfied, and appear to have made no claims to exert any form of political control either over the area or over any non-Swazi living there. Yet, at approximately the same period Swazi settlers were moving on to other land which had been granted to the Transvaal, but which was not occupied.

In part this may have been due to a lack of appreciation of the exact boundaries of these grants; which were often most vaguely defined in the concession documents. However, an equally important reason may have been the inability of the Swazi to appreciate that anyone could claim empty land solely on the basis of a document signed many years before.

POLITICAL DEVELOPMENT

In the political sphere this period was marked by an increased involvement of the Swazi state in the affairs of its powerful neighbours; by the delimitation (by those neighbours) of Swaziland's boundaries; and by the introduction of an intrusive element (the whites) into the population of the country.

Though the number of whites resident in Swaziland was small their economic and military power was considerable. The Swazi rulers must also have realised that their own freedom to develop their newly established centralized political organization was due in a large degree to the unwillingness of either Boer or Briton to allow the other to gain too great an influence in this part of Africa. Since most of the concessionaires belonged to one or the other of these groups, there were distinct advantages, from the Swazi point of view, in having sufficient from each camp with interests in Swazi land to keep the other party constantly on the alert.

The Transvaal wanted an outlet to the sea; a development which the British were equally anxious to avoid. Swaziland lay right, in the path of the former's natural, seaward expansion. Therefore, as I suggested earlier, it was effectively "protected" by these two powers mutual jealousies for many years before the formal declaration of a protectorate in 1894.

Another benefit the Swazi rulers derived from their involvement in the international power politics was the cessation of the Zulu raids. Those had certainly inhibited the development of a strong centralized state while they continued, and ultimately threatened its very existence as a separate political entity. As early as 1838 the Swazi had sought British protection. This was refused, but later Sir Theophilus Shepstone used his influence with the Zulu to curb these raids into Swazi Territory.

Theal records an instance when the Boers played a similar role. "North of the Pongola river was the Swazi tribe, in alliance with white men Panda⁶⁹ feared to offend. In January 1897 the Zulus attacked the Swazis, when Commandant-General Hendrik Potgieter, though not assisting either, used his influence in the interests of peace. In 1835 the Swazis ceded a tract of land to the District of Lydenburg, purposely to place Europeans between the Zulus and themselves."⁷⁰

Military organization: The Swazi's own military machine, based on the age-regiment system, does not appear to have been as regularly used for external raids as were those of the Zulu, the Rhodesian Ndebele and the Shangana. Hemmed in as they were by powerful neighbours on three sides, far-flung raiding was virtually only practicable to the north. A number of raids were conducted against Sotho groups in what is now the north-eastern Transvaal. It is also alleged that a Swazi army once reached as far as Rhodesia. Swazi tradition also tells of expeditions against the Venda and the Ndau. In the former case they were defeated; and while they were victorious over the Ndau, their conduct is said (by the Swazi themselves) to have resulted in the appearance in Swaziland of a form of possession by vengeful Ndau spirits. This Mandzawe possession, as it is called, is still found today; and some informants claim that it caused the death of Mbandzeni, in whose reign this raid took place.

During the period of British rule in the Transvaal (before the battle of Majuba) they were assisted by Swazi in an attack on the Sotho chief Sekhukhuni. On another occasion Swazi joined the Boers in an assault on Mapoko, chief of the southern Transvaal Ndebele. In both cases they appear to have won the respect of their allies.

Raiding was not a regular annual activity, as in other Nguni states. The centralized military organisation appears to have been used by Swazi rulers mainly as a means of consolidating their power nearer home. Probably of greater significance than its actual military operations was its function of binding together, in pursuit of common aims, men from different parts of the country, owing allegiance to many different local leaders. It also provided a direct personal link between the inhabitants of the different subordinate Chiefdoms and the Central Authority. The full-time warrior, the *umbuto*, while he still retained his ties with the people of his own area and his own kinsmen, also served as a constant reminder to them of the wider loyalties implicit in the centralised state organisation that the Dlamini had established.

The Swazi were, therefore, for some years before 1894 in the enviable position of being politically independent, and yet able to

⁶⁹ Mpanda, the Zulu ruler.

⁷⁰ Theal, A History of South Africa, Vol. JV, p55 Cf. Kuper's statement that "only after Dingano's power was destroyed by Boers in 1836 did the Swazi fight a Zulu regiment on the open plains," Kuper, op. cit, p.14

organize their state system free from the threat of external aggression. This is often overlooked by Swazi today, who are apt to remember only what they consider the iniquities of the concession period. However, this state of affairs was not to continue indefinitely.

Crises and expedients: Mbandzeni began to challenge the validity of "western" interpretations of the concessions as soon as an appreciable number of land concessionaires began to exercise the rights that they considered their concessions gave them. He brought forward the arguments already mentioned; that the concessionaires had not "bought the country", and that since they were being settled "as Swazi" their concession could give them no rights not recognized by Swazi customary law.

Nevertheless, despite his appreciation of the difference between Swazi and western views on the matter, Mbandzeni continued to issue land concessions. Further complications were caused by his issue of concessions for land that had already been granted to other concessionaires; and by the issue of mining concessions (mostly to British concession seekers) covering areas where grazing concessions had already been granted to Afrikaner' sheep farmers. The legal position was further confused by the issue of "blanket" concessions; such as the unallotted lands concession, which gave the holder the right to all land not already allotted, and to all land held under fixed-period concessions after these had lapsed or expired. Even more sweeping was the delightful concession giving the holder the sole right to issue concessions.

In terms of any law, Swazi or western, the situation was chaotic. The "concessions rush" had got completely out of hand. Concessions were being issued for every conceivable purpose, including such "untraditional" activities as the opening of pawnshops and the control of railway refreshment rooms.⁷¹ Of more immediate importance than the legal chaos was the obvious inability of the Swazi authorities to control the whites settled in the country. Free from the jurisdiction of either the British or the Transvaal, these whites quarrelled among themselves, and often resorted to violence. Though the Swazi might claim that everyone must consider themselves bound by Swazi customary law, their own authorities were clearly unable to provide the degree of control needed to make this, or any other law, effective.

The White Committee: Since British protection had been refused, Mbandzeni finally gave the white group a charter of self-government. A committee of concessionaires, the White Committee, was formed and charged with the task of governing their own people. A western style court, the Concessions Court, was also established to settle disputes between concessionaires. The White Committee established a police force, and an embryonic administration. For their part, the Swazi

⁷¹ The first railway in Swaziland was only opened to (goods) traffic in 1964!

employed Theophilus Shepstone, son of Sir Theophilus Shepstone, to act as their representative with foreign powers and the Committee.

One thus had the anomalous situation of a single country, internationally recognised as being independent with what amounted to two separate governments. There was the Swazi ruler, with his administrative machine and enforcement agencies; and the White Committee with their administration and police force. To complicate matters further, there was the Concessions Court, operating virtually as an independent entity.

This experiment was a failure. Quarrels continued between Boer and Briton (and between individuals of the same nationality), while no solution was found to the concessions muddle. Shepstone complained bitterly that Mbandzeni continued to issue concessions without consulting him; but he himself has also been blamed for obtaining several concessions on his own behalf during his term of office, and for failing to protect the Swazi from the more unscrupulous concession seekers.

The White Committee was abolished, when it became clear that it was serving no useful purpose. There followed an abortive attempt at government by a triumvirate, to which the British, the Transvaal and the Swazi each appointed one representative. This also failed, and in 1893, it was agreed by the British that the Transvaal should establish a formal protectorate over the country. The Swazi were not consulted. This protectorate was established in 1894 and maintained up to the outbreak of the Anglo-Boer War.

FORMAL PROTECTION

Though the British had agreed that the Transvaal might establish a protectorate over Swaziland, they insisted that the complete independence of the Swazi people must be respected. This was the complete reverse of the situation when the White Committee, and the concessionaire population they governed, had formed an imperium in imperio within the country. Now it was the turn of the Swazi to fill this somewhat peculiar role.

During the Anglo-Boer War, virtually all whites left Swaziland. After their victory the British took over its administration, and were faced with all the problems that their various predecessors had failed to solve; including that of resolving the conflicting claims of the Swazi and the concessionaires.

It was obvious that no development was possible while this state of uncertainty continued. It was also obvious that unless economic development were encouraged there was a very real danger of Swaziland degenerating into a rural slum; a trend that had started when the flow of payments from concessionaires had begun to slow down.

The British, therefore, appointed a Commission to investigate the whole matter.

There was literally not a single acre of Swaziland that was not covered by a concession; and usually by more than one. The Commission recommended that some concessions be cancelled as being patently absurd; while others should be vested in the Crown. Further, as a result of their findings, it was ruled that one third of all land concessions should be deducted, and that this land should be set aside for exclusive occupation by Swazi. In these areas (designated Native Areas) land was to be held according to the traditional tribal rules of tenure. In the remaining two-thirds of the country it was to be held on individual tenure, according to the provisions of the Roman Dutch Law of the Territory.

The British reserved for their own Administration (the Territorial Government) such functions as control of the police, criminal jurisdiction, international relations and defence. They also assumed responsibility for various technical services with which the Swazi authorities had not hitherto concerned themselves; and took powers to tax both Swazi and non-Swazi. To rationalize their position in Swazi eyes, they followed the pattern evolved by Sir Theophilus Shepstone in Natal, and declared the Resident Commissioner to be "supreme chief" (*inkosi enkulu*), while the Swazi ruler (in this context) ranked as "Chief" (*inkosi*).

In practice, however, the British did little to disturb the political status quo. While the Transvaal had been the protecting power the British had insisted that the Swazi people were completely independent; and they also had the precedent of the White Committee days, when there had virtually been two governments in the country. The new Administration was, in a sense, heir to the White Committee; and they maintained the pattern of a quasi-diplomatic relationship between themselves and the Swazi Nation.

They did not continue to pay the Swazi ruler, or the Nation, any rents in respect of those concessions taken over by the Crown, and rents paid by other concessionaires were taken into the Territorial Treasury, not by the Swazi. In return, subsidies were paid to the Swazi rulers,⁷² and to the Nation, from Territorial funds. The new government also decreed that all expired concessions should revert to the Crown.

Justified as such steps might have been on the part of a government which had taken over at the request of the Swazi, and which had assumed full financial responsibility for their well-being, these rulings continued to be a bone of contention between the Administration and the Swazi.

⁷² i.e. The Ngwenyama and the Indlovukazi (Queen Mother).

THE POST-PARTITION PERIOD

The Concessions Partition Proclamation of 1907 embodied the recommendations of the Commission regarding the partition of the Territory, but contained the "provision that for five years from July 1909, no natives actually resident on such land⁷³ could be compelled to move, but that thereafter they could only continue to occupy the land on terms to be agreed upon between themselves and the concessionaires, these agreements being subject to confirmation by the Resident Commissioner."⁷⁴

The Swazi authorities have never accepted the validity of this particular legislative enactment. Their arguments are normally based on the contentions already mentioned; that the Swazi rulers had no right to alienate land to non-Swazi; that in any case they had assumed that the concessionaires were settling "as Swazi" (which meant that any rights they acquired could be modified by the Swazi at a later date), and that the only tenurial system which should operate throughout the whole Territory should be the Swazi traditional one.

The development of these lines of argument can lead to some logical inconsistencies. Thus, it is always assumed that the rights of the Swazi Nation over any land that any Swazi has ever occupied are automatically absolute; and that they cannot be limited in any way by the rights of the wider community to which the Swazi Nation now belongs. In fact, these rights seem to be regarded as akin to the most absolute concept of land "ownership" known to western law. At the same time there is the contrary assumption that the rights of everyone else - Swazi or white, individual or corporate body - are very limited indeed.

Nevertheless, the feeling that they were unjustly deprived of their land rights has tended to dominate Swazi thinking regarding all tenurial issues ever since. It has given rise to a highly emotional attitude towards the differences, as seen by Swazi, between their tenurial system and the western one of individualized land holding. Since western legal concepts resulted in partition, so the western system must be bad; or so the argument would seem to run.

Positive reactions by the Swazi to this situation took two main forms. First; the Ndlovukazi (Queen Mother)⁷⁵ Gwamile, who was acting as Chief regent during the minority of the present Ngwenyama⁷⁶

⁷³ i.e. Land not included in the one-third transferred to Native Areas.

⁷⁴ Kuper, *The Swazi*, p.7

⁷⁵ Actually, the "Queen Grandmother", since she had been Ndlovukazi during the previous reign.

⁷⁶ At different periods the Swazi King has been officially described as "chief", "Paramount Chief" and "King". Currently, he is recognised as King of Swaziland (a constitutional monarch and official head of state), and also as Ngwenyama of the

urged her people to go out and seek work under Europeans; and to contribute part of their earnings to a fund which was to be devoted to buying back the "Swazi heritage" (*lifa lakaNgwane*). In 1946 this arrangement was made more formal, and the Lifa fund set-up, to which all Swazi families were bound to contribute. It was ruled that payments of this "tax" should, where possible, be in the form of cattle, which served to encourage destocking.

The Swazi also sent numerous petitions to the British Government requesting a reversal of the Partition decision. Lack of success did not inhibit them from continuing to ask for this.

By 1964, farms totalling 268,000 acres had been bought, with Lifa monies and added to the Swazi area. A larger addition was the land provided by the Territorial government, either by the purchase of European-owned farms or by grants of Crown Land. These Swazi Land Settlements, as they are called, totalled 916,700 acres in 1966.⁷⁷

Title to the original Native Areas and the Swazi Land Settlement areas was vested in the High Commissioner, in conformity with the practice in other British dependencies. Title to Lifa Lands was held by the Ngwenyama, as trustee for the Swazi Nation. The Swazi authorities objected to title to any of the Swazi Area being vested in a British official, and this arrangement has now been changed.

All these three categories are now classed as Swazi Nation Land; title being vested in the Ngwenyama "on behalf of the Swazi Nation".

Swazi Nation Land now covers over half of Swaziland. Its distribution throughout the country, and between the four major physiographic regions, has already been examined in Chapter 1.

Tenure: In the 38% of the country set aside in 1907 for exclusive use by Swazi, tenure was entirely according to traditional law and custom. The same applied to most of the Lifa areas in fact, although, in a few cases the Central Authority has ruled that portions of such land shall be reserved for special purposes.

It was originally intended that a different system should prevail in Swazi Land Settlement areas. This land was "vested" in the Swaziland Government and its use (was) governed by the provisions of Chapter 66 of the Laws of Swaziland. In a few of these areas arable lands and residential sites were accurately surveyed, and granted to selected settlers on an individualized basis. In most of the land

Swazi. In this historical section I have deliberately used the indigenous term Ngwenyama since it lacks the overtones of the English terms mentioned above. It is therefore preferable for analytical purposes, and it is certainly not intended to imply any disrespect towards the office or person of the present King of Swaziland.

⁷⁷ See Swaziland Annual Report, 1966, p. 33

Settlements, however, no surveying was done, and the settlement patterns and rules of tenure became indistinguishable from those in the rest of the Swazi Area.

Constitutional Developments: The constitutional position was further formalized when the Swazi Nation (defined as the Paramount Chief in Council) was declared a Native Authority in 1944. This brought to the fore the differences of opinion between the Administration and the Nation regarding the position that had been created in the latter objected to a clause in the legislation setting up a Native Authority which stated that, in order to be recognised as part of this authority, the Ngwenyama of the time must have been recognised as such by the Administration. The Swazi argued that the decision regarding who was Ngwenyama rested with them alone. The legislation was subsequently amended to take account of these objections.

A similar situation arose when the Administration wished to introduce an African Immigration Ordinance. The Swazi argued that this was no concern of the Territorial government, since it concerned African affairs. For their part the Administration claimed that this clearly was a Territorial concern, since it concerned external relationships.

These two instances illustrate the delicate balance of power that existed between the two "governments" in Swaziland. The Swazi have jealously guarded what they regarded as their traditional rights, and often complained that these were being infringed by the Administration. For their part, District Commissioners complained of their lack of legal control; of having to deal with the Swazi authorities "through a sort of diplomatic link"; and of having to administer solely by "the power of the eye". Yet the Administration did, in fact, effectively exercise most of the powers held by colonial administrations in other territories. Sometimes for convenience, the Nation specifically delegated some of its own powers to administrative officers. In addition, a complex series of links was devised to provide liaison between the Territorial and National authorities at all levels. Despite the various disagreements about the "constitutional" position, open conflict between the Swazi and the Administration was most noticeable by its absence. Such difficulties as have arisen may have been due to the multiplicity of "diplomatic" links rather than to any lack of these.

INDEPENDENCE

In 1963 the position changed radically when Swaziland was granted a constitution which gave internal self-government to the Territory. This introduced a new element on the political scene, a Legislative Council. A certain number of seats in this body (not sufficient to provide a majority) were reserved for "traditionally elected" Swazi. This constitution also confirmed that "the power to

allocate or grant any right or privilege to any person in relation to Swazi Nation Land will be vested in the Ngwenyama-in-Council."

Internal self-government was followed by negotiations with Britain for the granting of complete independence. British suggestions regarding the form of a constitution which could lead to this were not well received by the Swazi hierarchy. A number of political parties arose. There were civil disturbances, which led to the bringing in of British troops to assist in maintaining law and order. Finally, the Swazi authorities were compelled to accept a constitution which was not completely to their liking; although it did recognise the Swazi Ngwenyama as King of all Swaziland. Arrangements were made to conduct elections, in terms of this constitution, for a parliament which would lead the country into independence.

The "traditionalists" answer was a simple one, but one that could only complicate an already complex situation. They formed the Imbokodvo National Party, often familiarly called the "King's Party", and had an overwhelming victory at the elections. It was under an Imbokodvo government that Swaziland achieved the status of a fully independent state in September 1968.

As a result of these developments, the Ngwenyama acquired three distinct roles. On the one hand he was the constitutional King of all Swaziland, the head of state and nominal head of the Swaziland government, but with little real political power in this capacity. He was also Ngwenyama of the Swazi People, and as such the Leader of a group that could find itself opposed to rulings of the central government. At the same time he was also recognised as the leader of the political party in power.

Contrary to the pious hopes voiced by many central government officials, the accession to power of a Swazi political party did not mean the immediate end of the diarchal pattern of government in the country. The Swazi National Council remained in being; and retained, among certain other powers, an overall responsibility for the Swazi Nation Land. The Central government still found itself in a position where it had to quasi diplomatic relationship with the National body.

Nor has there been a complete absence of conflict between these two "governments". There would appear to have been a certain polarisation of loyalties among individuals. Ministers and officials who were (and technically still are) important members of the traditional hierarchy have often backed measures designed to concentrate power in the hands of the central government. National Council members, for their part, have complained that certain measures affecting Swazi (such as the introduction of the new Graded Tax in 1969) have been introduced without their approval, contrary to the accepted practice in pre-Independence days.

There is one point that I would like to stress here. I have argued that this is a complex situation, and to explain all the ramifications of these formal structural relationships certainly is a complex business. But "complex" need not necessarily be read as a synonym for "undesirable". - If one regards the traditional Swazi organization as a large local government, it might even be that this division of powers between them and the central government is a trend which should be encouraged.

I put this forward as no more than a suggestion. This is a contentious issue, and one that will certainly remain contentious for some time to come. What must be appreciated is that this is merely a local variant of a problem which besets every country in the world; namely, how powers should be shared between a country's central government and sub-divisions of that country's population; regardless of whether or not these subdivisions happen to be defined on a purely territorial basis or in some other manner.

This chapter, though concerned primarily with the consolidation of the Swazi state system, has had to be extended to the period after that state lost its independence, and to the period after the state of Swaziland gained its independence. This was essential to demonstrate that there was no sharp break between a "pre-colonial" and "colonial" period. Nor, for that matter, has the situation been changed radically as the result of the end of "colonial" rule.

As far as land tenure is concerned, it could be said that the Swazi state (as distinct from the state of Swaziland) is still in existence. As things are now there is no reason to anticipate its early demise.

PART II

THE HIERARCHY OF LAND ALLOCATING COMMUNITIES

CHAPTER 4

COMPARISONS BETWEEN TENURIAL SYSTEMS

TECHNIQUES OF ANALYSIS

Having "set the scene" with these descriptions of the general background, we can now start our examination of how the Swazi tenurial system actually operates at the present time. However, before embarking on yet more description and analysis, there would be distinct advantages in digressing for a moment to consider how to make these discussions most meaningful; and to examine the question of what theoretical framework would be most useful for this purpose.

The traditional systems of land allocation and land holding found among the majority of the Bantu are often characterised as "communal", in order to distinguish them from those other systems in which "private ownership" of land is the accepted norm. The latter are also frequently called systems of "individualised tenure". These terms are adequate if used merely as a succinct method of drawing a distinction between two very different types of system, and of giving some indication of the salient characteristics of each. They do, however, have certain very real disadvantages if they are adopted as the starting point for a detailed discussion of any one system.

Students of non-western systems of land holding are usually most unwilling to accept this simple dichotomy between "communal" and "individualised" tenure as a precise analytical tool; both because it tends to obscure the very real differences between various "individualised" systems and also because it leaves a large part of the story untold with regard to the so called "communal" systems. Even when used simply as descriptions, such terms are not strictly accurate in cultures where individualised tenure is the rule the community (represented by the state or local governmental authority) invariably restricts to some extent the rights of landowners. It normally retains the right to take land for public purposes, the right of access in order to maintain law and order, and often the right to restrict the use to which any particular piece of land may be put.

On the other hand, even in systems of "communal" tenure there is invariably some individualization of rights in relation to specific parcels of land.

Therefore, if one retains this twofold breakdown as a basis for analysis, there is always the problem of deciding which particular aspects of any one system are most important for classificatory purposes. Is a system where some rights over arable land are definitely held and exercised by individuals (whether on their own behalf or as "trustees" for a group of their kin), but where grazing is shared with others, properly to be classed as one of "communal" or "individualized" tenure? These are both features of the present Swazi system, but they were also widespread in Europe and North America until well into the

nineteenth century. Yet one would hesitate to classify these European and American systems as types of "communal" tenure as a whole; simply because the grazing areas, or parts of these, were not individually held.

Any analysis of a tenurial system must also be to some extent a comparative analysis. If it be that of an alien culture the very words used to describe it; have overtones of meaning; and their own associations, in the language used for that, description; which necessitates some "comparison" if complete confusion is to be avoided.⁷⁸ Even in a study written in the language of the culture being studied, and dealing only with its own system of tenure, some measure of comparison is again inevitable; comparisons between this system at different stages of its evolution, and with other systems operating in similar cultures.⁷⁹

If these two contentions are accepted, that our aim should be to compare different systems of tenure and that the "communal/individualised" dichotomy does not provide an adequate analytical instrument for this purpose, it is necessary to consider what alternative methods of analysis would.

The most satisfactory technique yet devised is an analysis based on the various types of RIGHTS that individuals or groups can acquire over different types of land, and the produce of land. This method allows for direct comparisons between any two or more systems without the necessity of forcing any of them into artificial categories.

Thus, in both the Swazi and western types of tenure, individuals can acquire rights to build on, plough and reap the crops off specific parcels of land, and to exclude other people from doing these things on those areas. In most western systems individuals who have acquired ownership of any piece of land (and hence the right to do the various things just mentioned with it) can sell the land (and these rights) to other individuals of their own choosing. This a Swazi cannot do. Similarly, both a westerner and a Swazi can acquire rights to graze stock on specific pieces of land; but under the Swazi system this does not include the right to exclude others from using this land for grazing their stock.

"There is a common saying" runs the comment of one authority, "that property is a bundle of rights, and to no form of property is this more applicable than to land."⁸⁰ Following this analogy, we can say that the rights included in such "bundles" may be very similar in different systems, but the composition of the bundles themselves may be totally different.

Further, there may be completely different sets of rules with regard to how one acquires such rights or bundles of rights, and how one can lose them.

⁷⁸ e.g. The employment of the word "feudal" in relation to non-western tenurial systems. If it is used as an analytical device (and is not merely designed to create an emotional reaction in the reader) then it will only serve usefully in this role if further qualified and explained; and a comparison made between the "feudal" features of the culture under discussion and the systems of mediaeval Europe.

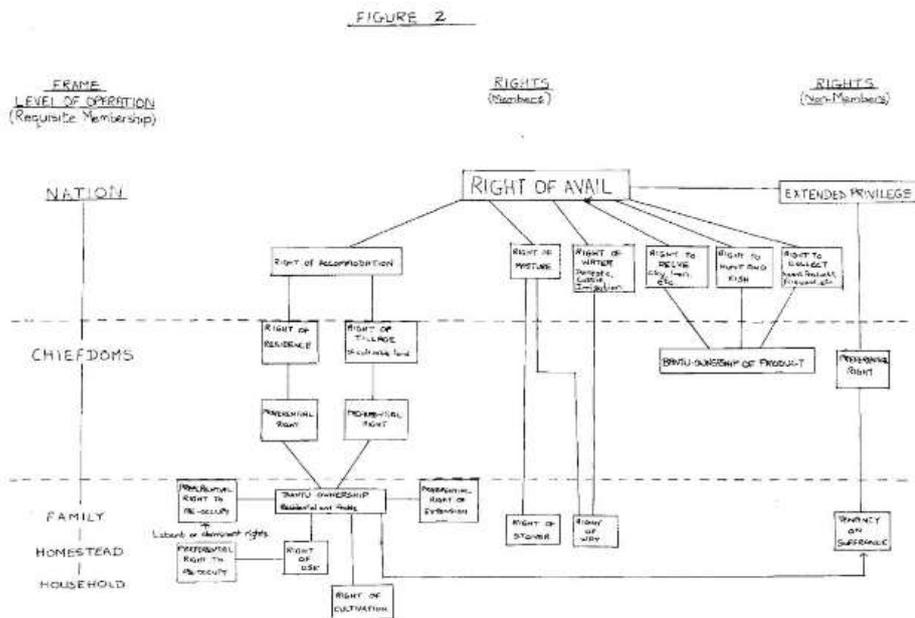
⁷⁹ For example, a study of the land law of any western state.

⁸⁰ C.K. Meek, *Land, Law and Custom in the Colonies*, London, 1946, p.1

CLASSES OF RIGHTS

In practice, rights over land are seldom, if ever, granted piecemeal. Each right is not carefully defined by the society, and then allocated singly to a particular individual or group. What is actually acquired is what we may call a general right from which other, more specific rights flow. For this reason, and also for convenience of exposition, there is a distinct advantage in classifying rights into a number of broad classes; grouping a series of rights that are normally held together under a single head, and distinguishing generalised rights from the subsidiary rights derived from them.

One method of doing this is shown diagrammatically in Figure 2. This particular classification shows how specific rights over land (whether of occupation or use for other purposes) stem from more general rights. Individuals or groups acquire the latter by virtue of their membership of a community. How they acquire this membership, and of which communities in the Swazi system, are subjects which we shall be discussing in due course.⁸¹



The Right of Avail: This is a right held by the community as a whole but in which every member of that community automatically participates. From this participation (one might say from this share of the Right of Avail) flows the right to make what the group considers to be reasonable use of the natural resources available to the community, including land.

Thus, individuals and sub-groups within the total community derive from their share in this generalised Right of Avail certain more specific rights. The Right of Accommodation (i.e. the right to some place to live and to plough); the

⁸¹ For this schema, which is based on the work of van Vollenhoven but adapted to suit the African situation, I am greatly indebted to Professor J.F. Holleman, who played a major part in its development.

Right of Pasture; the rights to make use of natural resources such as water, timber, clay, game and forest products.

Other workers have sometimes referred to this right as the Right of Disposal,⁸² a usage which has been avoided here since it is 'etymologically' misleading, because no actual right of alienation is vested in the community. In view of the history of the concessions in Swaziland it is clearly highly desirable to make use of some more neutral term!

Speaking of the situation in Indonesia, ter Haar summarizes the main characteristics of this right in the following terms: "The collective community exercise its (Right of Avail) by taking profit from the land and such wild plant and animal life as are found on it. It limits the movements of its members on its land. The community (Right of Avail) is never static. It grows and shrinks in relation to the rights of individual members. Changes in social values concerning individual rights affect the strength of communal rights. And outside influences shape the operation of the communal rights in all sorts of ways." In another passage this same author remarks "Soil and the communal group are closely bound each to the other. From the soil the group draws its nourishment. The soil receives its dead. It houses the ghosts of the departed ancestors and the protective spirits of the group. It is permeated by the spiritual, communal bond on which its life depends....The groups as groups have rights in the land....The group controls the use of land among its own members, and it regulates the rights and claims of each in such a way as to obtain for all their share of the common benefits to be derived from it."

Although this refers to a situation in another continent, it also applies to the Rights of Avail among the Swazi. In passing, it is worth noting the comments regarding the growth and shrinkage of this right "in relation to the rights of individual members"; and on the way in which it can be affected by "changes in social values concerning individual rights." These both have particular relevance to the present situation and problems in Swaziland, and are points to which we shall return later. So does the comment on the group's regulation of "the rights and claims of each (of its members) in such a way as to obtain for all their share of the common benefits to be derived from it."

Another authority, speaking of the Southern Bantu speakers, describes the Right of Avail as involving "the right of the legal community concerned to the free and undisturbed use of all land, water and other sources of livelihood within its territory for the benefit of its members and - provided this can be done without detriment to its own members - also for the benefit of outsiders. Consequently, the Right of Avail also involves the right to prevent, if necessary by force, all non-members from participating in these interests should they act without the necessary permission....Regarded in this way, the Right of Avail therefore involves, for the group member, a whole complex of specific and more individualised rights which pertain to the various vital resources within the common territory".

⁸² cf. van Vollenhoven's beschikkingsrecht, B. ter Haar, Adat Law in Indonesia,(n.d.) New York, p.81

For each group member the Right of Avail involves:

- a) The right to occupy such residential land as he requires for the huts or houses of his elementary, plural or extended family;
- b) The right to cultivate one or more parcels of arable land, which he requires for the production of the necessary produce for his own and his family's subsistence. If such land cannot be supplied to him from the available landed estate of his kraal complex (Zulu) or household (Tswana), he moreover has...
- c) The Right of Reclamation of a portion of the as yet unencumbered (communal) territory of his corporate community, in order to establish there his residential site or arable land."⁸³

The notion of the Right of Avail is not easy to grasp. As the basic right from which all other rights flow in this type of tenurial system it differs to some degree in kind, as well as in the extent of its coverage, from the other rights shown in the diagram. It is not something which individuals or small sub-sections of the community can acquire. For them, it is. What they can acquire is a share in this pre-existing right; a share which in turn leads to the acquisition of the various subsidiary rights. Yet, the Right of Avail is potentially acquirable; not by an individual, but by a community which gains a sufficient degree of autonomy, in an area where there are no other groups (other communities or the former "parent" community) which are strong enough to challenge this community's control of access to the Right of Avail in this area.

How this degree of autonomy can be acquired will depend on the circumstances of the time. In Bantu Africa in earlier times, the classic technique was for a large sub-section of an existing community to migrate and settle far away. Nowadays, different mechanisms are involved.

The Right of Accommodation: This has been defined earlier, in simple terms, as the right to some place to live and to plough. These last two are referred to in the diagram as the Right of Residence and the Right of Tillage. Neither of these, in themselves, establish a firm legal relationship between an individual or a family group and a particular parcel or parcels of land. Recognition as part of a local community leads to the acquisition of a share in the Right of Avail. This, in turn, leads to the Right of Accommodation; and so to Rights of Residence and Tillage. It is still necessary to establish, with the permission of the local segment of the land holding community what we have called Preferential Rights over a dwelling site and specific areas of arable land.

Bantu Ownership: According to Swazi ideas actual occupation (of a residential site) or cultivation (of arable lands) is necessary to change these Preferential Rights into the complex of rights Holleman has called Bantu-Ownership. This has been defined as being "comparable with our own (i.e. western) right of ownership, but (it) has a different and much more communal character than the latter. For this

⁸³ F.D. Holleman, *Het Bantoe-Grondenrecht in die Unie van Suid Afrika en omgering*, Amsterdam, 1949, p. 36

reason Bantu-Ownership is, as a rule, still held by a group - and not by individual persons."

Anticipating slightly, we might remark here that the "group" holding Bantu-Ownership among the Swazi is normally the Homestead Group, the group of people living in a single Homestead. The functions, characteristics, sizes and compositions of these groups are discussed in the next, chapter.

Bantu-Ownership is analogous to the ownership of western law in that, once acquired, it gives the "owning" group the right to demand that anyone seeking to dispossess them of it should show very good reason indeed for doing so. Moreover, it includes the right to exclude other members of the community from making use, without, permission, of any land over which Bantu-Ownership has been acquired. It differs from western ownership in that it does not include the right to alienate the land to those who are not members of that land holding community; in that it can be lost through prolonged failure to use the land; and in that continued exercise of this Bantu-Ownership is entirely dependent on continued acceptance as a full member of the community.

Rights derived from Bantu-Ownership: From Bantu-Ownership flow the rights of various individuals and subgroups within the Bantu-Owning group to cultivate arable land within the area over which the whole group has acquired this Bantu-Ownership. This we have called the Right of Use. The group may also permit outsiders to cultivate part of this land on a temporary basis; this we call the Right of Cultivation. Another right derived from Bantu-Ownership is the Preferential Right to Reoccupy land once cultivated by members of the group, a right which sub-sections of the group can require in respect of land once cultivated under a right of use.

A further right flowing from Bantu-Ownership is the Preferential Right of Extension; the right (not now commonly recognized in Swaziland, due to increasing pressure on the land) to reclaim, use and ultimately acquire Bantu-Ownership over parcels of land lying immediately adjacent to land currently held. This is dependent, of course, on this "new" land not already being held by another group.

Other rights flowing from the Right of Avail: Apart from those rights which can lead to Bantu-Ownership of specific pieces of arable land, or of residential sites, participation in the Right of Avail also entitles members of the community to make reasonable use of other available natural resources. These rights are shown on the right-hand side of the diagram. Their nature is self-evident, so we need not describe each in detail here. It must be noted, however, that they do not lead to Bantu-Ownership of the natural resources as such; although they can lead to such ownership of the "product" anything extracted from this "pool" of available natural resources as the result of an individual's own labour.

Finally, we have the right that we have called Extended Privilege. This is the right that the community may grant to non-members to make use of the natural resources in the area under its control. It can lead to a Preferential Right over

specific parcels of arable land, and thence to the right to build on or cultivate such land. This we have called Tenancy on Sufferance.

The use of this Schema: In this chapter we have described a terminology, an analytical device, designed to assist our discussion of the traditional Swazi rules of land tenure. We shall see in the following chapters how this fits the Swazi's own formulations of those rules, and the present situation on Swazi Nation Land. It must be stressed that this is all that this schema is intended to be; a convenient conceptual tool. A precise and accepted system of terminology is essential for the meaningful discussion of matters such as those. But we must always beware of the danger of reification; of the tendency to confuse the word with the thing.

We are not in this study concerned with such profound questions as the origin or nature of the law; nor with defining the precise boundaries between law and custom. We are interested only in describing certain aspects of an already existing system, and in attempting to isolate from the welter of available evidence the main rules and principles which govern the operation of that system. For this limited purpose the schema which has been described would appear to be a good servant.

LAND CONTROLLING COMMUNITIES.

Central to all our argument so far has been the contention that, in tenurial systems like that of the Swazi, the community is all important. We have stated that acceptance as a full member of a community is an essential pre-requisite to obtaining any rights over land or its products. Yet, we have carefully avoided any precise definition of this community. We have said nothing about its extent, its organization, or its structure.

What, then, is this "land community"? Here I would like to make the suggestion (which may, at first sight, seem surprising in view of what has gone before) that in the Swazi situation any attempt to define the landholding community could only lead to confusion. Rather, I feel, we should think in terms of a hierarchy of such communities. In any real-life transaction involving land many communities at different levels in this hierarchy, and of different orders of extension, are entitled to have some say. The extent to which each level will actually be involved will depend partly on the circumstances of each individual case, and partly on the type of transaction concerned. In the next few chapters we shall discuss in greater detail exactly how this hierarchical arrangement operates.

It could be argued, with some force, that this hierarchy is actually a continuum of smaller land communities within larger ones; with the entire Swazi people at (or near)⁸⁴ the apex, and the smallest segments of family groups at its base. Yet the Swazi do recognise certain nodes within this continuum, certain

⁸⁴ Whether the Swazi People is now the widest of those "land communities" is a debatable point, as we mentioned earlier. See pp. 53 f. above.

levels at which both land controlling and governmental power are concentrated. For our purpose, the most important of these are the following, which are listed in descending orders of magnitude.

- 1) **THE SWAZI PEOPLE.** For practical purposes, this group can be said to include all de jure residents or potential residents⁸⁵ of the Swazi Nation Land. In this study we have used the term **THE NATIONAL ORGANIZATION** to describe the formal governmental machinery for this group as a whole.
- 2) **THE CHIEFDOMS** each with its own Chief, and with its own internal local governmental organization.
- 3) **THE WARD.** A recognized sub-division of some (but not all) Chiefdoms, under a **WARD HEAD**; and with a less complicated internal local governmental structure than a Chiefdom.
- 4) **THE HOMESTEAD,** which is the basic residential unit, and also the basic unit in the local governmental system.

Since one of our main interests in this study is the relationship between land and those who are directly engaged in its exploitation, we shall start our analysis with the smallest of these groupings, the Homestead. As we move on to examine the higher (or more extensive) elements in this hierarchy of land communities the emphasis will inevitably shift away from direct "man-to-land" links, and more towards "man-to-man" and "group-to-group" relationships.

A proper understanding of the latter is, of course, absolutely essential for a proper understanding of whole system whereby direct "man-to-land" links established.

⁸⁵ The addition of "potential residents" is essential, since Swazi living in the Republic of South Africa and Mozambique are considered by the Swazi authorities to be members of their community. So are those living in Swaziland, but outside the Swazi Nation Land.

CHAPTER 5

THE HOMESTEAD

SETTLEMENT PATTERN

The rural Swazi do not live in nucleated villages, but in small family settlements (which are here called HOMESTEADS) scattered over the countryside.

Though these are often referred to as "villages" in English, this word is likely to give an erroneous impression both of their composition and of their size. They have been more accurately described by Marwick as consisting "on the average of three to four dwelling huts, with one or more store and cooking huts attached to each". These are the physical units of settlement that one sees on the ground when travelling through the Swazi rural areas; and they house the social groupings which have been described as "the unit in the territorial organization" and "the major social unit" in Swazi society.

To avoid any possibility of confusion between the physical entity (the cluster of huts and other structures) and the social unit inhabiting this, I shall henceforth use the word HOMESTEAD for the former, and HOMESTEAD GROUP for the latter. HOMESTEAD HEAD will be used as a direct translation of the Swazi word *umnumzana*⁸⁶ which is the title given to the head of a Homestead Group.

Physically, a Homestead (*umuti* pl. *imiti*) consists of a group of huts (*tindlu* s. *indlu*) and various other structures located on a single, clearly defined site. The cattle byre (*sibaya* pl. *tibaya*) should be built close to the dwelling huts, preferably at or near the entrance to the Homestead.⁸⁷ There may be other byres for calves or small stock. Grain storage platforms are built usually behind the cooking huts. Between the cattle byre and the dwelling huts lies the main courtyard (*emabeleni etindlu*) of the Homestead. The reed windcreens, which are normally built so as to shield the entrances of the huts, are a very distinctive feature of Swazi domestic architecture. They may, on occasion, be extended to form a series of separate enclosures, each containing several huts, which mark off sub-divisions within the Homestead Group.

The physical unity of the Homestead is further emphasized by the custom of *kucentsa*; of clearing away all grass and bush from the immediate vicinity of the huts, with the possible exception of one or two shade trees. This leaves a precisely marked off area of bare earth, which is swept daily and soon becomes

⁸⁶ This is one meaning of the Swazi word, which can also be applied to the head of a wider grouping; or simply used as an honorific. See p. 172.

⁸⁷ Although probably about one-third of modern Homestead Groups have no cattle. See J.B. McDaniel, "The rural economy" in *Experiment in Swaziland*, p. 245.

trodden hard, where most of the outdoor activities of the Homestead Group are carried on.

Attached to the Homestead in a legal sense, but often widely separated from it spatially, are the arable lands allocated to the Homestead Group. Nowadays, there may also be one or more wattle plantations, and one or more irrigated gardens. In due course we shall be discussing how these lands are acquired; how they are sub-divided and how they are used.

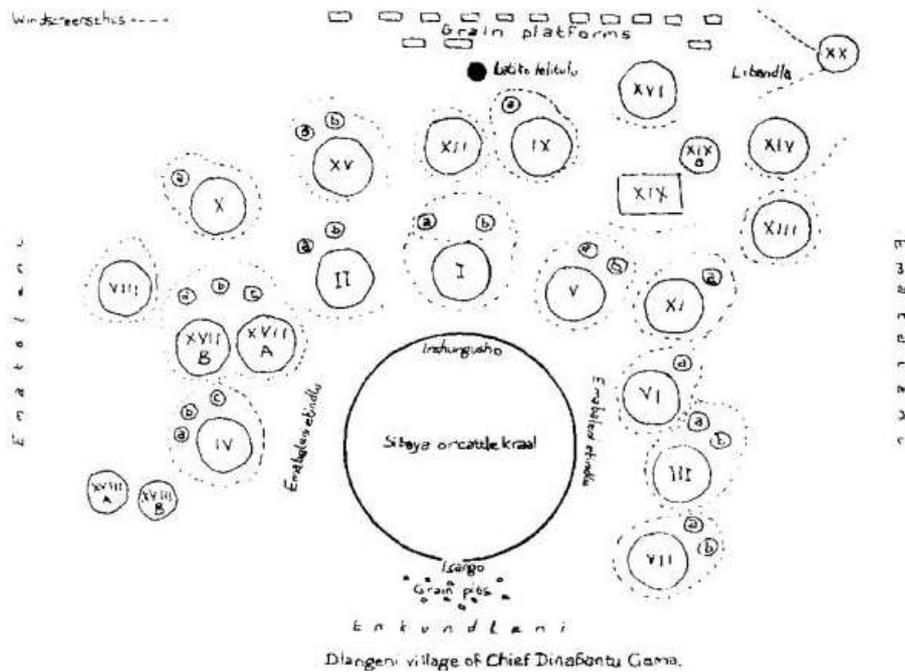
"Traditional" and modern Homesteads: In the past, Homesteads were allegedly built according to a more standardised pattern than at the present time, and had considerably larger populations.

The older, "traditional" type of Homestead was approximately circular in shape with the main entrance on downhill side whenever there was any appreciable slope to the ground. The cattle byre was built in this entrance, partially enclosed by the two "horns" formed by the cooking and living huts, as is shown in the diagram at Figure 3. Immediately above the cattle byre (inside the Homestead area) was the main courtyard. Across this, facing the byre, was built the Great Hut (*indlu'nkulu*); the principal hut of the Homestead. Traditionally, this Great Hut (which is still found in the smaller modern Homesteads) is the domain of the mother of the Homestead Head, if she is still alive.

There were normally a number of other enclosures (each marked off by reed windscreens) on either side of the enclosure of the Great Hut. These formed the "horns" of the Homestead. Such enclosures (known in Swazi simply as *tindlu*, huts) reflected the various internal divisions within the Homestead Groups. They housed the different wives of the Homestead Head and their families, or other dependants of his and their families. The huts of the youths and the older unmarried girls were placed at the extreme ends of the "horns", near the cattle byre. The young males were housed here to guard the Homestead (and particularly the cattle) against any sudden nocturnal attack by man or beast. The young girls were given huts in this position, Swazi say, so that they could be freed from the restrictive influence of their mothers' enclosures; and could meet their chosen lovers without causing any embarrassment to their elders.

Figure 3 shows the ground plan of a Chief's Homestead in 1934, as described by Marwick. It will be seen that, while various adjustments have been made to fit the terrain and personal preferences, the overall circular design is still clearly evident.

FIGURE 3
"TRADITIONAL" SWAZI HOMESTEAD(1)

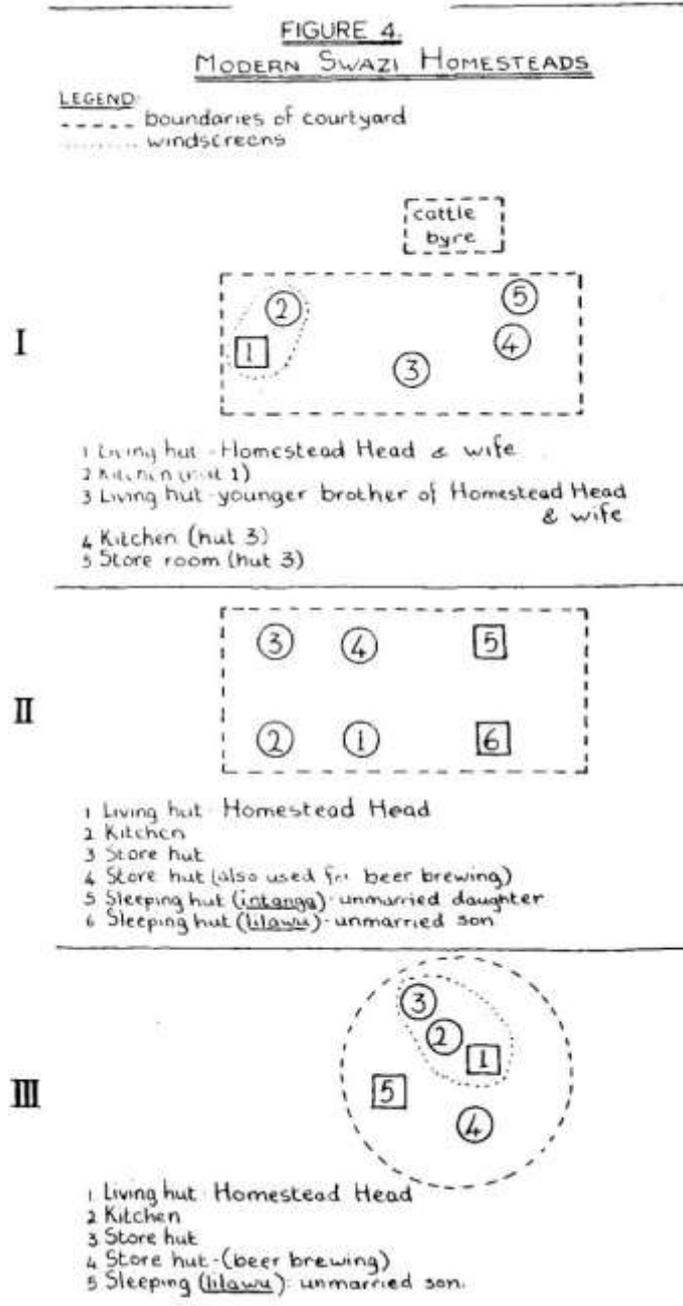


- | | | |
|--------------------------------|----------------------------------|---|
| I | *Great Hut (<u>Indlunguho</u>) | XVII(a), XVII(b) and XVII(c) - |
| I(a) | <u>Indlu yeLuvatsi</u> - Store | Kitchen and store huts |
| | hut for ritual objects | attached to XVII(A) and |
| | | XVII(B) |
| I(b) | Kitchen | XVIII(A) - Bachelor's hut (<u>lilawu</u>) |
| II, III, IV, V, VI, VII, VIII, | | of son of Homestead Head |
| IX, X, XI, XII, XIII, XIV, XV, | | XVIII(B) - Bachelor's hut (<u>lilawu</u>) |
| XVI - living huts of wives of | | occupied by distant agna- |
| Homestead Head | | tic kinsman of Homestead |
| II(a), II(b) XV(b) - | | Head |
| Kitchen and store huts | | XIX - "Private" hut (<u>lilawu</u>) of |
| attached to wives' living | | Homestead Head |
| huts | | XIX(a) - Store hut attached to XIX |
| XVII(A) - Widow of Father of | | XX - Rough shelter (<u>lihogo</u>) |
| Homestead Head | | |
| XVII(B) - Widow of Father of | | |
| Homestead Head | | |

(1) of B.A. Marwick - The Swazi, pp. 11-22.

Modern Homesteads are normally considerably smaller in size. Swazi claim that this is because there is no longer any need for large groups to band together on a single site for defensive purposes, and also because nowadays "even a son is somewhat loth to remain at his father's once he has married." That is to say, he is unwilling to remain subject to the will of his father or his father's brothers as far as day-to-day domestic and economic affairs are concerned. Exceptions to this pattern of dispersed settlement are the large royal Homesteads (such as the National capitals of Lobamba and Lozhita) and a few large Homesteads which some Chiefs and other conservative individuals still succeed in maintaining. But the fact remains that, although many Swazi proudly point to these survivals as examples of the "real" Swazi way of life, they are most atypical to-day.

Figure 4 shows the ground plans of three of these smaller, modern Homesteads. Comparing these with the plan at Figure 3, it will be seen that not only are they far smaller, but that there is also no longer the consistent emphasis on circularity. The "courtyard" of these modern Homesteads, the cleared area surrounding the huts, is as often rectangular as circular. In the same way the cattle byre is not invariably placed at the front, and it may be built completely outside the court yard area and at some distance from any huts.



Architecture: The same tendency towards rectangularity is noticeable in the huts themselves. We have already mentioned that the traditional beehive hut is rapidly disappearing, and being replaced by round or rectangular huts with straight walls and separate roofs. Large rectangular huts, internally divided into two or more rooms, have a distinct prestige value, and are tending to be used more than the

rondavel type for living or sleeping quarters. Another thing having great prestige value is western-type furniture, and there are few Homestead Groups to-day that do not possess a number of beds, tables, chairs, dressers and cupboards; which are so disposed as to make a more permanent distinction than was common in the past between huts or rooms used for sleeping and "living rooms".

Although these modern buildings cannot be picked up and moved to a new site as the beehive huts could, it must be appreciated that their construction involves little monetary outlay. Members of a Homestead Group are usually capable of building walls out of sods or stones; or even making Kimberley (sun-dried) bricks if they have decided to use this material. The poles and thatch used for roofing are also normally available, for nothing, in the locality. So if a Homestead is abandoned (as is still often done) it involves no great monetary loss for the Homestead Group. Manufactured articles such as doors or windows can be taken to a new site and the Group can, by its own efforts, provide itself with a new home there.

With regard to the uses of huts in modern Homesteads, a sharp distinction is drawn between sleeping huts and kitchens. The number of sleeping huts will depend on the composition of the Group. It is not considered suitable for older children to continue to share their parents sleeping quarters, so where there are such children there should be at least one "bachelor's hut" (*lilawu*) for the older boys, and another hut for the girls (an *intangana*). Figure 4 gives some indication of the various types of huts that one might expect to find in a modern Homestead.

Another innovation often found is the manufactured grain tank, made out of corrugated iron, used for storing crops after reaping and shelling. The use of these is actively encouraged by the government's agricultural extension service, due to the allegedly high rate of loss of grain if it is stored in pits dug under the cattle byre (*tingungu*) or in baskets in the kitchen huts or on storage platforms.

A few Swazi in the rural areas have built new style multi-roomed houses on their residential sites. In such cases the individual rooms are described as "huts", while the house itself is usually described as a Homestead.

THE HOMESTEAD GROUP

Sociologically, the Homestead Group (the inhabitants of a single Homestead) forms a distinct legal, political and economic entity with respect to the outside world. Most modern Homestead Groups are made up largely of a "core" elementary or polygynous family, with possibly a few other kin; and the father of this "core" family is normally regarded as the Homestead Head, the *umumzana*. He is responsible for the behaviour of all the inhabitants of his Homestead; for their well-being; for their debts; for the overall co-ordination of their economic activities; and for dividing the arable land available to the whole Group among them.

He should represent his Group at the council (*libandla*) of the Chiefdom. If one of them is involved in a law case, he should attend the court (if it be a

traditional one) to "speak for" his dependant. When a tribute labour gathering (*ummeno*) is summoned or a levy made, this is usually done on a Homestead basis and the Homestead Head is responsible for ensuring that his Group make their contribution.

Formerly, each Homestead also had its own distinctive name; such as *Emoyeni*, in the windy place. This custom appears to be dying out now, but most Homesteads founded a generation or more ago did have such names. These names survive the physical transfer of the Homestead from one site to another and the death of the Homestead Head; so that, once founded, a Homestead known by that name can in theory survive in perpetuity. It can also spawn numerous "daughter" Homesteads; a development that we discuss in greater detail later in this chapter.

In view of the importance of these groupings in the Swazi system of social and political organization it behoves us to say a little more about their sizes and compositions, before turning to a discussion of their various roles.

TABLE IV
SIZES OF HOMESTEAD GROUPS
(Rural Sample Areas)

Percentages of Homesteads

No. of Persons in H/std Group	H	M	L	LEB.	TOTAL ¹⁾
1	2.9	1.8	2.8	2.9	2.5
2	2.9	4.6	7.6	8.8	5.1
3	6.7	7.1	9.0	7.8	7.3
4	9.8	7.5	12.5	9.8	9.3
5	8.6	11.5	13.9	11.2	10.7
6	12.9	11.0	6.9	13.7	11.6
7	11.0	11.0	7.6	11.2	10.7
8	9.6	12.6	7.6	10.2	10.6
9	8.4	7.5	5.6	6.8	7.5
10	6.5	7.3	2.8	2.4	5.7
11	3.8	3.5	4.2	4.4	3.9
12	4.3	3.8	4.2	4.9	4.2
13	2.6	2.4	2.8	1.0	2.3
14	2.2	1.3	4.2	0.5	1.8
15	1.4	1.1	-	1.5	1.1
16	1.9	1.3	2.8	-	1.5
17	1.7	0.7	2.1	0.5	1.1
18	1.2	0.7	2.1	0.5	1.0
19	0.5	0.2	0.7	0.5	0.4
20	0.2	-	-	-	0.1
21	-	0.7	-	0.5	0.3
22	0.5	0.2	-	-	0.2
23	-	0.2	-	-	0.1
24	0.2	0.4	-	-	0.2
25	-	0.2	-	-	0.1
26 or more	-	1.3	0.7	1.0	0.7
	417	453	144	205	1219
	99.8%	99.9%	100.1%	100.1%	100.0%

1) Unweighted totals.

Sizes of Homestead Groups: Little definite information is available regarding the exact sizes of Homestead Groups in the past, except that all the evidence suggests that they were considerably larger than is common today. We know considerably more about the sizes and familial compositions of modern Groups; principally from information gathered in the course of the 1960 sample survey of Swaziland.⁸⁸

Table IV shows the range of Homestead Group sizes in the four random samples drawn for the survey; each sample being from one of the four major

⁸⁸ Cf. A.J.B. Hughes, "Sizes and Compositions of rural Homestead Groups" in *Experiment in Swaziland*, pp. 121 ff.

physiographic regions of the Territory.⁸⁹ These figures show that there is a tendency for these Homestead Groups to be relatively small. The modal size is from 6 to 7 persons, (including children) with little variation between the four physiographic regions. While the overall range is large (from 1 to 54 persons), the inter-quartile range (within which the "middle 50%" of these Homestead Groups fall) is only from 5 to 9. The median size in all four samples is 7.

These figures are summarised in Table V below, and are represented diagrammatically in Figure 5(a) at the end of this chapter.

In assessing the significance of the figures in Tables IV and V, it must be remembered that when they are given in this form there is a certain "built-in" bias against the larger Homestead Groups. The home of a conservative Swazi who has succeeded in keeping his agnatic group together only shows as one Homestead, albeit one with a large population. The same number of kin of his less conservative neighbour may be scattered over a half-a-dozen or more Homesteads thus increasing the number of small-sized Homestead Groups.

TABLE V
SIZES OF HOMESTEAD GROUPS

Percentages of HOMESTEADS in each class

Homestead Population	H	M	L	Lub.	Com- bined 1)
1	2.9	1.8	2.8	2.9	2.5
2 - 4	19.4	19.2	29.2	26.3	21.7
5 - 7	32.6	33.6	28.5	36.1	33.1
8 - 10	24.5	27.4	16.0	19.5	23.7
11 - 13	10.8	9.7	11.1	10.3	10.3
14 & over	9.8	8.4	12.5	4.9	8.8
	417=	453=	144=	203=	1219 =
	100.0%	100.0%	100.0%	100.0%	100.0%

1) unweighted totals.

TABLE VI

Percentage of the sample POPULATIONS living in various sizes of Homestead Groups.

Homestead Populations	H	M	L	Lub.	Com- bined
1	0.4	0.2	0.4	0.4	0.3
2 - 4	8.4	7.8	12.2	11.6	9.1
5 - 7	25.6	25.8	21.7	31.3	26.1
8 - 10	28.0	30.9	18.4	24.2	27.4
11 - 13	10.6	14.8	17.4	17.3	16.1
14 & over	21.0	20.6	29.9	15.2	21.0
	3229=	3534=	1090=	1419=	9272=
	100.0%	100.0%	100.0%	100.0%	100.0%

Figures obtained by Jones in 1966 reveal very much the same pattern. Although the median Homestead population in that year was 8.1; the modal class was 7 and the mean size of these populations was 6.9. A summary of the figures obtained from 1966 population census is given in Table VII.

In order to obtain some idea of the possible effect of this factor, Table VI has been compiled. This shows the percentages of the total population in each

⁸⁹ These samples covered nearly all the Swazi Nation Land, and there is no reason to believe that Homestead Groups living on farms (which were not statistically examined for these characteristics) differed markedly either in composition or size from those elsewhere in the rural areas. See S.E. Cruise and J.F. Holleman, "The Statistical Frame" in Experiment in Swaziland; pp.26 ff.

sample belonging to Homestead Groups of various sizes. Figure 5 (b) at the end of this chapter gives the same information in diagrammatic form.

TABLE VII 47
Homestead Population by Region

	H	M	L	Lowv.	Swaziland
Mean	6.0	7.4	6.4	6.4	6.9
Social Class	7.0	7.0	7.0	5.0	7.0
Median	7.8	8.5	7.3	7.5	8.1

These figures support the general impression gained from Tables IV and V that there is a considerable predominance of small Homestead Groups.

Approximately four-fifths of all Homesteads in these samples have populations of 10 persons or less, and approximately four-fifths of the population sampled belonged to Homestead Groups with less than 4 members (except in the Lowveld sample, where only 70% did so).

There is some evidence to suggest that this practice of living in small Homestead Groups has been prevalent for several decades; despite the insistence of some conservative Swazi that it is a recent innovation, and one which threatens the whole traditional way of life. There is the statement by Marwick, already quoted, that in the 1930's Homesteads had only three or four huts. Similarly, Kuper's census in the Matapha area shortly afterwards showed that the average size of 'commoner' Homestead Groups was 7.2 persons, and 22.5 in the case of Homesteads controlled by "princes and chiefs".

Therefore, it would seem that the small Homestead Group is no transitory phenomenon. It is not just a by-product of rapid social change, but an essential feature of the modern Swazi way of life.

The familial composition of Homestead Groups: The casual impression gained by a visitor to any Swazi rural area might well be that most modern Homestead Groups are elementary families, and that they are virtually the same as the "family groups" in western society. Yet, when one enquires further it becomes evident that a great many Homestead Groups contain individuals who do not belong to the elementary family of the Homestead Head.

Kuper, referring to the situation some decades ago, remarks that a "Homestead is seldom occupied by a single biological family. For economic and/or ritual benefits, additional kinsmen or even unrelated dependants attach themselves to the immediate family. Single men stay with older brothers on the parents death; widows sometimes return to their fathers or brothers; children of relatives or friends are often 'borrowed' to assist in the herding of cattle and nursing of infants; married sons often remain on the patriarchal estate".

Information gathered in 1960 suggests that this description does not correspond very closely with the realities of that time.⁹⁰ Approximately 40% of some small sub-samples which were investigated in detail do appear to have been occupied "solely by a single biological (elementary) family". Kuper's catalogue of the other types of kin of the Homestead Head that one might expect to find in a Homestead Group covers many of the situations actually encountered; and certainly agrees with the statements of more conservative Swazi regarding what they feel the composition of a Homestead Group should be. But it would be quite wrong to imagine that nowadays it is common to find Homestead Groups where distant kin outnumber members of the Homestead Head's own immediate family.

Since the 1960 sample survey was an extensive exercise so it was not practicable to make a detailed analysis of the kinship structure of every Homestead Group in our samples. We did, however, record how every individual in these 1,219 sample Groups was related to his or her Homestead Head. Table VIII shows the percentages of the various types of kin linkages recorded.

These figures are summarized in Table IX. In this we have grouped all the kin links recorded into five classes. The term "nuclear family" is used to denote a member of any nuclear family which also included the Homestead Head; so it could, on occasion, also include individuals who were actually members of polygynous families. "Other agnates" covers all kin linked to the Homestead Head through male links only; but who were clearly not members of any elementary family to which he belonged. Mothers and classificatory "mothers"⁹¹ have been grouped together, but we encountered few of the latter in our sample. The terms used for the other two classes are self-explanatory.

TABLE VIII
SIZE AND COMPOSITION OF
RURAL HOMESTEAD GROUPS
Relationship of Subjects to Heads of their Homesteads
(Rural Sample Areas)
(Percentages)

⁹⁰ Or of the present, for that matter, since there is no reason to believe that there has been any reversal of the trends noted here since 1960. -For a fuller discussion of information obtained in the course of the 1960 sample survey, see - B. Hughes, "Size and composition of Homestead Groups" in *Experiment in Swaziland*, pp. 121-

⁹¹ i.e. Female kin who, in the Swazi system of kinship terminology, would be called by the same term as that used for one's biological mother (Mama).

Relationship	H	M	L	Lub.	Total ¹⁾
Head	11.8	11.9	12.2	13.5	19.1
Wife	11.8	12.7	14.4	14.4	12.9
Son	22.9	21.8	21.8	24.9	22.6
Daughter	20.9	19.2	19.0	20.1	19.9
Mother	3.1	3.6	2.8	3.3	3.3
Classificatory					
Mother	0.3	0.4	0.3	0.5	0.4
Brother	2.7	4.0	3.0	3.7	3.4
Sister	1.8	1.4	1.0	1.0	1.4
Son's Son	1.8	2.2	3.7	2.0	2.2
Son's Daughter	2.3	2.2	3.2	1.9	2.3
Brother's Son	1.2	3.3	2.2	1.5	2.2
Brother's					
Daughter	1.2	3.1	1.5	1.8	2.0
Father's Brother	0.03	0.1	-	-	0.1
Daughter's Son	3.3	1.6	1.8	0.8	2.1
Daughter's					
Daughter	3.6	1.7	1.2	0.6	2.1
Sister's Son	1.8	1.0	1.5	0.8	1.3
Sister's					
Daughter	1.6	1.3	0.6	1.1	1.3
Son's wife	1.7	2.1	3.7	2.7	2.3
Brother's wife	0.8	2.1	0.9	1.8	1.5
Other kin	5.3	4.2	5.9	3.6	4.7
No kin	-	0.1	-	-	0.04
	3229	3534	1090	1419	9272
	99.9%	100.0%	100.1%	100.0%	100.1%

TABLE IX
RELATIONSHIPS TO HOMESTEAD HEADS
Percentages of sample populations

Nature of kin link	H	M	L	Lub.	Com- bined ¹⁾
Nuclear family	67.4	65.6	66.8	72.9	67.6
Mother or classificatory mother	3.4	4.0	3.1	3.8	3.7
Other agnates	11.0	15.3	14.6	11.9	13.6
Other kin	18.1	14.0	15.6	11.4	15.3
Non-kin	-	0.1	-	-	-
	3229 ^a	3534 ^a	1090 ^a	1419 ^a	9272 ^a
	99.9%	100.0%	100.0%	100.0%	100.0%

1) Unweighted totals

This table shows that approximately two-thirds of the individuals in our samples were either the wives or children of their Homestead Heads. A proportion varying 11% to 16% were other types of agnates, mostly unmarried siblings or grandchildren, less frequently brothers' children. There were some other kin (from 11% to 18%) but non-kin were only recorded in one of the four strata; and then only in negligible numbers.

While this method of analysis shows that the majority of individuals in our samples were either spouses or children of their Homestead Heads, it does not indicate whether more remote kin were to be found in nearly all of the Groups; or whether they were concentrated in only a few of these. Nor does it show the proportion of Homesteads that were inhabited by polygynous families.

To find out more about these aspects of the matter, we drew four small sub-samples (each comprising 60 Homestead Groups) at random from the main samples for each of the four rural strata. The familial composition of the Homestead Groups in these sub-samples were then examined in detail. The incidences of the various types of familial groupings found are tabulated in Table X.

TABLE X

FAMILIAL STRUCTURES OF HOMESTEAD GROUPS
Percentages of Homesteads

Familial Type	H	M	F	Lab.	Com- bined ¹⁾
Simple monogamous	41.7	40.0	45.0	41.7	42.1
Simple polygynous	6.7	6.7	3.3	10.0	6.7
Extended agnatic	10.0	21.7	20.0	25.0	19.2
Complex	41.6	31.6	31.7	23.3	32.0
	60 = 100.0%	60 = 100.0%	60 = 100.0%	60 = 100.0%	240 = 100.0%

1) Unweighted totals.

The classification adopted for this table was based on four main types of familial group.

- 1) The Simple Monogamous Family: A Homestead Group comprising a Homestead Head, one wife and his children. Since the "mother-son" family is a traditional feature of the Swazi way of life, groups containing the Homestead Head's mother have also been included in this class.
- 2) Simple Polygynous Family: A grouping similar to the simple monogamous family, but where two or more of the Homestead Head's wives are living in the same Homestead.
- 3) Extended Agnatic Family: A Group containing other agnates of the Homestead Head in addition to his children.
- 4) Complex Family Groupings: All other types of family groupings.

A more complicated system of classification would have served little useful purpose. The Swazi are patrilineal and virilocal, and affinal kin of the Homestead Head are virtually never found living in a Homestead Group (except, of course, for his own wife or wives, or those of his male dependants.)

The figures in Tables IX and X give an indication of the relative proportions of Homestead Groups in our samples which were, in fact, either simple monogamous or simple polygynous families, and of those which had more complicated familial make-ups. In round figures, we can say that about half fell into each of these two broad classes.

The low percentage of polygynous family groupings is interesting. This could, of course, simply reflect a tendency on the part of polygynous males to house their wives in different Homesteads. However, we do have evidence from other sources that approximately four fifths of married Swazi males are monogamous.⁹² So, bearing in mind that in Tables IX and X, many polygynous families will be "hidden" in the "extended agnatic families" and "complex family groupings", the balance of the evidence would seem to be that the "traditional" type of Homestead Group based on a polygynous family is nowadays relatively rare.

⁹² J.F. Holleman, "Marriage" Swaziland, pp. 132-133

Finally, let us examine the composition of those Homestead Groups which we have classed as "complex family groupings". Table XI gives some indication of how these "complex family groupings" in our sub-samples were made up. It will be seen that a relatively high proportion of them contained only one individual who was not an agnate of the Homestead Head (excluding their wives and mothers).

It also shows the proportions of these groupings in which the only "outsiders" were actually quite close non-agnatic kin of the Homestead Heads; children of their sisters or daughters. These data should be considered in conjunction with those given in Tables IX and X, which bring out the relatively small proportions of these "distant" kin that were in our full samples.

TABLE XI
Percentage of complex family groups showing various characteristics.

	H	M	L	Sub.
Containing only one non-agnate (other than wives or mothers)	24%	70%	23%	50%
Containing children of sisters of the Homestead Head	40%	37%	5%	36%
Containing children of daughters of the Homestead Head	29%	45%	55%	75%

General characteristics of Homestead Groups: These figures have been cited, and commented on at some length, in order to give some impression of what Homestead Groups are. We shall be dealing with their sociological role, and their role in the tenorial system, throughout this study and for an adequate understanding of these roles it is very essential to have some idea of the sizes and compositions of the groupings under discussion. From what has been said above, it can be seen that they are in most cases actually "made up largely of a 'Core elementary or polygynous family'"; but that they do vary quite considerably both in size and membership. We have tried in the preceding sections to give some idea of the range of these variations; and in Figure 5 an attempt has been made to summarise the most important of this quantitative information in the form of diagrams.

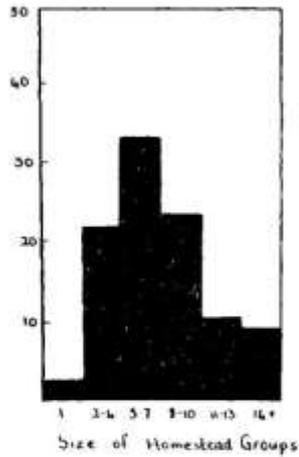
FIGURE 5.
COMPOSITION AND SIZES OF MODERN HOMESTEAD GROUPS
The diagrams below summarize pictorially some of the quantitative data given in this chapter.

FIGURE 5.

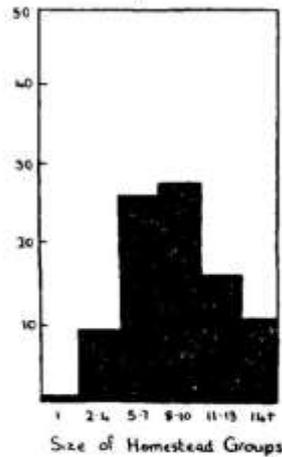
COMPOSITION AND SIZES OF MODERN HOMESTEAD GROUPS.

The diagrams below summarize pictorially some of the quantitative data given in this chapter

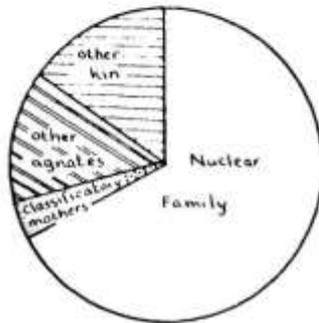
Percentages of variously sized Homestead Groups (All samples combined).



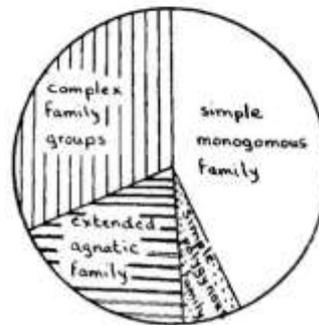
Percentage of sample area population in variously sized Homestead Groups (All samples combined).



Relationship to Homestead Head (All samples combined) (percentages)



Formal structure of Homestead Groups (Sub-samples only). (percentages)



CHAPTER 6.

THE HOMESTEAD GROUP AS A LAND HOLDING UNIT

SUB-DIVISIONS OF HOMESTEAD GROUPS

At the end of Chapter 4 the point was made that the Homestead Group was one level in the hierarchy of what we could call "land communities"; those communities of which Swazi must be members if they are to acquire a share in the Right of Avail. This Right of Avail, it will be recalled, is that generalized right (held by the community as a whole) over all the natural resources in its territory, from which flow all more precisely specified rights to use particular pieces of land for particular purposes.

It will also be clear from the quantitative data which we have just been discussing that the normal method of acquiring membership of Homestead Groups is by the simple device of being born into them. Moreover, in view of their sizes, it is obvious that only in a minority of them will there be more than two or three males actually using land for economic purposes; and that in many there will be even fewer than this. Therefore, it might at first glance seem that to class them as "land communities" is stretching the meaning of the term "community" too far.

However, it must be appreciated that those Homestead Groups are not merely amorphous conglomerations of individuals, all of whom are exact social equivalents of each other in all contexts. They not only have an internal structure, but are linked with other Groups to form wider units of various kinds; and have within themselves, due to the fact that they are family-based groupings, the potentiality for expansion.

Another point made earlier was that in this type of society one could not consider questions of land tenure in isolation; that they could only be meaningfully discussed, as facets of the total socio-political organization. Therefore, before going into details regarding the exact ways in which members of a Homestead Group can utilize their share in the Right of Avail which they derive from this membership, a few words must be said about the internal structures of these Groups: about the effect of this structure on their economic organization; and about how new Homesteads come into being.

The genesis of new Homesteads: Starting with the last of those, it will be recalled that we have already mentioned the importance of the principle of the "ever dividing Homestead" in the social organization of many of the Nguni-speaking peoples. In the Swazi variant of this system one of the earliest stages in this process of fission, of the splitting of one Homestead Group into two or more "daughter" Groups, is the growth of recognized sub-divisions within the original Group. Swazi call such sub-divisions "huts" (*tindlu* sing, *indlu*). Here, to avoid confusion, we shall translate this Swazi term as "Houses" or "House" when it is used in this sense.

One of the simplest examples of this process is seen in polygynous families, where each of the main wives of the Homestead Head, together with her

children by this man, form a separate House (*indlu*) within the Homestead Group. When such a Homestead splits up (which is common after the death of the Homestead Head) each of those Houses can hive off and establish a new Homestead of their own. According to Swazi theory, the ideal is that such a new Group should comprise one of the dead man's wives, all of her sons and their families, and all her unmarried daughters. The eldest son in the House is known as its "prince" (*inkosana*), and he would become the Homestead Head of the new Homestead; although his mother would exert a considerable influence on the conduct of the Group's affairs for the remainder of her lifetime.

Various factors can complicate this simple segmentary pattern. A wife may be an attached co-wife (*inhlanli*) of another one, in which case both will be regarded as belonging to a single House within their husband's Homestead Group. Later, however, if this House hives off and establishes its own Homestead, the children of those two women may be regarded as belonging to different Houses within this Group.⁹³ In other cases only one of several Houses in a Homestead may actually hive off and establish a new home, while the rest remain as part of the original Group. Nowadays further complications may be introduced by the tendency of younger sons to set up their own Homesteads shortly after they marry, instead of staying with their father or elder brother. In such cases a new House and a new Homestead Group are established almost simultaneously, instead of the latter "growing" out of the former.

Regardless of these variations in practice, the fact remains that this is the type of internal structuring of Homestead Groups which is expected in Swazi society; and for which legal provision is made in their traditional law and custom. It is important to appreciate that it is a process which is going on continuously. Even a Homestead Group comprising only a single elementary family has the potential for this type of growth. Furthermore, every Homestead Group in existence today has sprung from a House group in some earlier Homestead. These ties are still remembered, and in some contexts (as when some legal matter concerning a wide segment of the agnatic group is under discussion) such a Homestead Group can be treated as no more than a House in this original "parent" Homestead; and be referred to as such.

Furthermore, from the moment such a House division is first recognized within a Homestead Group, the process can start whereby this House begins to gain a greater and greater degree of independence (including economic independence) from the "parent" Group.

We have already mentioned how these sociological divisions within the Homestead Group are reflected in the physical division of a Homestead into a number of distinct settlements, each normally surrounded by its own windscreen. Good examples of this are to be seen in Figure 3. Even in the smaller Homesteads

⁹³ In many cases the attachment of a co-wife results from the continued childlessness of the main wife to whom she is attached. Some traditionalist Swazi argue that, if the main wife later does have children of her own, it is still impossible to make any sociological distinction between these and those of her co-wife; that all are the offspring of the main wife. Others disagree saying that biological parenthood is always taken into account; and that such a situation will ultimately inevitably lead to the recognition of two Houses.

that are common today this type of physical division is quite often met with; despite the tendency of young men to establish their own Homesteads before they have fathered a new House within their parental Homesteads.

One does have cases where several married brothers stay together in the same Homestead; or a son may elect to follow the old custom and stay in his father's Homestead after he has married; or a widow of a polygamist whose own children are still young *may* stay in the same Homestead as one of her co-widows who has adult sons, capable of doing a man's work.

The Economic significance of House affiliations: One way in which a House can gain a greater degree of independence from its "parent" Homestead Group even while it is still a part of that Group is by acquiring recognition of the right to control its own economic affairs to some extent. Thus, in a polygamist's family each House can start building up its own "estate" of cattle. A husband in such a family will often allocate one or more beasts to a particular House as part of its "Portion", as Swazi call such a House estate (the Swazi word *lipakelo* is the same as that used to describe a helping of food that an individual receives at a meal). These animals will normally continue to be herded together with the rest of the Homestead's herd, but all members of the family will know that they are part of the Portion of such and such a House, who now have a claim over the beasts themselves, and their offspring and milk if they are cows (which they usually are).⁹⁴

Another source of cattle to swell a House's estate is from the bridewealth payments made for daughters born to that House.

These payments should always include one beast (known as the *isulyambeti* - the "wiper away of tears")⁹⁵ which is taken by the girl's mother; that is to say, goes to her House's Portion. There are no hard and fast rules regarding the fate of the other *emabheka* (bridewealth cattle); since it is held that the father has the right to "eat" these if his need is great enough (for example, if he has to supply bridewealth for one of his sons born in another House). But if any remain in the Homestead herd the House from which the girl will come will probably lay a claim to them, and their offspring, sooner or later.

One thing which the husband cannot do without the permission of a House itself is to transfer animals from one of his House's Portions to the Portion of another one. To do this arbitrarily could involve him not only with his own wife and her children, but also with her agnatic kin; who would regard this as a wrong done to one of their own family.

The economic significance of House divisions becomes more obvious after the husband's death. When a man dies one of his sons is appointed his General Heir (*indlalifa* - the "eater of the inheritance")⁹⁶ in a polygamist's family this should be the first son of the highest-ranking wife; the decision regarding

⁹⁴ Ziervogel, Swazi Texts, p. 55

⁹⁵ cf. Kuper, An African Aristocracy, p. 98. Marwick, The Swazi, p. 110

⁹⁶ Kuper, An African Aristocracy, pp. 88 ff.

which wife this is resting with a group of the dead man's close agnates, his *lusendvo*.⁹⁷

The General Heir succeeds to his father's position as head of the Homestead Group,⁹⁸ and also becomes responsible for that part of his father's estate which has not been allocated to the Portion of any particular House. This also implies that he has a duty to ensure to the best of his ability, the well-being of all Houses in the Homestead Group.

In all these functions he should be assisted by, and listen to the advice of, his father's first-born son, who is known as the "First Circumcised" (*lisokacanti*).⁹⁹ The Latter is selected purely on the basis of his age, regardless of the House to which he belongs or the rank of his mother's family.

In each House the eldest son of that wife, the "prince" (*inkosana*) of that House, becomes what we can call the House Heir. That is, he becomes the controller of any property inherited by that House, or any which may accrue to its estate later on. In the past, it is said that the House Heir and his descendants normally took the lion's share of this property; but of course he also had the complementary duties of making provisions for the bridewealth payments for the first wives of any of his full brothers who were still unmarried at the time of their father's death;¹⁰⁰ the overall responsibility for any debts, obligations or fines incurred by any member of the House; and the responsibility of making provision for his mother's maintenance,¹⁰¹ and for the general well-being of all those belonging to the House.

The General Heir and the First Circumcised "wear two hats", in that they are also House Heirs in their own Houses. In this type of segmentary system it is, of course, quite possible for an individual to have more than two roles of this nature; since apart from being the General Heir of his father and the House Heir in his own House he may also succeed to his father's position as the genealogically senior member of a wider agnatic grouping.

Although true polygyny (being legally married to two women at the same time) is rarer today than it was in the past, the internal division of Homestead

⁹⁷ In theory, any male agnate of the dead man could form part of this group. In practise it usually only comprises his brothers (both full and half brothers), the senior sons of any of these who may have died, any of his closely related classificatory fathers who are still alive, and possibly one or two more distant agnates if they have maintained close contact with this branch of their family. cf. Kuper op. cit., pp. 89, 115.

⁹⁸ Including any Houses which may have hived off and established separate Homesteads before the father's death.

⁹⁹ Most Swazi abandoned circumcision during the time of the Zulu raids, since these were often timed to coincide with the incarceration of boys in the circumcision schools. The name First Circumcised has been retained.

¹⁰⁰ It is supposed to be a duty of a father to find bridewealth cattle for each of his son's first wives; although not all Swazi fathers nowadays accept this.

¹⁰¹ Traditionally, it is the duty' of the youngest son to maintain a home for his mother, but the House Heir has an obligation to see that he is in an economic position to do so; and if necessary make some provision from the House Estate for this purpose.

Groups into Houses is still common. Such Houses can, of course, arise from causes other than polygyny. They can come into being when a man whose wife has died or left him¹⁰² marries a second wife, or when a widow is "inherited" by a younger brother of her late husband according to the custom of the levirate (*kungena*).¹⁰³ Further, it must always be remembered that every one of a man's sons, even those of a monogamist, is a potential progenitor of a new House.

The important thing to bear in mind in connection with land tenure is that in virtually every Homestead Group there is always the possibility of this type of internal segmentation; quite regardless of whether or not a particular Group is divided into distinct Houses at any one moment in time. We shall be discussing later how this factor can affect the nature of rights given to individuals to use particular parcels of land.

"Right Hand" and "Left Hand" sides of a Homestead: While on this subject we should perhaps mention for the benefit of those with knowledge of other Nguni peoples that in ordinary Swazi Homesteads there is no formal division into segments of the "Right Hand", the "Left Hand" and the "Great House". Among the Zulu and Xhosa an individual's status depends to a large extent to which of these segments of his father's Homestead he comes from. With the Swazi completely different principles are used to determine such relative statuses.

LAND RIGHTS

Rights of cultivation: In their formal relationships with the wider land communities which we shall be discussing later (i.e. the Wards, Chiefdoms and the Swazi people) Homestead Groups are treated as single units. Grants of rights over specific parcels of arable land and a residential site are usually made to the Homestead Head. He is then expected to ensure that members of his Group requiring land for cultivation have a reasonable share of that which has been allocated to the Group as a whole.

In earlier and more spacious days the practice was for a Homestead Head to be shown a residential site, and the general area in which his people would be expected to plough. Very often, this was an area stretching from the Homestead site down to the nearest river or stream, with no definite boundaries on either side. Nowadays, however, the precise limits of these arable allocations are usually indicated and marked in some manner.

Exactly how a Homestead's arable area is divided among members of the Homestead Group depends on many factors; the Homestead Head's own views on how the economic life of the Group should be organized, the number of adults in the Group who want land for cultivation, and the internal structure of the Group.

¹⁰² Whether or not divorce is possible at all according to strict Swazi custom is a much argued point, If one accepts the view of many traditionalists, a man who has married again after his first wife has left him would be a polygamist, regardless of his actual domestic arrangements, or those of his departed wife.

¹⁰³ Marwick, *The Swazi*. p. 49.

Thus, if there are two or more different Houses the general principle is that each should have its own arable allocation. In a polygynous family each wife should be given her own field or fields. The produce of these will be stored in that House's oven granaries, and the ideal is that each House should be able to supply its own requirements of vegetable foodstuffs (of which the most important is grain) from its own land, and part of the husband's food needs as well.

If Houses have come into existence through other means (e.g. by the continued residence of a married son and his family in his father's Homestead) these should also be given their own arable allocations. A Homestead Head may also make allocations of land to members of his Group who do not belong to distinct and separate Houses; to his mother; to his unmarried sisters if they are still living with him; or to his unmarried daughters.

A Homestead Head may (and often does) retain direct control over part of the Homestead's arable area. If his mother is still living with him, he may make no specific arable allocation to her, but refer to all the unallocated arable area as "mother's fields"; so implying that his whole Homestead is in a sense no more than a House in his own father's one. The produce from these fields comes under the direct control of the Homestead Head himself; who may sell it, use it to feed any dependants of his who do not belong to Houses with their own fields, or to make up any shortfall in the grain supply of any of the Houses in his Homestead.

A wise man will retain sufficient land in this "general estate" to enable him to make up such shortfalls without having to ask another House to give some of their grain for this purpose; a move which could easily lead to discord within his Group.

Although in a multi-House Homestead each House is responsible for their own arable lands, in practice one often finds that other members of the Homestead Group will assist in their cultivation.

The Homestead Head may accept responsibility for seeing that all Houses' lands are ploughed, and he will usually expect all members of the Group to work on those sections of the Homestead's lands which come under his direct control. Weeding and reaping on lands allocated to different Houses, and to individuals such as adult unmarried daughters, may also be done by all the available members of the Homestead Group.

Much depends on personal preferences. Today one finds many Homesteads containing a number of Houses to which no separate arable allocations have been made; the Homestead Head maintaining full managerial control over all the Group's agricultural activities, and allocating a share of the produce to each House after the harvest. An argument often advanced in favour of this way of doing things is that, in addition to making for greater efficiency, it is less likely to lead to complications and altercations after the Homestead Head's death; since if no section of the Group has become used to regarding any particular lands as belonging to them in particular it will be easier for the dead man's Council of Agnates to arrange an equitable distribution.

The Right of Avail at this level: In these relatively informal arrangements we have the beginnings of the process whereby individuals (on behalf of the groupings they represent) can move towards Bantu-Ownership of arable land.

Each member of a Homestead is, by virtue of that membership, also a member of the various higher levels in the hierarchy of land communities that we have mentioned. They therefore have a share in the Right of Avail, from which flows the Right of Accommodation; the right to some place to live and to some place to plough on Swazi Nation Land. Individuals exercise these rights through the medium of the Homestead Group to which they belong; since as far as the outside world is concerned it is the Group which has a residential site and arable lands from which it has the right to exclude others. So, in the framework of this wider world of the more extensive land communities, it is the Household Group as a whole which has Bantu-Ownership of these arable lands and this residential site.

From this Bantu-Ownership flow the Rights of Cultivation and the Rights of Use of part of the residential site which are exercised by individuals and subsections of the Group. These Rights of Cultivation may in time grow into full Bantu-Ownership; if a House hives off from the Group and establishes its own Homestead, but remains within the territory of the next level in the hierarchy of land communities (the Ward, or Chiefdom, as the case may be). If, however, such a sub-section of the Group dies out before establishing its own Homestead, or moves away to another Chiefdom, these rights lapse and may be re-allocated by the Homestead Head.

The degree to which the rights of the whole Homestead Group over arable land are affected by such allocations to sub-sections within it depend on the nature of the sub-section, and on its potential ability to perpetuate itself as a sociologically distinct entity. So, when a polygynous Homestead Head allocates certain fields to one of his wives, he thereby restricts to a considerable extent the rights of the rest of the Group over those particular parcels of land. Unless this woman dies before bearing sons, and no "replacement" is provided by her agnatic group, it would be extremely difficult to deprive this wife's House of those fields without their agreement. This is one of those cases in which Rights of Cultivation are granted in the expectation that they will ultimately grow into Bantu-Ownership.

However, when a Homestead Head "gives" a field to his mother, sister or a daughter the situation is completely different. This field would normally ultimately revert to the Homestead Group on the death of the mother or the marriage (and departure to her husband's Homestead) of a sister or daughter. These individuals do not have the potential ability to found sociologically distinct sub-sections of this Homestead Group, so grants of land rights to them are assumed to be of a relatively temporary nature, as are the limitations of the rights of the Group as a whole over the land in question.

Here we must anticipate slightly and make the point that Homestead Groups are only granted exclusive land rights (i.e. Rights both to use and to exclude others from using) over arable land and residential sites. So, naturally, it

is only in respect of these that it is necessary for the Homestead Head to make formal arrangements for any re-allocations to sub-sections of his Group.

However, every member of such a Homestead Group has a share in the Right of Avail, and from this flow more rights than those derived from the Right of Accommodation. There are such things as the Right of Pasture, the Right of Water, the Right to Hunt, and the Right to Delve. Every member of a Homestead Group can exercise these rights, which on occasion can yield considerable material benefits (such as cattle reared on communal grazing or timber cut for building). While in a sense it might be true that individuals derive these rights from their membership of Homestead Groups (since unless they were permitted to live and keep their stock in particular areas they could derive little benefit from them) they do not exercise them through the medium of a Homestead Group in the same way that they do those rights relating to arable land and residential sites.

This difference, it will be appreciated, is primarily concerned with the formal procedures that be gone through before a particular right can be exercised; and do not necessarily reflect any deep conviction that there is some fundamental difference in kind between these two types of rights. Both are based on the assumption that, community membership gives one an inalienable right to a fair share of the natural resources available to the community as a whole.¹⁰⁴

Inheritance of land rights: Traditionalist Swazi insist that land cannot form part of the estate (*lifa*) which is inherited by a dead man's heirs. When pressed, many argue that in earlier times the only important element in this estate was cattle; apart from a few minor chattels which a dead man's immediate family usually divided up among themselves without involving his Council of Agnates.¹⁰⁵

Nowadays, it is agreed that money and other valuable movable property is inheritable; but land is still excluded from this category. To admit that land itself could form part of an individual's estate would, of course, be to give it many of the attributes of a personal chattel; something which an individual or small group can dispose of at will. This would be quite contrary to the Swazi doctrine that only the community can grant rights over land; and that only to its own members.¹⁰⁶

Yet, when one examines how rights over specific parcels of arable land are distributed after a man's death, it does seem that they are usually "inherited" in much the same way as cattle or other property. The customary legal basis for these arrangements is actually quite clear, and quite simple to grasp. It depends on the fact that the death of an individual (even of a Homestead Head) does not mean the end of a Homestead Group. The Head was granted land (or himself inherited it) on behalf of his Group. The Group is still there, and it is therefore its responsibility to ensure that the land available to it is satisfactorily divided among

¹⁰⁴ cf. Report of the Mangwende Reserve Commission of Enquiry. Salisbury, 1961, p.35.

¹⁰⁵ Lusendvo. See p. 91 above.

¹⁰⁶ There are certain exceptions to this rule.

its members. In normal circumstances wider land communities would not interfere.

In large polygynous families the distribution of land rights after the father's death resembles the inheritance of cattle in the distinction which is made between the General Heir (*indlalifa*) and the other sons. The former usually receives the largest allocation; but he also has the responsibility of seeing that the other descendants of his father are catered for. It is to him that the latter should apply first if they require land. Also, as with cattle and other property, it is the responsibility of the dead man's Council of Agnates to decide how rights over the arable land held by his Homestead Group should be distributed. Land which is already being cultivated by a particular House is regarded in the same light as cattle in that House's Portion, and except in unusual or special circumstances would be retained by them.

The transition from the Right of Cultivation enjoyed by a House to full Bantu-Ownership of that land is a gradual process. In earlier times, when Homestead Groups tended to stay together to a greater extent, the distribution after a Homestead Head's death was only a stage in that process; not necessarily its culmination. The General Heir merely succeeded to his father's position as head of the Group, and sub-sections within it continued both to enjoy the rights over specific parcels of land that had been allocated to them and at the same time had a right to share in the produce of land retained in the general estate of the Homestead if they needed it.

The growing scarcity of land, the virtual elimination of the right to reclaim arable land from the grazing area without special permission from leaders of wider land communities and the tendency of men to establish their own Homesteads immediately they marry have all had an effect on how land rights are passed on; and on the rate at which Rights of Cultivation grow into Bantu-Ownership.

In one of the passages by ter Haar quoted earlier, this authority remarks that "changes in social values concerning individual rights affects the strength of communal rights". Among the Swazi one of these "changes in social values concerning individual rights" is the increasing acceptance of the right of men to establish a considerable degree of economic independence at a relatively early age. One symptom of this is this tendency of young men to "contract out" of the economic unit formed by their father's Homestead Group by establishing their own Homesteads elsewhere; and the lack of resistance by fathers to these moves. This has inevitably tended to weaken "the strength of communal rights" over land that is held by the parent Homestead Group. It creates a situation in which there could be some doubt as to which Group actually held the Bantu-Ownership field cultivated by the "daughter" Group.

Nowadays, it is not uncommon for a Homestead Group's fields to be finally divided among the various sons of the Homestead Head shortly after his death, leaving no land in the general estate of the "parent" Homestead. This is tantamount to recognising that the various "daughter" Homesteads have now acquired full Bantu-Ownership of any fields that they hold.

When we speak of Bantu-Ownership being held by a Homestead Group it must be appreciated that this does not preclude the possibility of there being very considerable variations with regard to who actually controls what rights over which pieces of land. Nor does it necessarily mean that the wider "parent" Group have lost all rights over any land held and cultivated by a "daughter" Group. Much will depend on relative ages and statuses of the various individuals involved. Thus, if a man dies leaving a young boy as his General Heir, his Homestead Group's rights over their land, and its allocation to various sub-sections, would be far more limited than if the General Heir were a mature man. They would be limited by the greater amount of control that the dead man's Council of Agnates would be able to exercise over these matters.

Moreover, whether or not a particular sub-section of a "parent" Homestead have hived off and established their own Homestead is not the only factor which decides how much control they have over land that has been allocated to them. If, for example, a particular Homestead Group consists of the families of three brothers, each may in practice exert as much control over their own House's lands as they would if they had left and set up their own Homesteads.

Furthermore, it would be true to say that "inherited" rights over parcels of land never really die; though they may be weakened by the allocation of a parcel to another sub-section within one's Homestead Group. One often hears the argument that, since "my mother ploughed that land", the speaker has a claim to it. Such claims survive through time, and if the House to which land has been allocated ultimately moves away (even many years after it has become an independent Homestead) some distant agnate may advance a claim on the grounds that "those lands were ploughed by my grandmother". Such a claim might well not be successful (since, as we shall see later, the ultimate right to decide who shall have what rights over which specific parcels of land rests with wider land communities than the Homestead Group), but it is sufficiently frequently advanced to inhibit these wider land communities from allocating such fields to a completely different agnatic group when this can be avoided.

To sum up, we may say that rights over arable land are inherited, in fact, in much the same way as cattle or other movable property.

According to the principle of "the ever-dividing Homestead" Bantu-Ownership of such land can be passed down in the male line. Though the change from a Right of Cultivation to Bantu-Ownership is normally a gradual process, wider land communities would normally regard a House within a Homestead Group as having acquired Bantu-Ownership of the fields they use when this House has established its own Homestead. Decisions as to how a Homestead's "estate" of land rights should be distributed after the Homestead Head's death depends on what House divisions there are within his Homestead Group; what land allocations have been made to these Houses during his lifetime; and on the decisions made by his Council of Agnates when discussing the disposal of his whole estate.

However, unlike the situation with regard to cattle or other property, the continued enjoyment of such inherited land rights is dependant on the heirs remaining members of the various wider levels in the hierarchy of land communities to which the original Homestead Group itself belonged.

THE ROLE OF HOMESTEAD GROUPS IN THE TENURIAL SYSTEM

In this chapter we have explained how land rights are allocated within Homestead Groups; how these allocations can be affected by the internal structure of these Groups; and how the Right of Cultivation which a Homestead Head can grant over a particular parcel of arable land can in time grow into Bantu-Ownership of that parcel.

We must now examine the nature of land communities of rather wider extent; the roles that these play with regard to land, and the influence they can exert when it comes to deciding "WHO shall have WHAT rights over WHICH parcels of WHAT types of land".

CHAPTER 7

THE CHIEFDOM

It will be clear from what has been said about the internal structure of Homestead Groups, and of the means whereby new ones come into being, that there must be a whole series of agnatic ties linking them together to form agnatic groupings of much wider extent. However these are far from being the only type of formal link between one Homestead Group and another. Nor, at the present time, are they necessarily those which prove most important in day-to-day life.

Quite apart from these (and other) kinship links, each Group is also part of a series, or hierarchy, of territorial groupings; and has a number of recognised rights and obligations in respect of other Groups in the same units. Immediately above the level of the Homestead Group itself is the unit that we have here called the NEIGHBOUR CLUSTER; then comes the WARD; and then the CHIEFDOM. Chiefdoms are themselves, of course, part of that yet wider (and not exactly "local") community which we have called the SWAZI PEOPLE.

Wards are found mostly in the larger Chiefdoms. In many of the smaller ones there are no such clearly defined sub-divisions; but even in these careful analysis will often reveal embryonic territorial groupings, larger than the Neighbour Cluster and smaller than the Chiefdom, which show some of the characteristics of Wards but may lack others. These we can call PROTO-WARDS.

There are no precise vernacular terms for "Neighbour Cluster", "Ward" or "Proto-Ward". The Chiefdom, however, does have a generic title in Swaziland is known as a *sive*.

We started our analysis of the Swazi system of local organization with the smallest clearly definable unit, the Homestead. Now it might be preferable to reverse this process, and examine next, the largest of the local communities that we have listed, the Chiefdom.

Once we have some appreciation of the structure and functions of these, it will be easier to understand those of the other, smaller local groupings that have just been mentioned.

THE CHIEFDOM.

Chiefdoms (nowadays) have clearly defined geographical boundaries,¹⁰⁷ and equally clearly definable populations. They are recognized as local governmental units by the Swaziland Government and National authorities,¹⁰⁸ and have a formal and relatively standardised internal organizational structure. They

¹⁰⁷ That is to say, they should be clearly defined. Nowadays, there are many boundary disputes between Chiefs, but never (as far as I know) any serious disputes about whether Chiefdoms should have geographical boundaries or not.

¹⁰⁸ pp. 171 ff. below

are ruled by officials that we have here called CHIEFS; about whose rights, powers and duties there is a large measure of agreement.¹⁰⁹

However, before we can discuss this subject without risk of confusion there are some terminological points that must be clarified with regard to these words "Chiefdom" and "Chief".

The Swazi word *sive* refers both to the territory controlled by a Chief, and to the group of people who owe allegiance to him. Swazi purists insist that the latter is the true meaning of the Swazi word, and that its use to describe a territory is secondary, a subsidiary connotation which it has only acquired in recent decades.¹¹⁰ In this study the English word "Chiefdom" is used in this same double sense, to describe both the territory and the people ruled by a Chief. Where it is necessary to distinguish between these two meanings, the one intended will be specified, unless this is already obvious in the context.

The situation is rather more complicated with regard to the word "Chief". There is no single Swazi term which can be applied, without fear of contradiction, to all those territorial authorities that are here called "Chiefs". In Chapters 2 and 3 I described how the Swazi state came into being; and how the various forms of territorial authorities were created, or brought into formal relationships with the Dlamini overlords. Of these subordinate political authorities there were three main kinds; the Royals (*bantfwabenkosi*), scions of the Dlamini clan who were granted territories and followings; Lieutenants (*tindvuna*), who were given control over royal Homesteads and the people and lands attached to these, and the Clan Chieftains (*tikhulu*)¹¹¹ who retained varying degrees of independence, but admitted the overlordship of the Dlamini.¹¹²

In Chapter 12, we shall be discussing the pattern of formal relationships between these Local Chiefdoms and the Swazi Central Authority. Here, however, we are concerned mainly with their internal organization. As far as this is concerned there is sufficient resemblance between Chiefdoms under each of these three types of rulers to make it unnecessary to treat each separately.

Therefore, following current practice in Swaziland, I use the word "Chief" for any of these three types of rulers who is actually in a position where he controls a definite territory and a definite group of people.¹¹³

THE FORMAL POLITICAL STRUCTURE OF A CHIEFDOM.

¹⁰⁹ And also (inevitably) some disagreement. See pp. 246 ff. below

¹¹⁰ cf. Doke and Vilakazi, Zulu-English Dictionary.

¹¹¹ Though whether or not this term *Tikhulu* (which is a relatively recent importation) can be applied to all types of Chiefs is a much debated point. See pp. 171-172 below.

¹¹² See pp 42 ff. above; ;uid A.J.B. Hughes, Swazi Land Tenure, (duplicated), University of Natal 1963, pp. 143 ff

¹¹³ This qualification is necessary, since there are officials with the same Swazi titles as Royals (*bantfwabenkosi*) and Lieutenants (*tindvuna*) who do not exercise such territorial jurisdiction, see pp. 172 , 173-176 below.

The Chief and his Council: At the apex of the formal local-governmental organization of a Chiefdom is the Chief himself; who in the vast majority of cases has acquired this position through hereditary right. He, however, is not expected to rule as an autocrat. Swazi are most insistent that a Chief should always rule with the assistance of his Council (*libandla*). This Council has two aspects; which is probably a better way of describing the situation than saying that, in each Chiefdom there are two Councils.

The Great Council (*libandla lenkulu*) is an open forum, where every adult male in the Chiefdom is entitled to air his views.

In practice, the views which usually carry most weight are those of men who also belong to the Little Council (*libandla lencane*), or Inner Council of the Chiefdom.¹¹⁴ This is a far smaller body, usually numbering ten or so persons, made up of men whom the Chief has personally selected from among the more influential of his subjects to act as his personal advisors.

It is generally recognised that the Great Council is far too cumbersome a body to deal with all the day-to-day decisions that have to be made. So, issues are first debated in the Inner Council (meetings of which are not open to the general public), and only the most important, or those most likely to lead to controversy, are brought to the Great Council. Many Swazi argue that the Inner Council is only really a debating body, which in itself has no power to make decisions unless these have been ratified by the Great Council of the Chiefdom. Nevertheless, it is also accepted that (human nature being what it is) members of the Inner Council are unlikely to bring a decision to the Great Council for ratification unless they are reasonably sure that their views will be supported by a large and influential proportion of those attending that particular meeting of the Great Council.

Regardless of the particular procedures that have been adopted for debating such issues, it is the Chief himself who has to formally pronounce the decisions reached.

This is an excellent, example of the "balancing of power" which is so characteristic of all Swazi traditional political organization. At this level these three elements in the local-government, at organization (Chief, inner Council, Great Council) are supposed to interact in a manner likely to produce decisions that will have the maximum of general support and give rise to the minimum of controversy. Much will depend on personalities, and a strong Chief can do a great deal to control the decisions of his Inner Council through his power to choose its members; and can rely on their support for getting his

¹¹⁴ Marwick uses the term *liqoqo* for this Inner Council of a Chiefdom, while Kuper speaks of the Chief's council of Agnates (*lusendvo*) as fulfilling this role. My informants definitely preferred *libandla lencane* to describe this body in a Chiefdom; arguing that *liqoqo* referred properly to the National Inner Council (see pip. 103-104 below), and that even a Chief's Council of Agnates, meeting as such should be primarily concerned with family affairs, not local governmental ones. See Marwick, *The Swazi*, p. 208. Kuper, *An African Aristocracy*. p. Op. 105.

decisions accepted by the Great Council. However, if he goes too far, any powerful pressure group in the Chiefdom opposed to his policy can make their influence felt through the medium of the Great Council. Since the principle of voting, and the taking of decisions on the basis of the will of a simple majority of those present at a particular meeting are anathema to the traditionalist Swazi, a Chief seldom makes a major ruling of any kind unless he and his close advisors are convinced that it will be supported by the most influential of his subjects.

This emphasis on the importance of unanimity, or near unanimity, also naturally tends to inhibit the introduction of changes, even when those are wanted by the majority of the inhabitants of a Chiefdom.

Despite these variations that there can be in the balance of power, the formal structure is clear. The ruler is the Chief, and it is at his headquarters (which may be his own Homestead, or one founded by a previous ruler) that both the Inner Council and the Great Council meet. Orders and rulings are given in his name, and he is the main formal link between the people in his Chiefdom and the National authorities. From the point of view both of members of a Chiefdom and of outsiders, the Chieftaincy is thus a unity made up of the Chief and his Council.

Therefore, when we speak of "the Chief" later in this study it must be appreciated that, unless otherwise specified, reference is intended to this whole complex, not solely to the individual who currently holds this position. - Nor is it of great moment for our purposes whether the individual acting as Chief is the rightful, hereditary Chief, or one of the many regents that are found in Swazi Chiefdoms; temporarily holding office during the minorities of the actual heirs.

Other officials in a Chiefdom: Apart from this complex of "Chief and Council" there are certain other officials in a Chiefdom who have a recognized authority and recognized duties.

The first among those is the Chief's Deputy (indvuna).¹¹⁵ He is expected to assist the Chief in his task of ruling the Chiefdom; to attend and organize all meetings and courts; and to "screen" all business, complaints and requests that individuals wish to bring to the Chief.

The position of Chief's Deputy is an hereditary one, and is almost invariably given to a member of a clan other than the Chief's own. This is another example of the principle of the "balancing of power".

The insistence that a Chief should rule through his Deputy, and the latter's selection on an hereditary basis from another clan, emphasize the Chief's own role as leader of all his subjects; as distinct from his other role as the genealogically senior member of his own agnatic group in the Chiefdom. Though the Chief and

¹¹⁵ This is yet another use of this Swazi term indvuna. Its general sense is "Deputy", "Lieutenant", but it is usually only used for individuals with clearly defined functions, such as the Lieutenants appointed by the Ngwenyama to rule areas attached to Royal Homesteads; the Deputy in a Chiefdom; or officials in the regimental organization. It bears some resemblance to the English "Captain", as this was used from the 15th to the 18th century; a convenient term to denote command and some official recognition.

his Deputy should always apparently be in accord, and the latter's main role is said to be to carry out the Chief's instructions, the vesting of so much power in another clan must provide a check on the influence that the Chief's own agnatic kin can exert over the affairs of the Chieftom.

Other officials bearing the title of *indvuna*, are the local commanders of the age-regiments. The senior of these (known as "commander of the warriors, "*indvuna yemajaha*", or "commander of the regiments", *indvuna yemabuto*) has the overall responsibility for maintaining the age regiment, organization in functioning condition; and for seeing that members of the appropriate regiment or regiments report for duty when summoned by the National authorities or the local Chief. Under him are the captains (also *tindvuna*)¹¹⁶ of each particular age-regiment which still has surviving and active members.

Another category of officials bearing this title of *indvuna* are the Ward Heads who are found in Chieftoms which have recognized Ward divisions. Their positions are also normally hereditary; and we shall describe their functions and duties when we come to our discussion of these Wards.

In some Chieftoms there may be yet more types of *tindvuna*. A man skilled in law may be made "*indvuna* of cases"; and Kuper mentions the possibility of a Chief creating a special *indvuna* solely to supervise his Homesteads. This practice is not universal however, and such individuals could be regarded primarily as "agents" of the chief, appointed to meet a particular and possibly localised need, rather than as "permanent officials" in the local governmental structure.¹¹⁷

Finally, in every Chieftom there should be a Runner (*umgijimi*). He has no executive power but is employed to summon people to meetings, court cases or tribute labour gatherings; and as a general assistant for the Chief and his Deputy.

To summarize, we may say that the "permanent officials" that one would expect to find in a Chieftom are the Chief himself; his Deputy; Ward Heads (in some Chieftoms); the Commander of the Regiments; the Captains of the local sections of each age-regiment; and the Runner. To these we might add all the members of the Inner Council.

There may be others whose official positions are recognized on special occasions, or in connection with special activities. Examples are the "princesses" (*tinkosatana*) who lead the local contingent of young girls at the National Reed Dance (who are usually daughters of the present Chief); and people such as the chairman of the local agricultural committee. These, however, only play transitory roles on particular occasions, or are concerned primarily with the activities of particular interest groups in the Chieftom.

¹¹⁶ For those unfamiliar with Bantu languages it should perhaps be mentioned that *tindvuna* is the plural form and *indvuna* the singular

¹¹⁷ An *indvuna*'s official assistant has the title of *liphini*. A Chief's Deputy may refer to the Runner as his *liphini*; or choose another individual for this task; or (as is the case in many Chieftoms) he may have no full-time assistant of this kind.

Rights and powers of a Chief: Among the most important powers left to a modern Swazi Chief are the right to decide who shall be permitted to join the land community (i.e. the Chieftaincy) under his control; the right (now somewhat limited) to decide who shall be permitted to remain a member of that community; and the right (again subject nowadays to many limitations) to control land allocations to members of that community.

These are matters which we shall be discussing at length in subsequent chapters, so it would be premature to go into details now. However, Chiefs do also have certain other powers, which are not so intimately and directly connected with questions of land tenure.

One of these is the right to demand a limited amount of tribute labour from their subjects. In each Chieftaincy there is usually a field known as "the field of the Great House" (*insimi yendlunkulu*). This, strictly speaking, is not the Chief's field, but belongs rather to the Chieftaincy. It should be ploughed, planted, weeded and reaped by the whole Chieftaincy. Special tribute labour gatherings (*imimemo* sing, *ummemo*) are called to perform each of these tasks. These are summoned by the formal procedure known as *kumemeta*. Literally this means "to shout", and the truly traditional method of issuing this summons would be for the Runner to tour the Chieftaincy and shout out the details within the hearing of every Homestead (who should come, when, and with what implements).

The reasoning behind the use of tribute labour gatherings to cultivate this "field of the Great House" is that the crops reaped from it are supposed to supply the Chief with the means to entertain official visitors. Traditionalist Swazi consider it the height of discourtesy not to offer a visitor food or beer (or both) to show that he is welcome. For a Chief to fail in this would be a reflection not only on him personally, but also on his whole Chieftaincy. Therefore, all subjects are expected to make some contribution towards these charges, and the traditional way of doing so is through these tribute labour gatherings at the "field of the Great House".

At the present level of agricultural yields, the crops produced by this process are seldom impressive, and many Chiefs complain that they are quite inadequate to cover the extra outlay which their position involves. Nonetheless, the right to call out tribute labour for this purpose is jealously maintained, and failure to attend when called can result in a heavy fine.

In theory, if a Chief calls a work party together to work on any of his other fields, he is not permitted to "summon" them (*kubamemeta*) but must "invite" them (*kubancusa*), just as an ordinary individual would. Further, such a work party should not be described as an *ummemo* (which implies tribute labour), but as an *ilima*; the term used for the sort of voluntary work party which any private individual can call, at which it is customary to provide beer or some other refreshment for those who attend.

Practice varies considerably from Chieftaincy to Chieftaincy. In some, the Chiefs regularly summon tribute labour gatherings to work in a number of their fields, not only in that of the "Great House". Similarly, it is generally accepted

that tribute labour may be summoned to repair the Chief's cattle byre; since it is, after all, the one which houses the "cattle of the Great House" of the Chiefdom. There are Chiefs who have extended this to cover any building work that may have to be done in their own Homesteads, and even expect specialist craftsmen (such as builders or thatchers) to give of their skills on the same basis.

Nevertheless, these tribute labour obligations of a subject to this Chief are seldom particularly onerous. Many hands are usually summoned to perform comparatively small tasks, and such gatherings are often accompanied by considerable ceremonial. The warriors dress in their traditional finery, and may spend far more time parading and singing in front of the girls than they do working. It is clear that most Chiefs regard the work actually done on such occasions as being of only secondary importance; and are far more interested in using them as a means of stressing the unity of the Chiefdom, and in asserting their traditional rights to summon people to co-operate on "public works".

Most Chiefs also claim the right to make monetary levies on their subjects for various purposes. Once again, practice varies considerably from Chiefdom to Chiefdom. In some of the big Chiefdoms in southern Swaziland ruled by Clan Chieftains levies have been raised for such purposes as paying a Chief's fines, repairing his car, or paying his hospital expenses. In another instance, five Chiefs in central Swaziland decided to make a monetary contribution towards the building of a school in their area. A levy of a beast (or ten rand) was made on each Homestead Group for this. Later, when a celebration was planned to mark the opening of this school, each Homestead Group was ordered to provide a further sum of 25 cents to finance those festivities. Small levies may also be made to finance a Chief's visit to the National capitals to attend meetings or any of the National ceremonies.

Formerly, Chiefs also had the duty of trying all civil cases brought by their subjects, and court fees and fines formed an appreciable part of their income. The establishment of the Swazi National Courts has deprived them of this source of revenue; and they are now given subsidies by the National authorities instead.

Those rather limited rights and powers are the main ones, apart from those over land, which it is generally agreed that a Swazi Chief derives simply from the fact of being a Chief. In addition, he has the theoretical right to make any local rulings, with the consent of his Council, that he sees fit to, providing that these do not conflict with law of Swaziland or the edicts or policy of the National authorities. In practice, however, this is not often done, because of the difficulties that might arise in enforcing such rulings.

The duties of a Chief: A Chief also has a considerable load of duties, and definite obligations towards the people of his Chiefdom.

Swazi use the word *kupatha* (of which the passive form is *kupathwa*) to describe this relationship between Chief and subject. Its primary meaning is "to carry", but it can also have the senses of "handling", "containing", "superintending", or (in the passive) "suffering from". *Kupatha ngetandla* is to carry in (with) the hands; *ipethe nglomlomo* can be said of a dog who has picked

up something (and "enclosed" it in his mouth); while *kupathwa umkhuhlane* is to be suffering from fever. So, when Swazi say of the people of a Chiefdom that *bapathwa kahle* (by their Chief) the direct translation would be that they are treated well, or looked after well by him. There is, however, also something of the sense of "being carried"; similar to the English usages when we speak of a ship "carrying" its passengers safely to port, or of a woman "carrying" her unborn child.

Those various meanings of *kupatha* give as good an indication as any of what a Chief's duties and obligations are conceived to be. As far as land holding is concerned, he has the right to control land allocations among his subjects, but also has the duty of ensuring that all have sufficient for their needs. He has the right to decide whether or not to accept a newcomer wishing to join his Chiefdom; but in practice this is often limited by the duty of making some provision for his own kin or those of his subjects. "How could we deny the child of so-and-so's sister (or whatever it may be) a place to live?" is an explanation one often hears when a newcomer is accepted into a community where the pressure on the land is already heavy. We have already mentioned the duty of a Chief to offer entertainment to visitors; a duty which many Chiefs today are finding increasingly onerous, and many are accused of neglecting. He should, of course, also make his own time available to discuss the purpose of their visit, and their requirements. This last obligation also operates in respect of his own subjects.

It is now customary for Chiefs to hold a general meeting on a fixed day every week; usually a Saturday or a Sunday. These are technically meetings of the Great Council of the Chiefdom. They may act as courts,¹¹⁸ if there are any cases to be heard; or merely as "moots" to discuss matters of moment to the Chiefdom as a whole. Ordinary people are only expected to attend occasionally, or when they themselves or one of their close kin is involved in a case; but the Chief is always expected to attend.

With respect to the outside world, a Chief also has obligation both to the National authorities and to the government authorities. Both expect him to act as their agent in certain matters, and to provide a link between their organizations and the people in his Chiefdom. He is expected to attend the national Incwala ritual in mid-summer; the meeting of the Great Council of the Nation in the winter; and any National tribute labour gatherings that may be summoned. If the turn-out from his Chiefdom is inadequate on any such occasion, he is expected to arrange for the collection of any fines that may be imposed on his subjects.

He has the further general duty of maintaining law and order in his Chiefdom; the duty of collecting poll-tax from his subjects, and that of arranging for his Chiefdom to be represented (usually by himself and some of his advisors) at the periodical meetings of the relatively newly created Regional Councils (*tinkundla*).

¹¹⁸ Despite the institution of National Courts many civil cases are still discussed at these Chiefs Courts.

Not all Chiefs fulfil all these functions to the full satisfaction of all the parties concerned. There are the inevitable conflicts of opinion with regard to details, such as whether a Chief should or should not have to collect poll-tax. There is also a far more fundamental cleavage of opinion (in many cases) with regard to what we might call the "constitutional" position; the exact terms of the formal relationships that there should be between Chiefs and the Swazi National authorities, and the extent to which the latter are entitled to treat Chiefs simply as their agents. Nevertheless, there is general agreement that there should be a concentration of local governmental functions at this level, and the necessary powers to fulfil these. Disagreements are largely about who has the right to decide what these powers should be.

It is held that these functions should be concentrated at this level in the political hierarchy because a Chief has this clear and recognized duty to "carry" (*kupatha*) his people. In most cases this rather diffuse obligation probably involves him in far more work than any of the more specific duties that have been mentioned above.

CHAPTER 8

SUB-DIVISIONS OF CHIEFDOMS

WARDS

In the larger Chiefdoms, and in some of the smaller ones, there are recognized territorial subdivisions controlled by officials bearing the many-meaningful title of *indvuna*, which we have already had cause to discuss. When recognized by the administration these officials are officially styled "Headmen". Here, to avoid confusion, we call them WARD HEADS.¹¹⁹

A Ward Head's territory is known as his "Land" (*umhlaba*), or his "country" (*live*); but never his *sive* (Chiefdom). Informants in southern Swaziland when pressed for a generic name for these Wards, may offer such Zulu forms as *Sifundza*, *sigodzi* or *sigaba*.¹²⁰ But it is quite clear that the majority of Swazi do not give so precise a connotation to any of these three terms. If one uses them in conversation to mean "Ward" confusion usually ensues, since they are usually used in the broader sense of "a piece of country" or "a group inhabiting a particular area".

Many Ward Heads are the genealogically senior members of cadet branches of the Chiefly families of their Chiefdom. Others are the leaders of formerly autonomous groups, often of Sotho origin, that were incorporated into the Chiefdom at some time in the past. The histories of Ward development in different Chiefdoms follow a fairly standardised pattern. The first Chief (recognized as such by the Swazi National authorities) was granted or acquired a territory with vaguely defined boundaries, in which he settled with a small following. Some of his junior sons (who did not succeed to his position) settled in various parts of this territory, and exercised authority over their own immediate followings in these areas. Newcomers going to settle near them were expected to seek their approval before doing so. In the course of time, as the country became more densely settled and precise geographical boundaries came to have a greater significance, these men (or their successors) began to be regarded as having control of specific areas, and of all their own followings residing in these.

A similar situation arose in the case of the leaders of other agnatic groups which came and settled in the Chiefdom. Originally, they were simply told that they could live "over there", and were expected to act as leaders of their own group. In time, "over there" became a definite territory, and the mere fact that one lived in this territory was sufficient reason for one to be regarded as coming under the control of its Ward head.

So, nowadays Wards normally have well recognised boundaries, and there is seldom any doubt regarding who belongs to which Ward. As far as the local governmental organization structure is concerned, there are certain definite to

¹¹⁹ Other authorities use "Headman" for what we have called a Homestead Head. cf. Kuper, *An African Aristocracy*, p. 36.

¹²⁰ The Zulu forms are *isifunda*, *isigodi*, *isigaba*. In southern Swaziland the so-called *zunda* form of spoken Swazi predominates; which is closer to spoken Zulu than the forms used further North.

parallels to the organization of a Chiefdom. There is usually a Ward Council (*libandla*); and sometimes even a Great Council and an Inner Council similar to those at the Chiefdom level. These also act as courts, to which cases brought by Ward members are taken before being passed on to the Chief's court; and many are settled there and then, without ever being passed on to the Chief. Wards are now used by the Territorial administration as units for tax collections, and this has tended to reinforce the feeling that Wards are distinct, local governmental units.

The position of Ward Head is normally hereditary, the same rules of succession applying as in the case of Chiefs; which are also the same as those that we have ready described as operating within the Homestead Group. In both cases the General Heir of a deceased incumbent also succeeds his father as leader of the local governmental unit.

In many ways Wards are merely smaller editions of Chiefdoms; with the same type of administrative structure and with the Ward Head having much the same role in his Ward as a Chief has in a Chiefdom. Yet, informants are all most insistent that a Ward Head's position is very different indeed from that of a Chief, and that his powers are very much less. The points usually mentioned are that he has no right to "summon" Ward members to tribute labour; that he cannot impose fines on his "subjects"; that he does not have the right to raise levies in cash or kind; and that he cannot banish anyone from the Ward territory, but must ask the Chief to remove the offending person or persons. Further, the organizational structure of a Ward is normally far simpler than that of a Chiefdom. There is seldom a hereditary line of Deputies; often no official Runner and no local officials of the National, age-regiment organization.

Tenure-wise, one of the most significant differences between Wards and Chiefdoms is the lack of formality involved when a person moves from one Ward to another within the same Chiefdom; as contrasted with the considerable number of formalities when he changes his allegiance from one Chief to another. However, the Ward has been classified as one level in the hierarchy of land communities because in Chiefdoms where there are Wards one must be a member of a Ward community before one can be granted rights over any specific parcels of arable land or a residential site. The Chief, having established that one has been accepted by the Ward Head, would leave these details to him.

From this point of view it can be said that a Ward in a large Chiefdom and a small Chiefdom lacking Wards are virtually exact equivalents; the land community immediately above the level of the Homestead Group to which these Groups must belong before they can effectively exercise the Right of Accommodation.

Proto-Wards: One sometimes encounters groupings of people that show many of the characteristics of Wards (a hereditary leadership, a recognised territory and some sort of formal "Ward Council") whose leaders are not recognised as Ward Heads by the government.

Apart from this question of official recognition, the boundary between these PROTO-WARDS (as we call them here) and Wards whose leaders are recognized is not very sharp. In the past, of course, new Wards were constantly coming into existence; a Chief might grant a territorial Portion to one of his brothers; or inform a leader of some other powerful agnatic group in the Chieftdom that he was in charge of all the people living in a particular area. Whether or not such an individual was recognized as having any particular title (e.g. *indvuna*) was not of great moment; since the extent of his influence and powers would be dependent on such things as the number of his own agnates living in that area, and whether or not the Chief of the time was agreeable to his acting like a Ward Head in that area. Most present-day Wards themselves started off in this manner.

This situation has changed as a result of the increased emphasis now laid on territorial boundaries, and due to the practice adopted by the government of granting official recognition to some (but not all) of these leaders. Though it is possible for an unrecognised leader of a Proto-Ward to gain recognition as an official ward Head (and so create a new Ward) the mere fact that this "line" has been drawn has tended to create a distinction between these two types of leaders where none existed before.

As far as land tenure is concerned, this question of official, recognition is of little importance. What does matter is whether these groups are locally recognised as forming distinct land communities, whose leaders have the right to say who shall have what rights of which pieces of land in their territories. So, when we speak of "wards" later it must be understood that this also includes those Proto-Wards which are treated as "de facto" Wards in their own Chieftdom.

Both Wards and Proto-Wards, it must be appreciated are primarily administrative conveniences. They are found particularly in large Chieftdoms, where regular face-to-face contact between all members is not always possible.¹²¹ They could not be omitted in this description of the indigenous Swazi system of local, governmental organization, but their importance should not be overestimated.

That these units are primarily conveniences rather than essential elements in the social structure is suggested by the fact that there is no generally accepted vernacular term for them.

"TIGODZI" and "FLANK MEAT TRIBUTE"

In southern Swaziland one finds another type of sub-division within Chieftdoms and Wards that does not seem to be found in the rest of the country. These are called *TIGODZI* (sing, *sigodzi*).

We have already mentioned that in most of Swaziland this term *sigodzi* has the general sense of "a piece of country" or "a valley". In certain contexts it may be applied to Chieftdoms or Wards, but it is not a generic term for either of

¹²¹ As a rough guide one could say that few Chieftdoms containing fewer than 200 Homesteads are divided into Wards.

these political groupings as such. In Zululand, however, the equivalent term *isigodi* refers to a very clearly defined type of socio-political unit. As used in southern Swaziland the term *sigodzi* does seem to have something of the Zulu sense, in that it refers to a group of people; and, like the Zulu *isigodi*¹²² these are centred around a "core" group of agnates.

These *sigodzi* groupings have names, recognised senior members, recognised geographical "centres" (usually where the senior member lives), and clearly defined memberships. In any one Ward it is usually possible to establish the *sigodzi* affiliations of nearly every Homestead group (though there are usually also borderline cases where these affiliations are uncertain). *Tigodzi* are not geographical units, however, in the same sense that Wards are. Members of a single *sigodzi* may live and plough anywhere in the Ward, intermingled with members of other like groupings.

Membership of a *sigodzi* is hereditary in the male line provided that one remains resident in the same Ward (or the same Chiefdom, if this is too small to have Wards). In each such grouping, there is the "core" agnatic group, comprising Homesteads "descended" from the original "parent" of the *sigodzi*, and also Homesteads Heads of other agnatic groups that have become "attached" to the *sigodzi* at some time in the past. When a man moves his home (even from one Ward to another in the same Chiefdom) he invariably goes and settles somewhere where he has a close kinsman or a close friend. In southern Swaziland he would also join the *sigodzi* of this individual, and this affiliation would be passed on to any Homestead Groups that hived off from his Group later on.

"Flank meat tribute": Closely connected with these *tigodzi* is the institution known as *ethula luhlangotsi*. *Ethula* (in this sense) means to show respect through a gift; and *luhlangotsi* is the flank meat of a beast specifically, in this case, the flank meat of the "beast of the ancestors" (*inkomo yemadloti*), the ox or bull dedicated to his ancestors which every established Homestead Head should have in his cattle byre. I shall henceforth use the term "Flank Meat Tribute" as the nearest (though still imperfect) English translation for this Swazi phrase.

When one slaughters this Beast of the Ancestors (as one may do when advised by a diviner, or when the Homestead Head dies) this Flank Meat Tribute should be sent to a particular individual. Within the agnatic group, genealogical considerations decide who this individual should be. Thus, a man who is a junior son in a particular House should send his Flank Meat Tribute to the senior son of that House, the House Heir. The latter should send it to his father's General Heir. He, in turn, should send his to the House Heir of his father's House (the House to which the father belonged in his father's Homestead Group). This continues until one reaches the Ward Head and, through him, the Chief.

¹²² Since Zulu and Swazi are only dialectal variants of the same language, *isigodi* and *sigodzi* are essentially the same word. The plural in Swazi is *tigodzi*. It was deemed preferable to use the vernacular terms in this section, rather than to attempt an English translation that might give an incorrect impression of the functions and nature of these "lineage based" units. See p. 130 below.

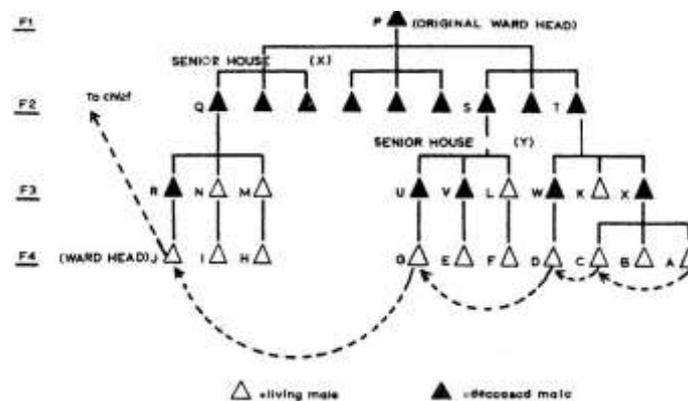
It should be stressed that this does not mean that the same piece of meat is passed all along the line. Each of those transactions mentioned above is complete in itself. When any individual passes his Flank Meat Tribute to another, the latter consumes it. Protocol has been satisfied.

Figure 6 shows how this operates within the agnatic group. We have assumed, for the sake of simplicity, that we are concerned with the agnates of the Ward Head, and that all the individuals concerned are still resident in the same ward. We have shown only males, and senior Houses are placed to the left of junior Houses of the same generation. The arrows show the line that the Flank Meat Tribute should follow.

Starting from 'A' it goes to 'C', who is the General Heir of X. 'C' sends his Tribute to 'D', who is the senior member (General Heir) of all the agnatic segment descended from 'T'. 'D' sends his to 'G', who derives his seniority to the segment descended from 'T' from his own descent from 'S'. 'G' would, as the senior member of the segment to which both 'S' and 'T' belong, send his Tribute to 'J', the Ward Head.

In the case of other agnatic groups the same pattern is followed, until one reaches the genealogically senior member of that group who is still resident in the ward.

FIGURE 6
The passage of "flank meat tribute"



If he himself is not a *sigodzi* head, he will pass his Tribute to some member of the "core" agnatic group of the *sigodzi*; whence the "Tribute Lines" will continue until they converge at the leader of that *sigodzi*. The latter will have a tribute relationship, either direct or indirect, with the Ward Head.

North of the Great Usutu River one can also find a similar segmentary pattern in the complex of Flank Meat Tribute relationships, but there it is regarded by Swazi as a continuum, without any recognition of *sigodzi* divisions.

There is seldom any doubt regarding the Flank Meat

Tribute pattern within an agnatic group; but there may be disagreement, as to exactly where one such group "nicks in" to the Tribute pattern of another. Thus, the genealogically senior member of a small agnatic group in a *sigodzi* may claim that he is direct Tribute relationship with the head of the *sigodzi*; while one of the latter's genealogically junior agnates might claim that the "Tribute Lines" should pass through his House first, and have historical justification for this claim. The same often happens with regard to Tribute relationships between leaders of *tigodzi* and the agnatic group of the Ward. One even meets individuals who actually pass their Flank Meat Tribute to a kinsman living in another Ward; thus violating the principle that this is a primarily political relationship, which one should only have with people in the same political unit as oneself.

These anomalies, and the fact that one does find Homestead Groups that informants (even members of these Groups themselves) cannot assign definitely to any *sigodzi*, suggest that these groupings are tending to have less and less influence on personal and political relationships in the present day context. They definitely suggest survivals from the system of social and political organization that was in vogue before the Swazi state system was firmly established. It must be remembered that this is a type of organization that has only been reported from southern Swaziland; which is near to the Zulu borders (from where many of the ancestors of the present inhabitants originally came), and was an area that was left very much to its own devices for some time after Somhlolo withdrew to the north.

NEIGHBOUR CLUSTERS.

This is the smallest of the "aggregations" above the Level of the Homestead Group that we mentioned at the beginning of this chapter. It differs from the others not only in terms of size, but also in the way whereby Homestead Groups are "recruited" into it, and the type of obligations which membership entail.

There is apparently no Swazi word for this grouping of Homesteads as such; but every Homestead Head can name a number of others whom he calls "neighbours" (*makelwane*). These are usually those whose Homesteads are nearest to his own, but he may include one that, is "next door but one", if it is close. Similarly, one that is "next door" in a particular direction may be excluded if it is some distance away. One cannot lay down any hard and fast rules as to who should be included in this category of "neighbours". Yet there is seldom any doubt in specific instances. If one asks a man who his neighbours are he will give a precise list. If one asks why particular Homestead Groups were included and others excluded the explanations will invariably be in terms of the spatial relationships of the Homesteads concerned.

Neighbourly duties: Neighbours have various definite obligations towards one another. It would be a grave neglect of neighbourly duty to fail to raise the alarm when one sees cattle amongst one's neighbour's standing crops. One should constantly be on the watch for any sign of fire in one's neighbour's Homestead, and be ready to dash to his assistance if fire does break out. When men are summoned to a tribute labour gathering involving prolonged absence from home, neighbours should consult together and appoint one of their number to remain

behind and watch over the interest of those who go. The fact that one has been selected for this task is regarded as a valid excuse for not attending one of these gatherings.

Neighbours should always be included among those invited to drink "smoke beer". This is a portion of any beer brewed in the Homestead (whether for sale or for any other purpose) which should be set aside; for free distribution. The term *kunata intutu* (literarily "to drink the smoke") is an allusion to the fire-watching duties just mentioned. Fire is a real and terrible hazard in the dry winter season to those who live in huts made of thatch and poles, and prompt action by a large group maybe the only hope of saving lives. It is not surprising, therefore, that many Swazi argue that this particular "neighbourly" duty is the most important of all.

"Good neighbourliness": In addition to these specific duties, there is also the more diffuse obligation to behave in a "good neighbourly" way covers everyone living nearby, not one's own "Neighbour Cluster", but particularly important in the case of the latter.

Swazi lay great stress on the need for this "good neighbourliness", and usually phrase their arguments in the language of witchcraft beliefs. In brief, they argue that the practice of witchcraft (*kuloya*) invariably stems from "hatred" (*kutondza*) or from "envy" (*umhawu*).¹²³ People labouring under either of these emotions are potential bewitchers; or so the theory runs. Therefore, to permit open friction to continue between members of a local group is tantamount to inviting an outbreak of witchcraft.

"Good neighbourliness" involves more than simply refraining from witchcraft. One should always strive to ease any tensions which might arise, to remove any risk of witchcraft.

When a man wants to build a Homestead on a new site, it is the local political authorities who will actually give him permission and point out the place to him. These authorities, however, will always first consult the Homestead Heads who will become part of the new arrival's Neighbour Cluster if he does build there. If these people object to the new man, the local authorities will usually accept their decision. As this is well understood, a Swazi wishing to move to a new site will normally first ensure, by preliminary probing, that the local *bobabe*, the "fathers" of nearby Homesteads are prepared to accept him; and only then will he approach the authorities of the Chiefdom.

There are also definite limits on the obligations flowing from membership of a Neighbour Cluster. One Swazi informant explained the situation in the following terms. "I must call my neighbours to drink 'smoke beer', and they must call me; I must watch for cattle in their fields and fire in their Homesteads; but I

¹²³ cf. A.J.B. Hughes, "Some Swazi views on land tenure", *Africa*, XXXII, 3, July 1962. pp. 2d7-209.

will not go to their work parties unless I am invited, or unless I particularly wish to go".

In short, one should never be one's neighbour's enemy, but one is not bound to make him one's closest friend. Similarly, although members of a Cluster are often kin, there is no formulated Swazi theory that they should be any particular type of kin.

Neighbour Clusters, it must be noted, do not form discrete geographical sub-divisions of the country. One could not make a map of a Ward, say, and then draw lines so as to sub-divide this into a number of mutually exclusive "Neighbour Cluster Areas". This is because each such Cluster is defined in relation to a particular "reference Homestead"; any one Homestead may be a member of a number of different Clusters. Thus, in the diagram (Figure 7), the Cluster of Homestead 'A' comprises B, C, D and E. D is part of the two Clusters centred 'A' and 'T' but neither of the latter belong to any Cluster containing the other. So, Neighbour Clusters could not be legitimately regarded as analogous to the "villages" or "hamlets" which have been identified in other African societies.

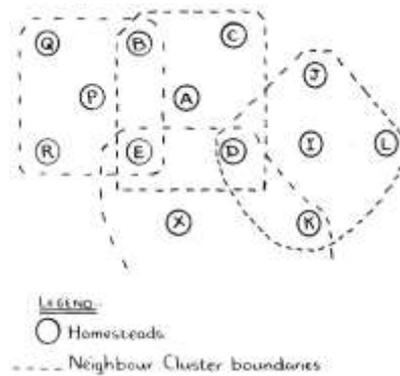
The diffuse society: Before leaving our description of the units of territorial organization, mention must be made of the contention, often heard, that there must be local groupings among the rural Swazi larger than the Homestead, but smaller than the Ward, and that such "villages" must be geographically definable, and describable by a well understood vernacular word.

This question became of particular importance during the period that I was in the field in Swaziland because of the government's interest in introducing community development. The technique of community development aims at motivating local communities to satisfy their own "felt needs" as far as possible by their own efforts, with some assistance from the central government when this is needed. Administratively much stress is laid on what is called the "village level worker". His function is, initially, to urge and motivate "villagers" to co-operate on public works to benefit themselves.

The Swazi, aggravatingly, had no villages! Instead, they have these "chains" of Neighbour Clusters.

It is not altogether surprising that many western investigators appear to make the tacit assumption that geographically discrete "villages", made up of "hamlets", are an essential feature of organized rural life everywhere.

Figure 7
Neighbour Clusters



Apart from the fact that nucleated villages are found in a very large number of non-western societies, we must also bear in mind the cultural heritage of the investigators, and of the languages in which their analyses are usually made.

For example, the English word "village" is, in common speech, applied to what is essentially a Saxon institution. Originally, it meant more than "a group of people living in reasonably close proximity to one another". It referred to an institution which was an integral part of the Saxon system of local government.

We must be on our guard against assuming that this is the only possible basis for rural social and local governmental organization.¹²⁴

It is not generally realised that even in the western world there are rural societies which are organized on totally different lines. Rees cites the case of rural Wales, which has often baffled observers reared in the Saxon tradition and language. Visitors to Wales in all ages, he comments "have been impressed by the lack of visible signs of community life. The reaction arises from the assumption that social isolation is inevitable where people do not live close together, or where they are not within easy reach of a village or town. But there exists in upland Wales a diffuse form of society which is not only able to function without a unifying social centre but seems to be opposed to all forms of centralization. The hearth of the lonely farm itself is the social centre. The farms are not outlying members of a nucleated community, but entities in themselves; and their integration into social groups depends on the direct relationships between them rather than upon their convergence on a single centre. The traditional social unit does not consist of the environs of a town or village; it is the *cefn gwlad*, the neighbourhood in the countryside".

Much of this description could be applied also to rural Swaziland. It is a diffuse society; lacking neatly articulated territorial segments between the levels of the Homestead Group and the Ward or Chiefdom. Nonetheless, local ties are an extremely important element in the indigenous system of social organization; more important, in some contexts, than ties of kinship or common interest.

¹²⁴ In Rhodesia, where Community Development has been adopted, this problem has been solved in the "villageless" tribal areas (such as much of Matabeleland) by encouraging groups that will benefit from a specific project to co-operate on it, regardless of whether such cooperating groups are also traditional local governmental units.

Reverting to the Swazi Neighbour Cluster, it would seem that as units of local organization they have only a limited importance; apparently not sufficient for them to have earned a vernacular title. If, however, they are regarded as a mechanism for social control, the important part they play is clear.

It has been said that one could cover the whole length and breadth of Bantu Africa by following the small paths which wind from one settlement to another. Neighbour Cluster ties are of the same nature as these paths; at least as far as Swaziland is concerned. One could go from almost any Swazi Homestead to another, anywhere in the country, always being passed on by one individual to another whom he calls "neighbour". This network crosses all local governmental boundaries, and serves to link the local community to the rest of the Swazi people.

It also serves as a device whereby pressure may be brought to bear on any individual to conform to tribal mores. Even if a man's own neighbours are willing to accept any particular deviation from these, their neighbours might object; and urge that the man be told to mend his ways. In theory, the range of this sanction could cover all Swaziland, through the "fire bucket" method. In practice, of course, Swazi do not solemnly work out chains of Neighbour Cluster links, and send formal protests through these. This is a diffuse method of applying sanctions possibly not often invoked, but one of which every Swazi in the rural areas must be constantly aware.

CHAPTER 9

ACQUIRING LAND RIGHTS IN A CHIEFDOM

SWAZI FORMULATIONS OF THE RULES OF TENURE

It is now necessary to examine how a Swazi gains membership of a Chiefdom; what land rights flow from this membership and the circumstances under which those can be exercised.

When asked to do so, Swazi informants summarise the main rules governing their tenurial system in very simple terms. Thus, one explained the situation in the following manner. First, he made the point that individual Homestead Groups are only given exclusive rights to arable land, a residential site and to land for a cattle byre. Initially, these rights must be given by a Chief. Once given, they never completely die. Even if a man has voluntarily relinquished land by moving to another Chiefdom, or has been banished (with the consequent loss of all land rights), his heirs or other close agnates could return at any time and claim it again. In such a case, say Swazi, anyone who had subsequently been given rights over the land in question would have to relinquish them to the original holders.

Many informants qualify this summary by stating that after a Homestead Head has been "Placed" (*kubekwa*) formally and publicly been given rights to inhabit a specific dwelling site and to plough specific fields, the right only becomes fully vested in his Homestead Group after use; after the residential site has been occupied and the fields ploughed and planted. In terms of the scheme outlined in Chapter 4, we could say that the formal Placing only leads to a Preferential Right. Use alone can convert this Preferential Right into Bantu-Ownership.

Kuper, speaking mainly from the point of view of the Central Authority, sums up the rules of tenure in a single sentence, "The *Ingwenyama* (*Ngwenyama*) allots land (through his main officials) or sanctions the holding of land by Chiefs, who in turn distribute fields among the headmen to divide among their wives, married sons and grown daughters."

Neither of these summaries could be said to be incorrect. But, as is invariably the case when complex legal relationships are governed by so simple a set of principles, complications arise in their practical application. In addition, when stating these principles Swazi also make a number of complementary assumptions; assumptions which are too obvious to them to need to be stated explicitly; but which are not necessarily so obvious to the western observer.

In passing, it is noteworthy that Swazi informants usually start any discussion of their own tenurial system in terms of the role of a Chief, as the representative of the Chiefdom-level land community. In part, this undoubtedly reflects the increasing importance of Chiefdoms in this sphere, but it also highlights the tendency to make those complementary, unstated assumptions of

further knowledge on the part of the listener. Thus, it is taken for granted that he will appreciate that Chiefdoms form part of a wider land community, comprising all Swazi. It is also assumed that he will appreciate the role of the Homestead-level land community and its responsibility for arranging land allocations for its own members.

The Right of Avail: Analysing the position in terms of our schema, we can say that the Right of Avail (which entitles anyone who participates in it to make reasonable use of some Swazi Nation land to satisfy the needs of himself and his family) is, in its widest application, extended to all Swazi. In practice this means nearly all African inhabitants of Swaziland. The exception are the few living in townships or on farms, who have never either admitted allegiance to a Chief, nor made any formal attempt to be recognised as Swazi. The Right of Avail was also, until recently, extended as a matter of course to Swazi from outside Swaziland who came into the country and were prepared to offer allegiance to the *Ngwenyama*.

The Right of Accommodation stems from the Right of Avail. In order to make use of the former however, it is not in most cases sufficient merely to offer allegiance to the *Ngwenyama*. One must also offer allegiance to a local Chief, and be accepted as his subject, so that one may participate in the more localized Right of Avail covering that particular Chiefdom.

The only exceptions to this rule are the few [...] agnates of the *Ngwenyama* who are of sufficiently high rank to qualify for a royal Portion (*liphakelo*). These might be said to have (or to be able to acquire, the subsidiary rights stemming from the National Right of Avail without the need to become subjects of a local Chief. For the vast majority, however, acceptance as a member of a Chiefdom is an essential preliminary to acquiring the Right of Accommodation.

Exercising the Right of Accommodation: Swazi distinguish between land allocated as a residential site and that allocated for cultivation. Thus, one informant explained that, while it would be considered most improper for a supplicant for arable land to indicate exactly which piece he wanted, he is expected to indicate his own choice when it is a question of a residential site. This will not be granted to him until his future neighbours have been consulted and have agreed. In practice, no grants of either type of land are normally made until everyone liable to be affected has had ample opportunity of giving his opinion, either in public or in private, to the local political authorities; and the latter have gathered whether or not the supplicant has any particular preferences.

There are four ways in which rights over arable land may be acquired. These are:

1. By direct grant by a Chief.
2. By direct grant by another individual.
3. By inheritance.

4. By being "lent" land by another individual.

Any individual, whether a newcomer or an old inhabitant of the Chiefdom, may acquire land in any of these ways. The first three lead to Bantu-Ownership. The last only to a Right of Use; the Bantu-Ownership remaining vested in the lending group. Both of the first two methods (direct grants by a Chief or by an individual) are referred to in Swazi as Placing (*kubekwa*), which is sharply distinguished from the fourth method, "lending" (*koboleka*).

In earlier times it appears that a fifth method of acquiring Bantu-Ownership of specific parcels of land was available. That was by what we may call Reclamation; simply taking up unclaimed land and cultivating it. The extent to which this is still actually practiced in some of the more thinly settled parts of the country (such as in the Bushveld) is not certain. The balance of modern Swazi opinion, however, appears to be that this no longer gives the reclamer any rights over the land reclaimed, unless his action is sanctioned by the local political authorities.

DIRECT GRANTS BY A CHIEF.

Those can occur either in the case of newcomers to a Chiefdom, or when a Chief allocates additional land to those who are already his subjects. In both cases the procedure is referred to as Placing (*kubeka*); and a man allocated land in this manner is said to be Placed (*kubekwa*) on that land. The main principles involved emerge most clearly from the procedure which should be followed in the case of the newcomers. It should be appreciated that most Bantu-Ownership of land in Swaziland today has resulted from such initial placings in the not very remote past; seldom more than two or three generations ago, and often even more recently.

First steps: A newcomer seeking acceptance in a Chiefdom is known as a *sikhonti*: from *kukhonta*, to offer allegiance to a Chief and to be accepted as his subject. Normally, when a man wishes to settle in another Chiefdom he will go to one in which he has close relations, or close friends. Those from which one's mother or one's wife originated are particular favourites. A man going to these goes not to strangers but "to the place of his mother", (*ekayabonina*) or "to his in-laws" (*ekakhakhe*). At either place he should traditionally be welcomed, and can expect a certain degree of favoured treatment as "our child" or "our son-in-law", whichever the case may be.

The first official move which should be made is an approach to the Chief's Deputy (*indvuna*). It would be most improper, Swazi argue, for the first approach to be made directly to the Chief himself. Nor should the applicant go alone to the Deputy. He should be introduced by an "Envoy" (*lincusa*), who may be anyone resident in the Chiefdom (and admitting allegiance to that Chief); but who is often, of course, the relation or friend responsible for the new arrival's presence there.

The Deputy should take both the applicant and the envoy to the Chief. Then, in the words of one informant "the Chief listens to what the applicant (*sikhonti*) has to say, replies that he and his people will think the matter over, and goes on to speak about, other things."

In due course, the Chief should inform his council (*libandla*) of the application. If there is general agreement that the newcomer may be acceptable, the next step is to establish exactly why he is leaving his present home. For this purpose the Chief should appoint an Envoy (*lincusa*) of his own, who is despatched to interview the newcomer's present Chief. The main aim is to discover whether the man is leaving of his own accord, or has been banished.

Traditionally, this Envoy was entitled to be rewarded with a beast for this service, which the applicant had to supply.

Nowadays, as one Chief pointed out, instead of sending an Envoy, a letter can be written to the other Chief, and instead of having to provide a beast, an applicant is only expected to give a small sum of money (of the order of fifty cents) to the Envoy who originally took him to the Chief's Deputy.

"Bidding Farewell": If these reports are satisfactory, and the Chief and council agree to accept the man as a member of the community, two further formalities are necessary. The man must sever his formal ties with the Chief whom he is leaving, and he must be formally "Placed" on a residential site and arable lands.

Great importance is attached to the first of these two formalities, which is known simply as "bidding farewell" (*kuvalelisa*). It involves a payment to the Chief being left, nowadays normally two rand. By this act, the man formally ceases to be a member of that community, and so relinquishes his share in its Right of Avail. As a result of this relinquishment, he can no longer, in his own person, exercise Bantu-Ownership over any lands that he held there. Unless this Bantu-Ownership is transferred to someone else before he leaves (which it very often is) these will revert to the community.

This is one of those cases in which the Right of Avail may be said to have increased as a result of a change in the relationships between certain individuals and the general "pool" of resources available to that community. Swazi say that these fields "come back to the Great House, (of the Chiefdom)" (*kubuyela endlu'nkulu*).

Placing of the applicant on land in his new Chiefdom is often preceded by the allocation of a temporary residential site, frequently close to the Homestead of the Chief, or to that of one of his regional Deputies (if the Chiefdom is large enough to have these). In many histories of settlement one hears how a family's first Homestead was built sufficiently close to the Chief to allow the newcomer to "greet" (*vusela*) him every morning. This also gives the Chief an opportunity of assessing the character of his new subject, and allows the latter to explore the Chiefdom and decide where he would like to have his permanent home. A man may remain at such a temporary site, ploughing lands which he has been "lent" (*kubolekwa*) for a year or more before he is formally Placed anywhere.

Placing: When the time for Placing comes, the Chief should instruct his Deputy to arrange this. He himself may also attend, but this is not essential. The settler will normally have expressed a preference for a particular dwelling site, and discreet inquiries will already have been made among the neighbouring Homestead Heads as to whether they are agreeable to his living near them.

These neighbours should be represented at the Placing. Together with the Chiefs representatives they will indicate where the man may build; where his cattle byre should be; and the boundaries of land already claimed by other people. Knots may be tied in the grass (*kufinya lufindo*) to indicate the boundaries of the Homestead site and where the main gatepost (*lisika*) of the cattle byre should be placed. Nowadays, similar knots may be tied to indicate the boundaries of any arable land allocated; but formerly, when land was not in such great demand, a general area of grazing (*sigotsa*) would be pointed out within which the new settler might carve out fields. It was generally accepted in those times that a settler had a preferential right to extend his fields within that area as far as the nearest river or small stream.

Opinions differ as to exactly who should tie the knots in the grass. Most argue that some, at least, should be tied by people appointed by the Chief for this task; and he usually selects those who are going to be the new settler's neighbours. This act is said to make him "one of their cattle" (*inkomo yekubo*), which does not have the sense of inferiority implied in English by this phrase. It implies rather, that he should on the one hand be guided by them, and on the other that he should be well treated by them, since he is now an integral part of their local community, just as a cow is part of the herd to which it belongs.

In many cases nowadays no knots are tied at all. The Chief's representatives merely point out the area and they "tie with stones" (*bayafinya ngomatshe*), as Swazi say putting stones to mark off the borders. Some informants equate the "tying of knots" with the later medication of the Homestead site (*kubetsela*), performed by a ritual specialist, primarily to make the homestead safe from lightning.

The actual Placing is attended with little ceremony. The important thing is that there should be sufficient witnesses. A man may brew or purchase some beer for the witnesses and official representatives and provide food, but there is no absolute compulsion on him to do so.

Rather more ceremonial is associated with the commencement of building, particularly if the Chief has summoned people to attend and assist the new arrival (*kumcabela* - to help him build). In such a case the settler is expected to slaughter a beast, for the helpers. If his old home is nearby, these may also help him to transport his huts, which, if they are of the traditional bee-hive type, can be easily dismantled and carried by a few persons. The main gate-post (*lisika*) of the cattle byre should always come from the man's old home, and he should place it in position himself. He should also pour a small quantity of beer either on to the

ground in the gateway of the byre, or into the hole where the main gate-post is to be placed, to inform the ancestors that this is now his home.¹²⁵

Traditionally, this should be the first stage in the building process, followed by the construction of a "bachelor's hut" (*Ilawu*) for the herd boys. Now, a new tradition appears to be developing whereby a single hut is built first, when the neighbour's assist, and the rest of the Homestead is built Later.

The arable land allocated to the new arrival might be virgin grassland, never cultivated within anyone's memory, and so with no Bantu-Owner. It might be part of the Chief's own arable area, or it might be an abandoned field (*lifusi*) previously cultivated by someone else. Since relatives of this previous cultivator might at some future date attempt to re-assert their Preferential Right to Re-occupy the land, Placings on such abandoned fields are normally avoided, unless the agreement of those who might assert such a claim can be obtained first.

Once a man has been Placed and occupied the dwelling site and cultivated the arable land, he acquires Bantu-Ownership of these. That is to say, he and his heirs have the right to use both, and to exclude others from using them for as long as they remain in the Chiefdom. Even if they leave and so lose these rights, they still have a Preferential Right to use any land they have used, or to Place other individuals of their own choosing before their departure.

Payments made by a new settler: At the Placing the new settlor should hand over a beast "to thank for the land" (*inkomo yekubonga*). This should go to the Envoy who was sent to his old Chief. Nowadays in many Chiefdoms it has become customary for a second beast or a money gift in lieu, to be given to the Chief. This is also known as a "beast to thank."

Thus, at present a new settler in a Chiefdom may be expected to produce three head of cattle; one for the Chief, one for the Envoy and one for those sent to help him establish his home on its new site (*kumcabela*). In addition he must pay two rand to "bid farewell" to his old Chief, and possibly give a small money present to the man who first takes him to see the Deputy.

Nearly all Swazi agree that the gift to the Chief is a recent innovation. In some cases it appears that Chiefs take for themselves the beast that formerly went to the Envoy, now replaced by the postal services. In other Chiefdoms, it seems to have become accepted that both Chief and Envoy should receive something.

This is still a delicate issue, in view of the extremely emotive significance attached to an accusation that anyone in authority is "selling the country" (*kudayisa imhlaba*); an emotive significance resulting partly from the concessions and the subsequent Partition. Most individuals, particularly the Chiefs themselves, insist that there is no absolute obligation according to Swazi customary law for a new settler to give a "beast to thank" to the Chief; yet in most cases of recent Placings, such a gift appears to have been given and expected. It is

¹²⁵ The latter appears to be more traditional but nowadays most people appear to pour the beer on the ground after the building of the byre has started. cf. Marwick, op. cit., p. 3k.

not usually actually a beast (though referred to as such), but more often a sum of money of the order of two rand.

In some Chiefdoms it is generally accepted that such payment should be made, and informants when asked directly whether this is *siswati*, the Swazi customary way of doing things, simply state that this is the custom today, though not in the past.

It is impossible to say with any degree of certainty when this new custom started. It could be argued that it is no more than a regularization of a situation that has always existed. Generosity has always been considered by Swazi as an essential characteristic of anyone aspiring to be recognized as an important member of the community; and generosity to a Chief was undoubtedly more likely to lead to this recognition than that shown to anyone else. This innovation could also be regarded as a sign of the greater commercialization of all economic relationships that has resulted from the Swazi being drawn into a western style money-exchange economy.

Acquiring additional land: A new arrival in a Chiefdom is normally given a relatively small area of arable land at first. After he has settled he has opportunities of increasing his holding in various ways. "It is callously said", Marwick remarks, "that if his beer is good and plentiful then he has a better chance of increasing his fields."

If, as a new arrival he has no hope of inheriting any fields, he can still obtain more in the other three ways mentioned above; through further direct grants by the Chief, by being Placed on land already held by another individual or by being "lent" a field by another man.

Any man wanting additional land to meet the requirements of an increasing family, for a timber plantation, or for one of the small irrigated gardens that are becoming increasingly popular, is entitled to go to the Chief and ask for it. If the latter agrees, he can Place the man on any unclaimed land in the Chiefdom and this will again lead to Bantu-Ownership of that Land. Even less formality is observed than in the case of a newcomer, but witnesses should be present at the Placing, and the Chief or his Deputy should appoint men with claims to adjoining pieces to "tie the knots" to mark off the extent of the new allocation. No "beast to thank" is required in these cases.

Since Chiefs are often sparing in allocating such additional land, a man can also approach a private individual (normally a kinsman) and ask for some of his holding. The latter may Place (*kubeka*) him on a field, or merely lend (*kuboleka*) it to him. There is no need for the Placer or lender to ask permission from the local political authorities before doing this, even when the man to whom the grant is being made comes from another Chiefdom. Only if the latter wishes to settle and build a Homestead in the Chiefdom must the Chief and his council be informed first. In the case of Placing, which may mean that the Bantu-Ownership will pass to member of a different agnatic group, the granter should ensure that all members of his own group who might have claims to the land are agreeable to the transfer being made.

No ritual or particular ceremony seems to be necessary when such transfers are made. Witnesses should be summoned in case of disputes later, and the man receiving the grant would normally be expected to provide some beer for their entertainment.

This right to Place another man on part of one's own holding frequently results in Bantu-Ownership passing into an agnatic group through women. A man whose wife's family have extensive lands may beg a field for his wife from them, and be formally Placed on this. In later years his children by this woman will be able to advance one of the strongest claims in Swazi customary law to Bantu-Ownership of the land, that it was the "field that mother ploughed".

Swazi are insistent that no payment or gift of any kind is necessary in the case of these private transactions. In practise such gifts are frequently made. There is a tendency for those who have made private grants of land to deny that any gifts received at the time were in any way connected with the transaction, due again to the strong prejudice against anything that smacks of "selling the land". Yet many men who have recently received such grants can and do say exactly what they gave or paid to the grantor.

CASE HISTORIES OF INITIAL PLACINGS

Accurate quantitative information regarding the exact financial arrangements made when newcomers to Chiefdoms are first Placed is not easy to obtain on any extensive scale, for the reasons given above. As any form of direct payment in exchange for rights over land is held to be entirely contrary to Swazi custom, Chiefs are usually most unwilling to admit that any such payments have been made in any particular case. Those Placed, on the other hand, frequently cite as their "beast to thank" small gifts that a Chief might legitimately have regarded as no more than a tribute to his exalted position, or as an expression of gratitude for obtaining an audience. Since hospitality and generosity are regarded as essential virtues, what a giver might say was a payment could legitimately be regarded by others merely as an attempt to impress his future neighbours with he has a generous nature.

However, some actual case histories, based on information gained from reliable informants, may give a better impression of what the abstract rules that have given above mean in practise.

CASE 1:

The newcomer had formerly been living on the mission farm. When he decided to move to the Swazi Area, he first approached the Chief (through the recognized channels outlined above). The Chief summoned a man who had been Placed many years earlier in a small valley, before there were any other Homesteads or fields cultivated there. To this last mentioned individual, who was described as the applicants Envoy, the Chief delegated the task of pointing out a building site and ploughing lands. The Envoy and the newcomer agreed on

suitable sites (in the same small valley), and the former was given a few shillings by the latter, who also gave a beast to the Chief.

The newcomer was later Placed on another field by the Chief's successor, and no payment, of any kind was given.

CASE 2.

Informant's mother, who was a sister of the Chief of this Chiefdom at that time, returned to her parental home after her husband's death. Informant was still a child. His mother was Placed on a block of arable land by the Chief in person, and was also given a site on which to erect a Homestead. Later, after the informant's marriage, he was allocated four other fields by the Chief in person. Neither he, nor the Chief, could remember exactly who else had been present at the different Placings. No knots were tied in the grass, natural features being used instead to indicate boundaries. No payment of any kind was, allegedly, ever made.

CASE 3.

Informant was a widow living near the National Capital, Lobamba. She and her husband originally lived near the royal Homestead of Zombodze, about eight miles away. While her husband was away at work she herself became very ill, and was forced to neglect the upkeep of the Homestead. Her husband approached the *Ngwenyama* to ask for another place to live; the implication being that he feared his wife was being bewitched, and that only by moving his residence to a distance could he remove this threat. The *Ngwenyama* suggested that he move to the Chiefdom in which his widow now lives.

The large field granted to him in the new Chiefdom had originally been held by a family that had left, so the field reverted to the Chief. Later, the Queen Mother of that time ploughed part of it. It was the Queen Mother who suggested an exchange; that the informant's husband should take this field and hand his land at Zombodze over to one of the present *Ngwenyama's* half-brothers who wanted land there.

Informant stated that she had heard of no "beast to thank", for of any Envoy. If, she pointed out, her husband had given any gifts to the Queen Mother (and he often had), they were given because of her position; because she was his "mother" and not merely in return for land.

CASE 4.

The newcomer was Placed on his present dwelling site and the field he ploughs by the Chief in person. There was only one other man present, one of the established inhabitants of the Chiefdom, who was described as the Envoy. The latter appears to have received nothing, but the newcomer gave the Chief two rand.

CASE 5.

The newcomer had gone to beg for land from the *Ngwenyama* and had been sent to the Chief of his present Chiefdom (one near Lobamba ruled by a Lieutenant, the same Chiefdom as in Case 3 above). The Chief's brother and the runner of the Chiefdom were appointed to show him where he could build and where he could plough. They indicated the boundaries of the fields by pegs of wood. He described these two individuals as his Envoys, but states that he gave them nothing. No other witnesses were present.

Informant expects to give a "beast to thank" to the Chief when he has been given more land, (which he has been promised) but has so far paid nothing. He claimed to have been placed on the fields he was using when questioned, but the consensus of opinion among his neighbours is that they have only been "lent" to him as a temporary measure.

CASE 6:

Informant came to settle in his wife's Chiefdom. The Chief of the time, a progressive business man, employed informant to manage a butchery that he had established. Later, the Chief, out of gratitude for his services, Placed him on one of his own fields. No Envoy of "beast to thank" was involved.

CASE 7:

Informant came from another Chiefdom in 1958, after two of his children had died in quick succession, (inevitably giving rise to the suspicion that the informant and his family were being bewitched). For some reason, not clearly established, his original Chief had asked his present Chief to find a place for him. Only he, his Envoy and the Chief were present at the Placing. Fifty cents was given to the Envoy. No "beast to thank" had been given in late 1959, but informant expected to give something (he himself suggested two rand in money) at a later date, when he was given other land.

Case 8:

Informant came from South Africa in 1925 and settled on a farm near the Chiefdom in which he now lives. He had then, as he put it, to "admit allegiance" both to the farmer and to the Chief, but only gave fifty cents to the latter so that he could be registered on his tax register. In 1937 he decided to move into the Swazi Area, and the Chief appointed an Envoy. He gave a beast to the Envoy, and another to the Chief. Since no warriors were appointed to "help him to build" he did not have to slaughter a beast for this purpose.

Later, as his land was poor, the informant was Placed on another field by a private individual living nearby, to whom he gave R10 in cash. To another individual who transferred Bantu-Ownership of a field to him he gave a beast.

The cases cited here, it must be remembered, have been selected primarily to give an impression of the range of variation that there can be in the actual

details of initial Placings of newcomers to a Chiefdom; not because they were necessarily "typical", in any quantitatively measureable sense, of all cases investigated. Thus, while other instances similar to those cited in Case 8 were reported (where a series of substantial payments had been made for rights over land), such case histories were far rarer than ones resembling Case 4. To cite numerous case histories that were substantially identical would be repetitious in the extreme. On the other hand, I have already pointed out the difficulties of making any valid quantitative generalization for the Swazi Area as a whole on the basis of a straight count of any simple characteristic, such as the amounts paid "to thank for the land". Apart from the fact that the cases investigated were not, and could not be, a scientifically selected random sample, other factors must be taken into account; such as the known differences in practice in different Chiefdoms; or between the reign of one Chief and another in the same Chiefdom; differences in interpretation (as to what was a payment to "thank for the land" and what was simply a gift); the circumstances under which each newcomer arrived in that particular Chiefdom; and his relationship to the local chiefly family.

Nevertheless, there were signs of some apparent regularities. For example, out of 45 cases of new settlers in one Highveld Chiefdom, 20 reported payments in cash or cattle to the Chief, and of these, 15 gave exactly R2. Among the remainder, there were a number of cases where it was impossible to establish what had been given, if anything, while a number of Homestead Heads who had so far paid nothing, stated that it was their intention to give something later "to thank for the land."

Other regularities are suggested by the numerous cases where apparently only the Chief (or his representative), the supplicant for land and an Envoy chosen by the Chief were present at a Placing. This implies that the Envoy fills the role of an official witness to the transaction, and that, unlike other parts of Southern Africa where a large number of witnesses are required, this is normally considered as an adequate safeguard of the rights of the community.

The frequency of payments of two rand to "thank for the land" suggests that this amount was chosen because it was the same as the payment required to "bid farewell" to a Chief whose Chiefdom one is leaving; to give formal recognition to one's "contracting out" of that community. These payments cannot, in fact, appreciably augment a Chief's income. Politically significant though these payments may be, as an explicit and formal admission by the newcomer that the Chief has the right to grant or withhold access to the local Right of Avail, they do not in themselves provide any real evidence of the increased commercialization of land. This view is supported by the fact that no payment is allegedly expected (despite the exceptions mentioned) when a man who is already resident in a Chiefdom is granted additional land there.

RIGHTS TO OTHER NATURAL RESOURCES.

Participation in the Right of Avail gives a Homestead Group a right to make use of the various natural resources available to the community. Arable land is only one of them. Others are such things as grass (for grazing, thatching or other purposes), indigenous timber, clay, water and wild game. Rights over these

other resources are not allocated to sub-divisions within the community, as are those over arable land and building sites. With the few exceptions mentioned below, they are still regarded as "free goods", to which any Swazi may have access as and when he wishes to.

The Right of Pasture: Swazi informants normally contend that this is not confined to the Chiefdom in which one lives; that any Swazi is entitled to graze his stock anywhere in the Swazi Area.¹²⁶ In practice, the exercise of this right is limited by the restrictions on building a cattle byre, which can only be done with the permission of the local political authorities. In addition, the boys who herd the cattle often claim their own grazing territories from which they seek to exclude others, by force if necessary. Such quarrels are supposed to be left to the herd-boys themselves, the adults only interfering in exceptional cases.

The Right of Pasture implies a corresponding duty, that of restraining one's stock from damaging the standing crops of others. After the harvest, stock are traditionally not herded, but left to range where they will, even in the fields (the Right of Stover). In many areas they gain a considerable amount of their sustenance during the lean winter months from the crop residues. Complications have been caused when individuals have fenced their fields, or started growing winter crops under irrigation. Others frequently complain (quite logically, in terms of Swazi customary law) that by so doing they are depriving the rest of the community of part of the winter grazing to which they are traditionally entitled.

In an increasing number of Chiefdoms, the traditional Swazi theory that all grazing is available to everyone has been modified to the extent of accepting a simplified form of rotational grazing. The grazing area is divided into two or more "camps" by means of fences, and all cattle are entitled to graze only in the "camp" currently in use. Elsewhere, no fences have been erected, but the herd-boys have been instructed to confine the cattle under their control to different areas at different times of the year. Traditionalists are frequently strongly opposed to these measures, and have often gone to the lengths of cutting the wire of the fences in order to assert their right to graze their cattle where they will when they will.

The Right to Exploit Indigenous Vegetation: As with the Right of Pasture, Swazi argue that this right is not confined to the Chiefdom in which one lives, but that in theory, any Swazi may make use of any grass, any indigenous timber or other indigenous flora, anywhere in the Swazi Area. This is frequently qualified by a statement to the effect that, of course, no one would ever go into a completely strange area without first approaching the local inhabitants.

Both rights are of limited value in many areas nowadays. Except in the Bushveld, indigenous timber is relatively rare, and the needs that it formerly satisfied are now met from plantations of wattle trees. These, as a plantation crop, are regarded as the property of their Bantu-Owners, and are not freely available to other members of the community. Similarly, grass of sufficient length to be useful for thatching is often only found in areas protected from grazing stock, and in practice this means in the grass strips between the fields, or on portions of

¹²⁶ Many argue that they should have the right to graze cattle anywhere in Swaziland.

allocated arable land which, while they have not themselves been ploughed that year, have been sufficiently close to standing crops to have been protected from grazing stock during the summer.

The general rule is that indigenous vegetation growing on land that has been allocated as arable land, close to a Homestead site, should not be cut down or gathered without the permission of the Bantu-Owner of that land. Otherwise, it may be taken by anyone. Once such vegetation has been gathered or felled, the gatherer or feller has established Bantu-Ownership of it, and has a right to exclude others from taking or using it.

Water: Traditionally, water has always been regarded by Swazi as a free good. Until recently, it was only required in small quantities for human consumption, watering stock, or other domestic uses; and in most parts of Swaziland permanent supplies of open water are more than adequate for these purposes.

A new factor has now been introduced as a result of the increasing popularity of small scale irrigation. How the traditional tenurial system has been adjusted to deal with this is discussed later.

Clay and other inorganic natural resources: These are also regarded as free goods. The discovery or opening up of a deposit of pot-clay, say, does not automatically give one any right to exclude others from using the same deposit. While it might be considered courteous to inform a woman who had opened up and habitually used a particular deposit that one also intended to use, informants were insistent that the mere fact of having opened up the deposit gave no exclusive right to any clay still in situ.

One possible exception may have been iron ore. In the days when Swazi still smelted iron, this craft was confined to certain families. These normally settled near deposits of ore, and it seems that no other than members of these families was expected to exploit these. Such families relied largely on secrecy, and seldom showed the source of their ore to outsiders.

Hunting Rights: There were two traditional methods of hunting; organized drives, in which the grass was deliberately fired to force the game towards the hunters, and independent hunting without any burning. The *Ngwenyama* and local chiefs reserved certain areas of veld in which no-one but themselves or their nominees, were permitted to hunt with grass-burning. Many informants argue that these rulers had no power to exclude small parties hunting by other means in these reserved areas, but some of the rulers appear to have taken a different view.

Elsewhere, hunting, whether or not accompanied by grass-burning, appears to have been permitted to anyone. The traditional regulations regarding hunting rights today are only of academic interest in most of the Swazi Nation Land, due to the virtual elimination of game. The situation has also been complicated by the introduction of fire-arms, territorial game laws, restrictions on grass-burning and the attempts by the *Ngwenyama* and certain chiefs to retain certain areas as shooting reserves of their own. The last has inevitably entailed reliance on the alleged restrictive powers granted to rulers by "Swazi custom" on

one side, and heated denials by would-be hunters that such restrictions are, in fact, sanctioned by tradition on the other.

The delimitation of hunting areas, where hunting with grass-burning was practised, served also to establish the territorial boundaries of Chiefdoms. Enquiries regarding such boundaries before the Partition frequently elicit information regarding the limits of the areas that the people of adjoining Chiefdoms were permitted to burn when hunting. Some Chiefs later deliberately burned fire-breaks along the boundaries of the areas they claimed in order to establish these.

CHAPTER 10

THE LOSS AND RESUMPTION OF LAND RIGHTS

Voluntary relinquishment of land: Active participation in the Right of Avail is dependent on membership of the community. Therefore, loss of that membership entails losing the rights stemming from the Right of Avail.

Swazi, of course, do not formulate the rules of their tenurial system in these terms. They say that one must be a subject of a Chief before one can obtain any rights over arable land in his Chiefdom, and that these rights fall away as soon as one moves and becomes a subject of another Chief; or if one is forced to do so as a result of being banished. One can also lose rights over specific parcels of land by voluntarily transferring them to someone else, even while remaining a member of the community.

The situation is complicated by the Preferential Right to Re-occupy which both Bantu-Ownership and a Right of Use give; and by the Right of a Bantu-Owner to transfer this Bantu-Ownership (by the procedure of Placing) to another Homestead Group without necessarily consulting the local political authorities. Informants, when discussing hypothetical cases, almost, invariably state that a man who is leaving a Chiefdom should place a relation or friend who is remaining behind on his land before he leaves. It is also held by most Swazi that a Bantu-Owner has a right to Place anyone, and thereby transfer Bantu-Ownership to the person Placed; regardless of whether or not the latter is a member of the same Chiefdom.

This seems to conflict with the principle that rights over arable land can only be exercised by a member of the local community. But most informants were most insistent that Bantu-Ownership did confer this right to transfer such Bantu-Ownership to any other Swazi (though not to a non-Swazi). Nevertheless, it is worthy of note that no clear cut cases of this having occurred without the agreement of the local political authorities were actually encountered during field investigations.

The formalization of the "bidding farewell" process, and the duty of a Chief accepting a new subject to "bid farewell for him" (*kumvalelisela*) – that is, to apprise the man's old Chief of the impending move and to ensure that all the proper formalities are observed – seem designed to make it impossible for anyone to retain full membership of two different Chiefdoms simultaneously. Yet this type of double allegiance does occur, although it is normally frowned upon. Swazi refer to it as *kuhlehla kabili*, to dance the tribute labour dance in two different places; a reference to the obligation of a subject to perform tribute labour for his Chief, a procedure normally accompanied by a considerable degree of ceremonial and dancing.

One way in which this can occur is when a polygynist has two Homesteads in different Chiefdoms. This is not uncommon, even in the case of Chiefs themselves. In such a situation what one has is two separate Homestead Groups, each exercising Bantu-Ownership over their own lands, who only happen

to be linked through the fact that they have the same person as Homestead Head. This is only an anticipation, as it were, of the type of split which will inevitably occur later, when the various Houses within the polygynist's family hive off and establish their own Homesteads.

One often finds that when a man is leaving a Chiefdom he seeks to strengthen his, or his immediate family's Preferential Right to Re-occupy the arable lands that he is leaving by telling the Chief that he is only going to "take away the bad air" (*kukipa umoya*); a euphemistic way of saying that he thinks that he is being, bewitched, and is leaving temporarily so as to be farther away from his bewitcher. This is referred to as "placing a root." (*kubeka icempe*); as is the device of placing a relative or friend on one's fields before leaving. This analogy agrees well with the notion that rights over land are not static, but can grow and become stronger with the passage of time; and, if revived from a small residual "root", can re-grow.

However, even if one does "place a root", physical departure to settle in another Chiefdom automatically involves the loss of Bantu-Ownership of any arable land held in the Chiefdom being left. This can only be re-assumed if one returns and is accepted as a full member of that community.

Banishment: One can also be deprived of one's membership of a community, and so lose all rights (including land rights) derived from that membership. All Swazi Chiefs, be they Royals, lieutenants or Clan Chieftains, claim that they have the right to decide who shall, and who shall not, belong to the communities under their control; and that they are entitled to "chase away" (*kucosha*), to banish from their Chiefdoms, any of their subjects who displease them.

The power of the Chiefdom, as a community, to banish one of its members is not absolute. Anyone against whom a sentence of banishment has been passed has a right of appeal to the *Ngwenyama*,¹²⁷ as the leader of a wider land community to which members of all Swazi Chiefdoms are deemed to belong. In this context, one could say, the "community" to which a Swazi must belong before he can claim land rights ceases to be the Chiefdom; and becomes a far larger one comprising all Swazi.

Though this is possibly primarily a terminological distinction, it does illustrate the point that in the Swazi situation there is actually a hierarchy of land controlling communities. As we shall see later, the "land community" with which an individual has to deal can change according to the circumstances of each case. Furthermore, there are considerable differences of opinion regarding the exact extent of the powers which each of these various levels of land community can exercise.

The existence of this right of appeal has undoubtedly prevented a great number of banishments. One often hears that a Chief has tried to "chase" a particular man several times, but has failed to do so. Presumably, what has

¹²⁷ Not to that body which, in this study, has been designated the Swazi Central Authority. See pp. 160 ff

happened in such cases is that discreet enquiries have revealed that a sentence of banishment would not be upheld if it were appealed against; so the Chief has taken the matter no further. However, once such a sentence has been confirmed, it acquires the force of law, and the banished man is bound to leave the Chiefdom. The Swaziland Police (an organ of the Territorial Government) have on occasion been requested to assist in enforcing these decisions.

The unit affected by a sentence of banishment is the Homestead Group. It is said that if a man is banished, any of his sons or brothers who have established their own Homesteads are not automatically banished too. If the Chief wishes them to leave as well, separate sentences must be passed in respect of each Homestead.

Only Chiefs have the power to pass a formal sentence of banishment from the Chiefdom. However, in some of the larger Chiefdoms, Ward Heads also in effect have the same right in respect of their own Wards. Such a decision must be ratified by the Chief, but, if the man is permitted to settle in another Ward in the same Chiefdom, no reference to any higher authority is necessary. Even a smaller community can ask the Ward Head or Chief to move one of their number of whom they disapprove strongly.

When a Homestead Group is banished it is assumed that they will never be permitted to re-join the community, and so will never be able to exercise the Preferential Right to Re-occupy their arable lands. These therefore "come back" to the Great House (*kubuyela endlunkulu*); that is, revert to the community. In effect, this means that they revert to the Ward; or to the Chiefdom if it lacks Wards. Agnates of the banished Homestead Head may claim that they also have a Preferential Right to Re-Occupy them, (particularly if they were originally cultivated by a Homestead Group from which they themselves are descended); but whether they will be permitted to do so depends on the Chief.

Apart from any other consideration, few people would have the temerity to oppose the Chief's decision when one of their own agnates had recently had a sentence of banishment passed on them.

The banished Homestead Group is, however, permitted to reap any of their crops planted before the sentence was confirmed. In one case investigated, a banished man had a considerable area under irrigation, and attempted to defer his departure indefinitely by arranging to have some crops constantly growing there. The local political authorities accepted this for several months, but finally insisted that this rule could not apply to crops obviously planted after the confirmation of his sentence.

While actual banishments are rare, the possibility of being banished is always there. It is, in fact, the ultimate sanction making for conformity to locally approved social norms. If a man becomes too rich, he may arouse the envy of his Chief, and be banished. If he antagonises his neighbours, they may seek his banishment. The reputation of being a "person who hates" (*umuntfu otzondzako*); that is to say, a potential witch, is easily gained by anyone who fails to make sufficient concessions to reduce inter-personal tensions existing between himself

and his neighbours. Therefore, the twin fears of being accused of witchcraft and of being banished provide a strong incentive to strive to reduce these tensions, rather than aggravating them by a stiff necked insistence on what one regards as one's rights.

This possibility also colours all other aspects of the traditional tenurial system. Swazi may argue that a Chief has no right to evict a Bantu-Owning Group from any of their arable lands. Yet, if part of these are unused, and another member of the community, or a new arrival requires land, the Chief may suggest a transfer of Bantu-Ownership. Refusal might not lead to immediate banishment, but could start a conflict, which could lead to "hatred" and accusations of witchcraft, and so to banishment. Similarly, anyone who starts to commercialize his land in a manner of which a substantial section of the community disapprove does so at his own peril. Swazi may argue, as they do, that once Bantu-Ownership has been acquired the community cannot take it away; but in practice the community can, simply by banishing the Bantu-Owner.

It is within this framework, and with the ever present possibility of the sanction of banishment being used by the community to enable it to resume control over any particular parcels of land, that the whole system of land tenure operates. Banishment, as well as being the ultimate sanction, is also in a sense the keystone of the whole edifice. It makes possible the reconciliation of what might appear to be completely contradictory regulations. It provides a constantly available "negative feedback" (if we may use the language of cybernetics), which enables the tenurial system to persist in a state of reasonable equilibrium, and as an effective system for allocating land rights between different members of the community.

Abandonment of arable land: Swazi informants insist that mere failure to cultivate arable land does not lead to loss of Bantu-Ownership, provided that the Homestead Group in which this is vested remains in the same Chiefdom. Nonetheless, such failure to use does undoubtedly tend to weaken this right. If any other member of the community requires land, the political authorities might suggest that Bantu-Ownership of any such unused land should be transferred to them, and a refusal could antagonize both the supplicant's kin and the Chief. In the light of what we have already said regarding the possibility of banishment, and the effect of this on the day-to-day behaviour of individuals, it can be seen how this could, in effect, force the present Bantu-Owning Homestead Group to admit that they had no right to insist on retaining this Bantu-Ownership.

Much depends on the present land position in the particular Chiefdom concerned. If there is no obvious shortage in the grazing area, a Homestead Group which has abandoned a field or fields is less likely to be asked formally to relinquish Bantu-Ownership of those. By the same token, if they themselves can hope to acquire new arable land from the grazing area with relative ease, they are less likely to strive to retain Bantu-Ownership of the fields which they have presumably abandoned for some good reason.

If, on the other hand, there is an obvious shortage of arable land, a field is less likely to be completely abandoned. As we mentioned, a man requiring additional land is expected first to approach his own agnatic kin to see if they can assist him. Under conditions of land shortage (such as are common in many parts of southern Swaziland) there is usually no lack of close kin who can be Placed on this land, or to whom a Temporary Right of Cultivation may be given (the process Swazi refer to as *kuboleka*, to lend land).

One result of this general acceptance of the principle that abandonment of land can lead to a weakening of the Right of Bantu-Ownership is that migrant labourers, and others who may be away for some time, often give a temporary Right of Cultivation to kinsfolk who may not particularly need any additional land. All that is required is that some attempt should be made to cultivate it, so that the migrant's rights may not be impaired.

In some areas a considerable amount of land is "locked up" in this manner, under the control of people who often cultivate it very indifferently. From the technical point of view this is a most undesirable state of affairs; but from the point of view of the absent Bantu-Owner this may be of little importance. Acting within the framework of the existing tenurial system, he may have made the wisest economic choice which is available to him.

THE RELATIVE WEIGHT OF VARIOUS RIGHTS.

It might seem, at first glance, that the application of all the various principles outlined above would soon lead to an impossible situation. If Bantu-Ownership automatically gives a Preferential Right to Re-Occupy, which never dies and will in time come to be shared among a large group of agnates, why is not every inch of the Swazi Area covered with layer upon layer of conflicting rights? How is it that there are still grazing areas, where no arable lands appear to have been established within living memory? And how can some place to live and to plough still be found for newcomers in the majority of Chiefdoms?

Part of the answer lies in what we might call the Principle of Good Neighbourliness. We must also remember that membership of a community, of a Chiefdom, only entitles one to what that community considers to be a reasonable share of the natural resources. In a society where only prior membership of, and acceptance by, a community can entitle one to a share in the local Right of Avail, good neighbourliness is far more than an abstract ideal. It is essential for anyone who wishes to retain his share in this right.

We have already mentioned that the immediate cause of banishment is nearly always an accusation of witchcraft; and how lack of good neighbourliness can lead one's neighbours to believe that one is a "person who hates", and therefore a witch (*umloyi*). Elsewhere I have suggested that, a widespread belief in the efficacy of witchcraft may be an essential part of the social mechanism making for the cohesion, internal peace and continued survival of the rural African community.¹²⁸ Wilson's penetrating analysis of witchcraft beliefs among

¹²⁸ A.J.B. Hughes, "Some Swazi views on land tenure" Africa, XXXII, No. 3, July 1962, p. 269.

the Nyakusa of Tanganyika suggests that they certainly have this function among these people.¹²⁹

There is little doubt that they play a similar role in Swazi life. We have also pointed out how the fear of banishment acts as a constant "negative, feed-back", discouraging too great an insistence on personal rights as against those of the community. It is this same "negative feed-back" which has operated to check the development of the type of situation envisaged in the first paragraph of this section; the covering of the whole land in the Swazi Area with layer upon layer of conflicting rights. When one asks a Swazi why this has not occurred his answer is simply that no one likes to "dispute land" (*kubanga umhlaba*). Therefore, whenever there is a conflict of opinion as to who should exercise what rights over any specific piece of arable land, the stronger "weight", of each party's claim is dependent on many factors other than the manner in which the rights in question were originally acquired.

For example, a man may have acquired Bantu-Ownership of a field, and subsequently gone for many years as a migrant labourer. The Chief may have Placed another man on the same land in the interval, without consulting the migrant labourer's agnates. If this labourer then returns, and establishes the fact that he has never relinquished his membership of the community, he is, according to the strict letter of Swazi customary land law, entitled to resume Bantu-Ownership of the field he abandoned. But the second man has also acquired Bantu-Ownership of the field, by virtue of the fact that he was Placed on it by the Chief.

This might seem to be one of those "impossible" situations to which the traditional rules of tenure could give rise, and which could undermine the whole system, if they occurred too frequently. In practice, such a situation is not uncommon, and does not cause any undue upheaval. What would probably happen in such a case is that the Chief would offer the returned migrant new land elsewhere in the Chiefdom. If the man refused and demanded his old field, he would be expected to give good reasons for his intransigence. In the last resort, if he insisted on evicting the later arrival against the wishes of the community, it might be suggested that his claim to have retained his membership of that community should be re-examined.

Normally, before it came to this, the Chief and his Council would have discussed the relative "weight" of the rival claims, and made a decision which they would expect both parties to accept.

Factors which can affect the "weight" of any person's right to a particular parcel of arable land are his relationship to the previous cultivator, its previous history, the present use to which it is being put, and each claimant's status in the community. A man has a particularly strong claim to any piece of land that was once cultivated by his own mother; that is, was allocated to his own House within his father's

¹²⁹ Monica Wilson, *Good Company*, London, 1951.

Homestead. He has a weaker claim to land which was formerly cultivated by another House, or by some more distant agnates. If there have been many Bantu-Owners in recent years any Preferential Right to Re-Occupy will be "lighter" than if it has remained in the hands of the same agnatic Group for as long as can be remembered. It is easier, obviously, to assert a Preferential Right to Re-Occupy land not being currently cultivated. It is accepted that a person of high rank should, if possible, have an arable holding large enough to maintain the large family, and the dependants, that he is expected to acquire.

Despite the emphasis on the need for "good neighbourliness", and of adjusting to the needs of other members of the community, there is not always general agreement' as to what the relative "weights" of various rights are. Land disputes do occur. One frequent result (and an unfortunate one from the view of productivity) is the strong objection to openly "disputing land" (*kubanga umhlaba*) is that a piece of land to which there is more than one claimant may lie idle. None of the claimants are prepared to risk cultivating it; yet none are prepared to surrender their own claims

RIGHTS OF THE INDIVIDUAL AND OF THE COMMUNITY:

In our culler theoretical discussions the point was made that, in this type of society, the best way of analysing the tenurial system was in terms of how RIGHTS over land were acquired. In brief, it was suggested that what we needed to know was "HOW WHO could obtain WHAT rights over WHICH types of land".

Further emphasis was laid on the importance of rights acquirable by the individual in our theoretical schema based on the Right of Avail. It was argued that a share in the Right of Avail was an essential pre-requisite to obtaining any rights over land; that this share depended on an individual's acceptance as a member of a community; and that it was true to say, therefore, that all land rights exercisable by individuals flowed from the Right of Avail.

However, in our discussion of how a man obtains land rights within a Chieftdom mention has been made on several occasions of yet another type of rights; those exercisable by the community over its members. Those of course, in a sense merely reflect the complimentary duties which an individual assumes when he acquires rights from his share of the Right of Avail. Nonetheless, for analytical purposes it is probably preferable to regard them as a separate class of rights; quite distinct from those exercisable by an individual member of a land community.

At the end of Chapter 4 the point was also made that "as we move on to examine the higher (or more extensive) elements in this hierarchy of land communities, the emphasis will inevitably shift away from direct "man-to-land" links, and more towards 'man-to-man' and 'group-to-group' relationships".

It will be noticed that this has, in fact, been happening. The whole question of the benefits that an individual can acquire through community membership and

the sanctions that the community can employ to enforce conformity to local mores is clearly concerned with "man-to-man" links. Moreover, we have touched on "group-to-group" relationships in our discussion of the limitations on the right of the Chiefdom-level land community to banish one of its members.

However, before enlarging on these points, we should first examine the organization and structure of the "highest level" among the Swazi land communities mentioned in Chapter 4; namely, the Swazi People. This we shall do now.

CHAPTER 11

THE NATIONAL ORGANIZATION

THE TWO "ADMINISTRATIONS":

In Chapter 5 we discussed the coming of British administration to Swaziland after the Anglo-Boer War; and the survival, side by side with this western-style government of an indigenous Swazi governmental system. Mention was also made of the "quasi-diplomatic pattern of relationships that was established between these two administrations.

As time passed the spheres of responsibility of each became more precisely defined. The paramount power, the United Kingdom, reserved to itself such powers as it considered essential for the maintenance of good government, but otherwise the Swazi were left in control of their own affairs; including the allocation and control of land in the Swazi areas.¹³⁰ The traditional authorities also retained judicial powers in respect of cases regarded as "civil" in terms of western law; the right to raise levies, in cash or kind, from their own people; to demand tribute labour; to impose fines for breaches of customary law; the right to appoint individuals to traditional offices; and the right to organize their own administrative system.

There were, naturally, many areas of uncertainty. The question of which of the two administrations had what rights over whom was often debated. Although the United Kingdom was the paramount power, Swazi were not British subjects, but "British Protected Persons", It would seem that the idea, first advanced by the British when the Transvaal was the protecting power, that control over the territory of Swaziland by another government was not incompatible with the continued political independence of the Swazi people never really died.

Inevitably, there has always been some overlapping of functions between these two hierarchies. An individual might, in different contexts, be involved with either. If a Swazi committed a crime like the theft, failed to pay his poll-tax, or entered into a financial agreement with a non-Swazi, Territorial law definitely operated. If he wanted land, or had a normal civil dispute with another Swazi, he was subject to traditional law and custom, which was administered by the traditional authorities. However, sometimes the boundaries between these two types of involvement were very blurred indeed. There were situations where individuals can take complaints or cases to either the traditional or to the Territorial authorities.

Swaziland now has complete independence. The Swazi ruler, the *Ngwenyama*, has been officially recognised as the King of all Swaziland. Nevertheless, despite these constitutional changes, the legacy of the former dyarchical approach to government remains.

¹³⁰ Now known as Swazi Nation Land (see pp. 22-22(a) above), but at the time of Partition known as "Native Areas".

As already mentioned, the King has two very distinct legal roles, and in the present situation a third role as the head of the governing political party.

It may be argued that recent constitutional developments presage an early end to this dyarchical pattern of rule in the Swazi tribal areas. However, in relation to the development of customary land law, the continued existence of two parallel administrative systems simply cannot be ignored.

There are two completely different systems of land law operating in the country; and that covering Swazi Nation Land cannot be explained or understood without an appreciation of the workings of the indigenous Swazi governmental system. At the same time, this customary land law has also been affected by actions of the "other" administration, that of the central government; so something must also be said about this.

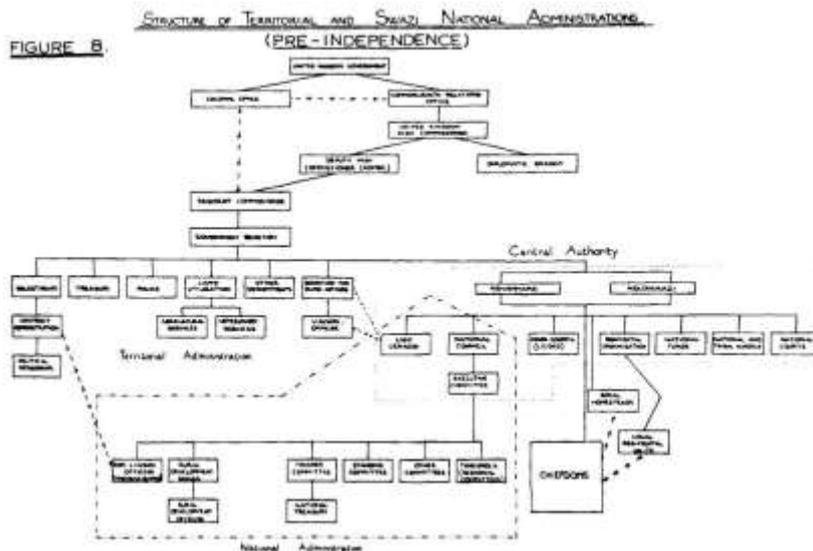
THE TERRITORIAL GOVERNMENT:

During the period of rule by the United Kingdom the Territorial governmental and administrative structure developed along lines very similar to those found in other British dependencies.

The country was, and still is, divided into a number of administrative Districts, each under the control of a District Commissioner. These officials each had, and still have, their own staffs of government servants. In addition to this administrative arm, other departments of the central government have their own country-wide networks.

Figure 8 is given as a matter of historical interest, since it shows the pattern of relationships between the Swazi authorities and Territorial government as these had crystallized at the end of the period of direct British rule. It shows how, for historical reasons, the United Kingdom's authority was exercised through the medium of the Commonwealth Relations Office and the British ambassador to the Republic of South Africa (formerly known as the British High Commissioner). Now, the authority of the United Kingdom government and the Resident Commissioner has been replaced by that of the Swaziland Parliament. Administratively, this body exercises its authority through a system of ministerial responsibility for the affairs of the various government departments.

This diagram also shows some of the formal links that were established between the Territorial government and the Swazi National authorities.

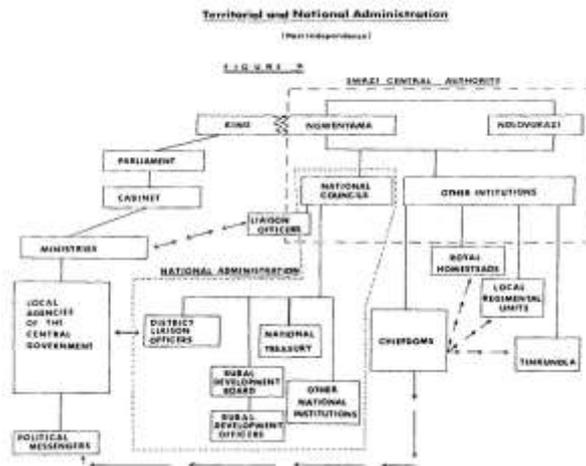


The tradition of consulting the National authorities with regard to any legislation liable to affect the Swazi was established in the early days of the British regime. This consultative machinery was later formalized by the appointment of a senior official of the Territorial government, the Secretary for Swazi Affairs, whose task it was to maintain liaison between the two administrations. His counterpart, the *Lisolenkosi* (eye of the *Ngwenyama*), was a paid official appointed by the Swazi National authorities for the same purpose.

At the District level, each District Commissioner had his Political Messenger, to maintain contact with Swazi local governmental authorities in his District. The Swazi authorities, for their part, appointed what I have here called District Liaison Officers (officially styled "*Tinlabazabantu*", literally "the affairs of the people") to represent them at this level.

From time to time other types of formal links were established, such as the appointment of officials styled Rural Development Officers. These were in the anomalous position of being appointed by the National authorities but paid by the Territorial government. In addition, they had the most "untraditional" role of encouraging soil conservation and the adoption of improved agricultural and pastoral methods; and so in practice found themselves working mostly in collaboration with officials of the Territorial government's Department of Land Utilization.¹³¹

¹³¹ The present Ministry of Agriculture has now replaced this Department.



The acquisition of complete independence in 1968 simplified the situation considerably as far as the Territorial and National Administration central government was concerned. There is no longer a series of complex links to an ultimate controlling authority, elsewhere. But, as can be seen from Figure 9, little has in fact changed with regard to the formal pattern of relationships within Swaziland itself. There have been certain changes in titles, but otherwise the position is much as before.

For the purposes of this study it is not necessary to examine the workings of the central government in any greater detail. Figure 9 shows the general structure. What is important for our subsequent discussions is to remember the following things.

First, that this Territorial government and its agents exist; second, that as Swazi economic life becomes more sophisticated the influence of its actions on the rural Swazi will inevitably become greater; and third, that over the years there has developed a complex pattern of quasi-diplomatic relationships, as I have called them, between this government and the Swazi authorities.

This is a situation which the present Swaziland government has inherited from its predecessors. The fact that, under the present system, many individuals hold high positions in both "governmental" structures may (or may not) reduce the risk of any serious conflict arising between the two. Nevertheless, from the purely administrative point of view it is not easy to see how this dyarchial system can be brought to an end for as long as there are two completely different systems of land law in the Territory. Even the triple role of the King does not mean that the dyarchial pattern of rule is necessarily weakening.

THE SWAZI CENTRAL AUTHORITY:

Definition of terms: The term "Swazi Nation" has been in use since at least the time of the White Committee. It is still often used to describe the central Swazi governmental organization. Earlier in this study I have used "National Authorities" in almost the same sense. Yet it will be noticed that in Figure 9 the term "Swazi Nation" does not appear at all. Instead, I have referred to the "Central Authority" and the

"National Administration", which are shown as having overlapping spheres of responsibility.

One reason for the avoidance of "Swazi Nation" is that this term, and its Swazi equivalent "*BakaNgwane*" have both come to be used in a variety of rather different senses. Since the British High Commissioner's Proclamation in 1944, (later replaced by Proclamation 79 of 1950) which recognized the "the *Ngwenyama*-in-Council" as a "Native Authority" many official pronouncements have tended to use "Swazi Nation" as if it were synonymous with that officially instituted Native Authority, and with that alone. In other instances it has been used to refer to all the Swazi People; every Swazi who admits allegiance to the *Ngwenyama*.

Away from the National capitals, the Swazi version *BakaNgwane* is often used in a far more restricted sense; to refer specifically to what we have here called the Central Authority or its agents, as distinct from the local Chiefs and their people. It is also used in an even more restricted sense to distinguish between members of the Nkosi Dlamini clan and the remainder of the Swazi People.

Desirable as such a wide range of possible meanings may be as a device for the fostering of a sense of Swazi unity, and of identifying the Dlamini rulers with the interests of all their subjects, this ambiguity of meaning has distinct disadvantages when one is seeking a precise analytical tool.

To avoid any possibility of confusion, I will therefore use CENTRAL AUTHORITY to refer specifically to the central Swazi political organisation, based on the two National capitals of the day; currently, Lobamba and Lozhita. NATIONAL ORGANIZATION will be used to describe the whole administrative complex directly and regularly controlled by the Central Authority through the medium of the various Central Councils (described below). I shall use SWAZI PEOPLE to refer to all Swazi inhabitants of modern Swaziland who admit allegiance to the *Ngwenyama* and accept the rule of the traditional authorities. I exclude from this last category those of Swazi who, although they may admit allegiance to the King of Swaziland, have chosen to live "under the government", as Swazi say, who live outside the Swazi Nation Land and admit allegiance to no Chief.

The Monarchy: In Figures 8 and 9, the Swazi Central Authority is shown as comprising many elements, and as having a definite structure, in the sense that some of these elements are definitely subordinate to others. At the head of this hierarchy is the "dual monarchy", as it might be called, of the *Ngwenyama* (King) and the *Ndlovukazi* (Queen Mother). The former, as we have said, is also recognized as King of Swaziland; and we shall therefore refer to the King in this context as the *Ngwenyama*.

Ndlovukazi literally means "She-elephant", but here I shall use the term "Queen Mother" as the English equivalent. Though, ideally, the "she-elephant" should be the biological mother of the *Ngwenyama* of the day, exceptions can be made. During the present *Ngwenyama*'s minority this dignity was held by a lady who was actually the "Queen Grandmother", the "Queen Mother" of the previous

reign. Currently this title is held by another member of the same clan as the present *Ngwenyama's* late mother.

Kuper has explained in detail the delicate balance of power between these two monarchs; and how Swazi political theory holds that an *Ngwenyama* should rule with the Queen Mother; both striving to reach mutually acceptable decisions, and neither trying to over-rule the other. Most knowledgeable Swazi informants are unwilling to admit that either is actually the senior; though there are some who argue that the rank of Queen Mother is superior to that of *Ngwenyama*.

For our purposes, however, it is not necessary to explore all the niceties of the constitutional position; which, in any case, has already been dealt with in earlier works. In the wider framework of the total traditional political organization the two rulers may be conceived, for our purposes, as a single unit; the Monarchy.

Each ruler has his or her own principal Homestead, or capital. The Queen Mother's (Lobamba in this reign) is the larger, and is generally regarded as being the main National Headquarters. The *Ngwenyama's* Lozhita, is referred to as his *lilawu*, "bachelor's quarters" or "barracks". This is the seat of the principal traditional court, and it is here that the semi-traditional Higher National Court of Appeal has now been established. Both capitals have sections of the army attached to them.

The *Ngwenyama* ranks as supreme commander, but the next highest ranking military officer (the "lieutenant of the Regiments",) (*indvuna yemabutfo*) is attached to the Queen Mother's capital. In modern times the main offices of the National Administration have been built at Lobamba; but Lozhita is the regular meeting place of the Executive Committee of the National Council and subsidiary offices have been constructed there. Lobamba, however, is the site of the new Houses of Parliament.

The Councils: The Monarchs were traditionally expected to rule with the assistance of a council (*libandla*); a tradition that was carried on when official recognition was given to the *Ngwenyama*-and-Council as a Native Authority. In earlier times there were two main councils, or sections of the council; on the same pattern that one finds in the Chiefdoms. The Inner Council (*licoco* or *libandla lencane*) was a group of selected councillors, many of them close agnates of the *Ngwenyama*, that met at frequent intervals. The Queen Mother was one of this group, and the only female admitted to its deliberations. It was this Inner Council which dealt with all the day to day business of government.

The General Council (*libandla lomkhulu*) only met occasionally, and membership was technically open to every adult male Swazi. Nowadays, this General Council assembles regularly once a year (in mid-winter) in the great cattle byre at Lobamba to discuss matters of moment, to voice complaints, and to receive reports from National officials.

Some Swazi claim that in the past, no decisions of the Inner Council were valid unless approved by the General Council, and that this still holds good today.

In practice, however, the modern General Council seems to have little or no legislative or executive power, and is little more than a forum where matters can be discussed, and a means whereby the Central Authority can (in theory, at least) keep Swazi in other parts of the country informed of developments that may concern them.

Every Chiefdom in the country should be represented, by the Chief or someone sent in his place, at this annual meeting. Chiefs are expected to come in person if possible. Kuper states that "in former times failure (by a Chief) to attend without good reasons was heavily fined, but today Chiefs stay away with impunity". The fact that the annual subsidies now paid to Chiefs by the Central Authority are distributed on this occasion doubtless offers nearly as strong an inducement to attend as did the fear of a heavy fine in the past.

Extraordinary meetings of the General Council may also be called at other times; to discuss matters of great importance, or to hear announcements of developments that may affect the whole Swazi People.

Modern Developments. This system of two Councils has been modified in some respects to meet present-day requirements.

The Inner Council (*Iicoco*) still exists, but many of its functions are becoming merged with those of a body known until recently as the Executive Committee of the Swazi National Council. Swazi sometimes distinguish this from the old, traditional Inner Council by using *licoco* only for the latter, reserving the term "little Council" (*libandla lencane*) for the Executive Committee. The latter usually meets once a week at Lozhita throughout the working year, and has a membership very similar to that of the Inner Council, but not quite the same. It also includes various ex-officio members, and representatives from each of the central government's administrative Districts; persons who are not necessarily members of the older body.

The position seems to be that any member of the Inner Council has a right to attend meetings of the Executive Committee, and to speak at these; but that members of this Committee do not, automatically, have the same right at meetings of the Inner Council. There also appears to be an increasing acceptance in official Swazi circles of the distinction between central governmental legislation and administrative business, which is now specifically the concern of the Executive Committee; and the domestic and dynastic affairs of the Dlamini family, and certain ritual matters, which are dealt with by the older and more traditional Inner Council.

In earlier times the function of the Central Authority seems to have been conceived primarily as that of interpreting the law (*umtetu*), rather than that of introducing constant changes in it. "Deliberate legislation was formerly rare" says Kuper, "but was always promulgated by the rulers". This tradition was later formalized by the introduction of "Paramount Chief's Orders-in-Council"; written enactments (in both English and Swazi) which, when promulgated, had the force

of law for all Swazi owing allegiance to the *Ngwenyama*. These orders appeared at relatively infrequent intervals, and dealt mostly with matters such as agriculture, conservation or the maintenance of law and order (e.g. the carrying of knives of more than a certain size.) They certainly have not completely replaced the verbal orders still issued by the *Ngwenyama*, which are also held to have the force of law for all Swazi.

SUBORDINATE ORGANS OF THE NATIONAL COUNCIL

The Executive Committee sets up sub-committees to deal with specific matters, and also had two permanent sub-committees; the Standing Committee and the Finance Committee, each with twelve members. The Standing Committee's primary function was to maintain regular liaison with the central government, and it used to hold regular meetings with representatives of the latter. Since the granting of internal self-government some years ago, these regular meetings have tended to fall away.

The Finance Committee, as its name implies, is responsible for the control of the National Treasury. This was set up in 1950 with a Treasurer, Assistant Treasurer, and a small clerical staff. It derives its revenue from various sources, including a share of the tax payable by Swazi to central government funds.

To deal with general administrative work, there is also a full-time National Secretary, based at Lobamba.

The Swazi have had a National Secretary since before the time of the establishment of the first Protectorate in 1894; but there can be no doubt that the various elements in the administrative structure just mentioned are based on western models. Yet, at the same time, there has been a deliberate effort to assimilate these obviously new elements into the older pattern of the indigenous Swazi governmental organization; and to retain as much of the latter as possible. Hence the impossibility, already mentioned, of drawing a precise and sharp distinction between what is "traditional" and what is new.

For example, officials of the National Treasury and the National Secretariat are paid regular salaries, provided with official houses, and their accounts are audited by the (central) Government Auditor. To class them as part of the traditional governmental machine might, therefore, seem to be stretching the meaning of the word "traditional" too far. Yet, they are under the control of the National Council, which is undoubtedly based on a traditional model which has changed little with time.

Similarly, the Executive Committee, despite its western-style title, does not always slavishly follow western procedure. It acts as a single body, all members being entitled to speak on all issues and does not rely on a formal system of voting to reach its decisions. Swazi traditionalists argue that decision making by "head counting" is alien to their whole governmental system, and that the introduction of anything of this nature would only tend to destroy the unity and effectiveness of their Councils. It is held that it is far better for matters to be discussed until it becomes obvious what the opinion of the majority is; and that

after that the aim should be to reach unanimity, to reach some decision (albeit a compromise one) on which all can agree. - This attitude towards the reaching of group decisions has been excellently summarised by the *Ngwenyama* in his statement that "The Swazi custom was for all matters to be brought to the *Libandla* (council) for discussion, and for the proper position to be arrived at by all men putting their heads together."¹³²

In addition to these organs of the National Council based at the National capitals, there are various officials that are based in other parts of the country; such as the Rural Development Officers and District Liaison Officers.

To sum up, there is an entity known as the National Council (*libandla laka Ngwane*) which, together with the Monarchs, is the supreme indigenous ruling body. In theory this consists of two parts, the General Council (*liandla lomkhulu*) and the Executive Committee (*libandla lencane*), while the older Inner Council (*licoco*) is available to deal with specialized problems. The last mentioned may also play the role of a "party caucus", as it were, which can influence the decisions of the Executive Committee. In practice, it is the Executive Committee which is recognized as the "Council" by the central government. Nevertheless, the members of this Committee are well aware that many Swazi regard the General Council as the superior body; as the National Council. They are, therefore, careful to avoid taking any action which might unduly antagonize the latter.

Swazi informants (particularly if they are of the Dlamini clan and closely connected with the National administration) usually argue that land matters such as boundary disputes between Chiefs, do not strictly fall within the purviews of any of these bodies; but should be settled by *Ngwenyama* himself, in consultation with yet another Council (or selected body of advisors). However, as we shall see, "land matters" impinge on many fields in which these Councils, and the local-governmental authorities in the Chiefdoms are concerned.

Recently, attempts have been made to re-allocate responsibilities within this complex of bodies comprising the National Council. These have resulted in changes in nomenclature which do not necessarily reflect immediate major changes in function; but certainly do reflect an appreciation of the need for some changes in the whole machinery of the Swazi National Organization.

The Standing Committee began to lose its importance as a "spokesman" for the National authorities once the regular meetings with central government officials became less regular; and some of its own erstwhile members became ministers of this central government. Shortly before independence it was divided into two sub-sections. One of these was known as the "King's Advisors", while the other retained the title of the "Standing Committee". It was envisaged that the latter body would concern itself with matters that were clearly "traditional", and of no particular interest to the central government. The "King's Advisors" were supposed to deal with less "traditional" affairs, such as economics and general

¹³² Times of Swaziland, 16th May, 1959

development; and very recently the National authorities have taken to referring to them as the "Executive Committee".

The larger body formerly known as the Executive Committee, the (*libandla lencane*) is, according to my informants, still regarded as being distinct from the more traditionally-oriented *licoco*, or Inner Council; but due to the fact that many individuals belong to both of these bodies, there has been a continuation of the tendency for the functions of each to merge into one another.

The whole system is clearly in a state of transition. Some indication of the pattern which may emerge is given by the expressed desire of many members of the Inner Council to set up a "cabinet system" within their own organization; with a Member for Agriculture, a Member for Education, and so on. The designation of a sub-section of the old Standing Committee as the "Executive Committee" is consistent with this trend. This small body of men could provide such a "cabinet"; which would be responsible in the first instance to the Inner Council, and ultimately to the annual meeting of the Great Council.

Some Swazi officials of the central government are opposed to this trend, on the grounds that the National authorities should concern themselves exclusively with "traditional" matters, and that their functions should not overlap into spheres already covered by central government agencies.

If, however, we regard the National organization as a large "local government" (as I have already suggested we could regard it), then there is a certain logic in the suggestion that it should provide itself with a "cabinet". Basically, the argument boils down to one of where certain powers should be vested; at the central or local governmental level.

What the final pattern of formal relationships between these two levels of government will be, only time can tell.

THE NATIONAL ADMINISTRATION AND THE CENTRAL AUTHORITY.

The institutions described above are all part of the officially-recognized machinery of the National Administration, and they have been shown as such on the diagram (Figure 9). The formal structural pattern of this section of the indigenous governmental system is relatively easy to understand. It can be represented diagrammatically as a simple pyramid; with the Monarchy and the National Council (or Councils) at the summit, while below there come the various subordinate institutions which are directly controlled by the National Council, and provide official links between this body and the rest of the country.

Admittedly, this simple picture is confused to some extent by the many facets of the National Council. My argument that this is comprised, in theory, of the General Council and the Executive Committee (of the General Council), but that it is effectively the Executive Committee; while the Inner Council (*licoco*) to which most members of the Executive Committee belong, also has considerable influence, may strike the tidy minded western reader as smacking of the Dyophysite and Monophysite controversies of early Christendom. The

explanation for this confusion is, however, quite simple. The situation is confused. There are "Monophysite" and "Dyophysite" factions among Swazi political theorists. There are those who argue that one council or the other is the "real" National Council (*libandla laka Ngwane*); while others take the view that the National Council is an amorphous body (with neither a strictly defined nor an unlimited membership), and that its decisions should be the "resultant" of interaction between the two principal councils and any other [...] or individuals that have a traditionally accepted right to a say with regard to particular issues.

These, differences of opinion have not hitherto had much practical significance. For the purpose of our analysis here they are not of paramount importance. We may, as I have already suggested, regard the National Council as a single entity which, together with the Monarchy, forms the apex of the organizational pyramid of the National Administration.

The situation is more complex when we come to consider those elements of the indigenous governmental organization which are shown on the diagram as belonging to the Central Authority, but as not forming part of the National Organization. If we take the legalistic stand that the Proclamations of 1944 and 1950 provide the only legal basis for the present Swazi administrative system, then these various bodies can only be regarded as subordinate organs of the National Council. If, however, we take the view (which I personally prefer) that these Proclamations formalized a set of pre-existing relationships between the Swazi and the British administration of that time, then these other institutions could legitimately be regarded as lying outside the sphere of responsibility of the National Administration.

In practice many of these institutions have acquired (or retained) a semi-autonomy of their own. They also provide alternative channels for contact between the Monarchy, and the individual Swazi, without going through the National Council. It is for these reasons, rather than any consideration of legal technicalities, that I have drawn this distinction between the National Organization and the Central Authority.

THE SWAZI PEOPLE AS A LAND COMMUNITY

At the end of our theoretical discussion in Chapter 6, the question was raised as to what were the "communities" to which Swazi individuals or small family groups must belong before they could claim or exercise any land rights. It was there suggested that in this society there was no single type of "land community", but rather that there was a whole series, or hierarchy, of such communities. Specifically, it was suggested that the most important and those whose structure would best repay further investigation, were the Homestead Group, the Ward, the Chiefdom and the Swazi People.

In our investigations into what membership of these communities entails, we have had to touch on many aspects of their structure which, at first glance, might seem to have little direct relevance to the apparently simple question of "How WHO obtains WHAT rights over WHICH categories of land". However, our discussion of the situation at the levels of the Homestead Group, Ward and

Chiefdom should have demonstrated that one cannot simply isolate "the land side", and disregard all other aspects of these people's social organization and life; not if one wishes to gain any real insight into the workings of their system of land holding and land allocation.

Further, we noted that as we moved "upwards" in this hierarchy, as the land communities we were investigating became wider in scale, that the emphasis was tending to shift away from direct "man-to-land" links, and that we were increasingly having to consider "man-to-man" and "group-to-group" relationships.

In this chapter I have described a few aspects of the formal organization of the widest of the land communities that were defined earlier; namely, that of the Swazi People. However, the Swazi People, by definition, consists of rather more than the few "top level" institutions mentioned here. The main significance of these, for our study, must lie in the effect that they have on "group-to-group" relationships in the land community hierarchy.

In the next chapter, we must investigate how the Swazi Central Authority (the "governing body" as it were, of the widest-scale land community that we are investigating here) interacts with smaller-scale land communities at the Chiefdom level and below; and through these, with the individual Swazi.

CHAPTER 12

THE CHIEFDOMS AND THE CENTRAL AUTHORITY

TYPES OF CHIEFS.

During our earlier discussions of the manner in which the Swazi state was built up we mentioned three ways in which the Dlamini extended the territorial limits of their authority. These were the acceptance of allegiance from groups which they found already settled in the country; the establishment of subsidiary Homesteads of the *Ngwenyama* under the control of royal "Lieutenants"; and the granting of "portions" (territories and followings) to the junior sons of successive Swazi rulers.

Later, it was argued that the internal social organization and local governmental systems of the land communities which developed from these three processes were sufficiently similar to allow us to regard them as a single type of group, as far as land law within these communities was concerned. We have classified such communities as CHIEFDOMS; and their leaders as CHIEFS.

However, when we come to examine the formal pattern of relationships between these Chiefdoms and the Central Authority the case is altered. Then it does become important to consider how the Chiefdom was established; and what type of Chief leads it.

Another point made earlier was that there is no single Swazi term which can be applied, without fear of contradiction, to all the territorial authorities called "Chiefs" in this study. The word *sikhulu* (pl. *tikhulu*) is often used loosely in this sense; but Swazi purists argue that this is an alien term imported from Zululand by the early British administrators, where it was used for the rulers of the thirteen petty Chiefdoms into which Zululand was divided after the Anglo-Zulu war. Prior to this, such purists argue, there was no generic term in Swazi for all the various types of subordinate political authorities under the *Ngwenyama*. There were, so they say, no "Chiefs" (*tikhulu*), but only *emaduna* (Clan Chieftans), *tindvuna* (Lieutenants), *bantfwanabenkosi* (Royals), and *abanumzana* (heads of agnatic groups).

The English translations I have given here are, inevitably, only approximations. For example, the observant reader may have noticed that the term *abanumzana* (s. *umnumzana*) is translated in the previous paragraph as "heads of agnatic groups", whereas I have already (in Chapter 5) used "Homestead Heads" as an English equivalent for this same Swazi word.

To explain this apparent discrepancy we must digress slightly, and return to the borderland between linguistics and sociology. Among some of the Nguni the word *umnumzana* can be used for the head of a single Homestead, for the head of a more widely-dispersed agnatic group, or even (in extreme cases) for the ruler of a whole country. "The territory of the king or chief", says Gluckman of the Zulu, "may be referred to as *umzi* (sic) *kaMpande* (the Homestead of Mpande) or *umzi kaZibebu* (the Homestead of Zibebu) The children of the king are not

supposed to refer to him as "father", for is not the king the father of his people, not of his family only? So, when Swazi use the word *umnumzana* in this context they are, in conformity with the principle of "the ever-expanding Homestead", referring to men who were recognised as leaders of reasonably large agnatic groups, which presumably had a considerable degree of local autonomy.

Similarly, the term *emaduna* (s. *liduna*), which I have here translated as "Clan Chieftain", has a fairly wide range of meaning. It can mean no more than "important men". It can also (and rather confusingly) be applied to territorial Chiefs other than Clan Chieftans, such as the more important Lieutenants (*tindvuna*) in charge of royal Homesteads. Informants also disagree as to which of the Clan Chieftains are properly entitled to the designation of *Indvuna*, and which are merely *abanumzana*, (heads of agnatic groups).

One has the same trouble with the word *indvuna*, here translated "Lieutenants". The Swazi word has the general meaning of "deputy" or "assistant-in-charge". It can be applied also to a host of other "Lieutenants of the Ngwenyama" (*tindvuna tenkosi*) who do not have specific territorial responsibilities; to the Deputies of local Chiefs, and to Ward Heads. One can speak of the *indvuna* of a royal Homestead, the *indvuna* of the regiments (or the whole country), the *indvuna* of a particular regiment in a particular Chieftom, or the *indvuna* in charge of a Ward.

The point, to remember is that there is no real need in Swazi for a precise terminology to distinguish between these various types of "lieutenants" or "deputies". It is normally obvious from the context to whom reference is intended; and it is usually well known to all hearers exactly what this individual's responsibilities and rights are. Similarly, while we need to differentiate between the Lieutenants of important royal Homesteads and Clan Chieftoms, the Swazi use of the term *liduna* for both serves to stress the approximate equivalence of their ranks in the political system.

To summarize, I use the word CHIEF in the sense that it is now used by the Swaziland administration, as a generic term for all the recognized local political authorities who have definite territories and are classed as "Chiefs" by that Administration.

Furthermore, although it could be argued that the relationships of each and every Chieftom to the Central Authority are unique and different from that of every other Chieftom, I have followed modern Swazi usage and subdivided these Chiefs into three broad classes; namely

1. Lieutenants (*indvuna*), those Chiefs whose territories are derived from subsidiary Homesteads of an *Ngwenyama*. In this study they will be distinguished from other types of "lieutenants", without territorial responsibilities, by the initial capital "L".
2. Royals (*bantfwabenkosi*), Chiefs whose territories were originally established as Portions granted to a junior son of an *Ngwenyama*; and

3. Clan Chieftains (*emaduna*), Chiefs who fall into neither of the other two categories.

Lieutenants: In theory, these are no more than appointed agents of the *Ngwenyama*, who have been given administrative control over royal Homesteads (*imiti yenkosi*) and the territories attached to these. They are never drawn from the Dlamini Clan. There should be a Lieutenant in charge of each of the current National capitals and others for old capitals established in previous reigns. There are also Lieutenants in charge of lesser royal Homesteads which never ranked as capitals and of royal cattle posts (*tinkhlonhla* sing. *inhlonhla*).

Some such as the Lieutenants of Hhohho in the north and Old Zombodze in the south, who rank among the biggest Chiefs in the land in terms of the sizes of their followings. There are others whose followings and territories are far smaller; like the Lieutenant of Mbekelweni (Mbandzeni's administrative capital) who in 1966 had control over a mere 566 followers. In general, old capitals tend to decline in importance with the passage of time and as new ones are built in each reign. The earlier ones tend to become "further away from the fire", as the Swazi say. The opposite process is represented by some of the royal cattle posts, originally of minor importance, but which have now become sizeable Chiefdoms due to immigration into their territories in recent generations.

Although Lieutenants are in theory merely appointed officials, holding their positions only at the *Ngwenyama's* pleasure, there is a tendency for the rank to become hereditary. Thus, the present senior councillor of the National Authorities, the lieutenant of Zombodzo (the main National capital during the reign of the present *Ngwenyama's* father) inherited his position from his father. In the north of Swaziland the *Ngwenyama* has built a new royal Homestead, and Hhohho (Mswati's administrative capital) has declined considerably in size. However, the senior Lieutenant in the area is still a descendant, in the male line of the man originally appointed by Mswati. Lieutenants may be deposed, but are usually replaced by a close agnate. Such a replacement is often regarded by the people as no more than a regent (*umbambeli*), a temporary incumbent until a suitable heir of the deposed lieutenant is old enough to take over.

Kuper argues that "the post is not necessarily given to the main heir of the former indvuna; an insignificant son or even a brother's child may be appointed. True though this may be in theory, the hereditary principle appears to be accepted in practice as having considerable force. I was once told by one Lieutenant, while discussing certain difficulties of another, that the latter had a hard task in his area "because he was not truly the Lieutenant of so-and-so." He was regarded by most people in his Lieutenancy as just a regent, acting on behalf of the main heir of his predecessor, who was still a schoolboy. In another instance, a senior Lieutenant had shown signs over a considerable period, of not being very capable, yet he had not been deposed. "It is not easy", as one informant remarked, "for the *Ngwenyama* to depose so important a Lieutenant as so-and-so."

The territories of Lieutenancies are often referred to as "Lands of the Great House" (*umhlaba wendlunkulu*). The reference in this case is to the Great House, or senior line, of the Dlamini clan. There is general agreement that this land is

more directly under the control of the *Ngwenyama* than that in other kinds of Chiefdoms. It thus provides a useful "pool" from which Portions can be exercised to provide for junior sons of deceased *Ngwenyamas*. For example, it is known¹³³ that certain Chiefdoms now under minor Lieutenants will become the Portions of certain sons of the present *Ngwenyama*. - It seems to be accepted that the Lieutenants of former capitals would not normally be superseded in this way, although some of their territory might be taken for this purpose.

Royals: The Royals (*bantfwabenkosi*) are the second major class of Chief listed above. The term *mntfwanenkosi*¹³⁴ literally means "child of a king". It is also nowadays given to more remote descendants of past *Ngwenyamas*; to all Chiefs who are Dlamini; and even to Dlamini who are genealogically far removed from the senior line and who are not Chiefs, but who have acquired some other important position. Where it ceases to be a title borne as a right and becomes no more than a courtesy title is a moot point. Swazi informants are certainly not all in agreement regarding this. Each tends to draw "the line of demarcation immediately below his own heels", as a student of a similar phenomenon in another culture puts it.

To complicate the issue further *mntfwanenkosi* is also used in Chiefdoms ruled by Clan Chieftains for the off-spring of those Chiefs, and other close agnates of theirs.

So, this term can be used, quite legitimately, for a number of completely different types of persons. A better, though clumsier, translation than that given above might be "child or close agnate of either the *Ngwenyama* or a Clan Chieftain" (since if we always translate *inkosi* as "king" we must then admit that there are many "kings" in Swaziland, a difficult terminology to reconcile with the type of centralized political organization that the Swazi have). It is because of the danger of falling into such terminological and logical pitfalls that I have not employed terms, used in earlier studies, such as "prince", "princess" or "principality"; with all the overtones of meaning that these words have in English. Hence the use of the more neutral "Chiefdom" instead of "principality" (since most Chiefdoms are not, in fact, ruled by "princes"); of '*Ngwenyama*' for the Swazi ruler; and this attempt to distinguish between the different types of "children of a ruler".

Here, therefore, the term Royal is used only for those Dlamini known as *bantfwabenkosi* who are also Chiefs; rulers of defined groups of people and delimitable territories. Chiefdoms of this particular type may be conveniently classified as APANAGES; to distinguish them from Lieutenancies and Clan Chiefdoms.

We have already explained how such Apanages are originally formed; through the granting of territories and followings to junior sons of deceased

¹³³ Though this is not officially public knowledge. The details of such arrangements should not, according to Swazi custom, be made public until some time after the death of the *Ngwenyama* who is the father of the Royals concerned.

¹³⁴ A shortened form of *umntfwana wenkosi*. Many Swazi in ordinary speech habitually use the term with far less elision than in the officially accepted written form used here.

Ngwenyamas. Some Swazi argue that it is not the *Ngwenyama's* sons themselves to whom these grants are made, but to their mothers. This is merely an extension of the principle of Swazi customary law that no man inherits anything, or succeeds to any position, purely as an individual. On the contrary, he always inherits or succeeds as the representative of some House (*indlu*). At the same time another principle is involved. This is that an individual's rank (*sigaba*) depends not only on that of his father, but also on that of his mother's family.

In these cases the importance and size of a Portion granted to an *Ngwenyama's* son is decided by the rank of his mother, which could explain the contention that it is actually granted to his mother; but for him to administer as the senior male in that House.

For our purposes, these nice distinctions are actually of little moment. The end result is that, through the grant of an Apanage, a Royal and his Main Heir acquires a territorial authority analogous to that of any other kind of Chief,

Some Chiefdoms under Dlamini were not originally granted as Portion but as what the Swazi call *emakhumelo*. This could be roughly translated as "rewards". Sometimes the founder's of these Chiefdoms were members of cadet branches of the Dlamini family who were sent to guard border areas, and given their Chiefdoms for this service. This is how the Ekupheleni¹³⁵ Chiefdom near Mbabane came into being. In another case, the leader of a group which had broken away from the Swazi, later returned (with his following) and was accepted as a subject by the *Ngwenyama* of the day on more or less the same terms as the leaders of other clan groups which were entering Swaziland at that period.

The people of such Chiefdoms tend to stress the difference between their own position and that of people in Apanages. "Our Royal is truly a Chief (*sikhulu*)" one often hears, with the imported word *sikhulu* emphasized. "He did not merely eat the Portion given to his mother. He was given a country (*sive*)". In the case of the returned emigrants just mentioned (the Chiefdom under Tekwane Dlamini, in the south) the distinction between their Chiefdom and an Apanage is enshrined in a proverb. "Leave him to speak with his Zulu accent. He was born at Tekwane's".

Royals, then, differ from the other Chiefs in bearing a special title, and in holding their lands through a special type of grant. Their agnatic ties with the *Ngwenyama* inevitably colour their relationship with the Central Authority. As members of cadet branches of the Dlamini clan they cannot claim the title of *nkosi* within their own Chiefdoms, as many a Clan Chieftain does.

Unlike Lieutenants, but like Clan Chieftains, they hold their positions as of right. They are not, even technically, mere appointees of the *Ngwenyama*.

Clan Chieftains: Many Swazi informants argue that Clan Chieftains are the only Chiefs entitled to be called *tikhulu*. Kuper favours this usage in her analysis of the

¹³⁵ Literally "at the end (of the country)". This is a name of some historian significance, as this Chiefdom was founded in Mswati's reign, and given this name then,

Swazi political system. I, myself, have avoided using this particular vernacular term as a classificatory device because of the differences of opinion among Swazi regarding its meaning; and, whether in fact, it is even now a Swazi term at all.

One characteristic of all Clan Chieftains is the negative one that they are neither Royals nor Lieutenants. The ancestors of some were deliberately established as territorial rulers by earlier *Ngwenyamas*. In at least one case (that of the Ngometulu) the Chieftainship was first extinguished by the Dlamini, and later restored. The majority, however, were either the leaders of Sotho groups which accepted Dlamini overlordship; or of groups which migrated into the country later, and were permitted to settle under the control of their own leaders, and to retain a considerable degree of local autonomy.

The sizes of the followings and territories of Clan Chieftains varies considerably. So does the degree of independence that they claim. Some groups are recognized as "having their own kingship (*bukosi*)", and perform their own first fruits ceremonies. These are not on the scale of the National *Incwala*, and should only be performed after the latter has been completed. Many claim the title of *inkosi* in their Chiefdoms, and that of *mntfwanenkosi* for their children. One, the Mamba Chief, has his own regimental organization, quite independent of the National one. He and a few other Clan Chieftains also formerly claimed the right of executing their own subjects, without reference to the Swazi Central Authority,

Another mark of special status concerns the wearing of the feathers of the Purple Crested Lourie (*ligwalagwala*) within their own Chiefdoms. These are regarded as a mark of royalty, and on National ceremonial occasions only the *Ngwenyama* and his close kin are permitted to decorate themselves profusely with them. Clan Chieftains respect this limitation with regard to National ceremonies; but when a ceremony is held within their own borders many extend this privilege to their own kin; and have precise rules regarding how many of these feathers can be worn, depending on the individual's relationship to themselves.

Some Clan Chieftains are among the largest in the country, such as those of the Mamba and the Simelane. At the other end of the scale there are some Clan Chieftains with followings of only a few hundred.

The "constitutional" position of Clan Chieftains vis-a-vis the Central Authority is in many ways more clearly defined than that of either Lieutenants or Royals. Yet, it is also true that differences of opinion regarding exactly what this position is have given rise to many of the conflicts and struggles for power that are evident today. Nevertheless, despite these differences of opinion, the role of the Clan Chieftains is easier to describe, and possibly easier for the non-Swazi to understand, than is the case with either of the other two types of Chiefs. How this role is affected by various other agencies within the modern Swazi body politic we shall see later.

Unrecognised Chiefs: Since we have already adopted the criterion of recognition by the Territorial administration as an essential pre-requisite for being regarded, for the purposes of this study, as a "Chief", this subtitle may appear to be a contradiction in terms.

However, there are a certain number of leaders of groups of various sizes who claim that they should be recognised as Chiefs in their own rights, but who have not received this recognition. Some of these are Royals, but the majority appear to be leaders of small groups of *makandzambili*; people of Sotho ancestry who were already settled in the country when the Dlamini arrived. In many cases they are recognized Chief's Deputies, and in practice have considerable autonomy in their own areas.

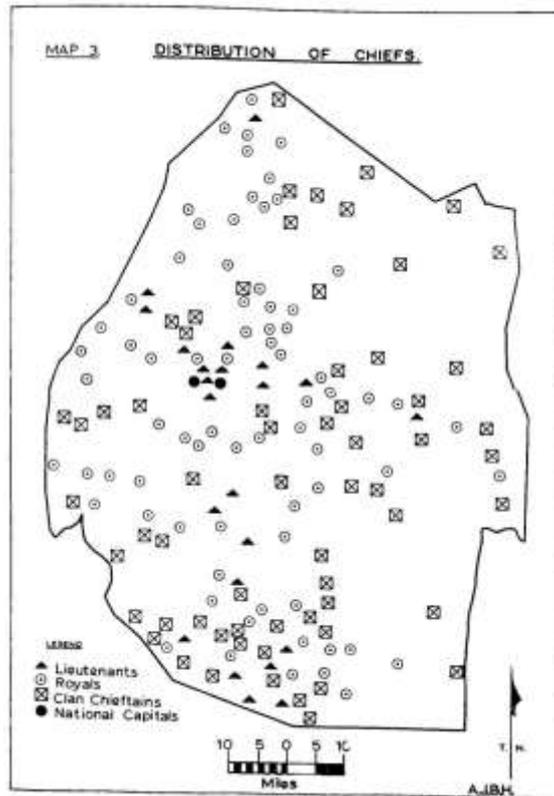
No accurate estimate can be made of their numbers, nor of the sizes of their followings. All the indications are, however, that there are probably only a few who are making serious efforts to break away from the Chiefdoms to which they are at present attached. Though the numbers and influence of these would-be Chiefs are probably both small, it is necessary to remember that they exist, and so complicate to a certain extent the simple threefold classification outlined in this section.

There are also some Chiefs listed in the 1966 Census with absurdly small followings. One in Lubombo District (whose father bought his own farm in the many years ago, and subsequently started agitating for recognition as a Chief) is listed as having only one subject. These atypical cases are also excluded from our discussion here.

DISTRIBUTION AND POPULATIONS OF DIFFERENT TYPES OF CHIEFDOM.

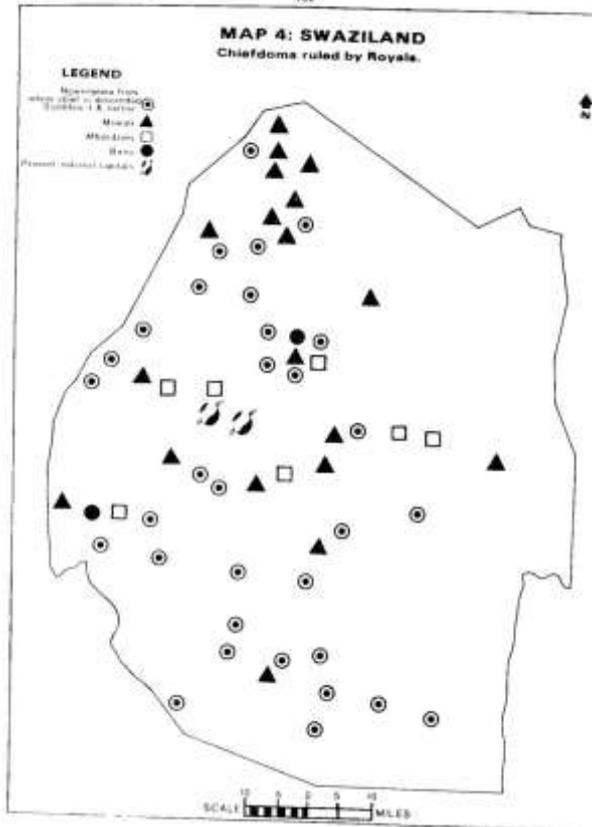
Some impression of the geographical distribution of those different types of Chiefdoms can be gained from Map 3. It must be understood that, since these vary greatly in size, there is no necessary connection between the density of Chiefdoms in any particular area and the density of population there. Nor has it been practicable to indicate boundaries; since these are not recorded in any documentary form, and in many cases are in dispute.

Where a single Chief rules two or more spatially separate territories, the symbol has been placed in the one with the largest population.



It will be seen that, although Chiefdoms of all three types occur in all Districts, there is a greater concentration of those under Royals in the northern and western parts of the territory; and a greater concentration of Clan Chiefdoms in the south and east.

Map 4 shows only Apanages, and the *Ngwenyama* from whom the Royal ruling each one is descended. This reveals how the majority of Apanages south of the Great Usutu River were granted to sons of Somhlolo; so that their rulers are now "far from the fire", genealogically relatively distant from the present *Ngwenyama*. - This, together with the high proportion of Clan Chiefdoms in the south, may perhaps explain in part why these southerners are the most frequent exponents of the view that there are very definite limits to the traditionally sanctioned rights of control of the Central Authority over the people and rulers of the Chiefdoms.



Map 3 also brings out the relative sparsity of areas under Lieutenants. These are the "lands of the Great House of Ngwane"; which are still indisputably under the control of the Monarchs and the Central Authority.

In circles close to the Central Authority one is often given the impression that Royals are by far the most important and influential of all Chiefs; and that the whole pattern of local governmental organization in Swaziland could be satisfactorily explained in terms of the genealogy of the Dlamini family. A similar impression is sometimes given by the literature. Thus, Kuper makes the point that "from among 169 Chiefs listed by the government, 75 are Dlamini; the number would be even greater if a number of the leading princes of the past had not been killed or banished." In a later work by the same author the total number of Chiefs listed is 152; of which 69 were Royals, 56 were Clan Chieftains, and 27 Lieutenants. According to Murdoch's assessment of the position in 1960, there were then 159 government-recognised Chiefs; of which 73 were Royals, 63 Clan Chieftains, and 23 Lieutenants.

The latest figures are those obtained by Jones in 1966. He lists 67 Royals, 21 Lieutenants, 55 Clan Chieftains and 11 "others". The last are described as "Chiefs whose appointment cannot be readily identified with any of the three previous categories."

Despite the small discrepancies in the totals (probably duo to the fact that they refer to different periods) all these sets of figures do suggest that Royals are the predominant element among the Chiefs. However, if we examine the

population distribution among the different types of Chiefdoms a slightly different picture emerges.

TABLE XIX
ESTIMATE POPULATIONS OF DIFFERENT TYPES OF CHIEFDOMS

		APANAGES	LIEUTENANCIES	CLAN CHIEFDOMS	OTHER	TOTAL
Estimated number of inhabitants	1960	88,000	42,000	88,000	-	218,000 (Est.)
	1966	118,745	56,165	116,389	16,980	308,279
Percentages of total population	1956	39.8%	17.4%	36.4%	6.4%	230,000 (Est.)
	1960	40.4%	19.3%	40.4%	-	218,000 (Est.)
	1966	38.5%	18.2%	37.8%	5.5%	308,279

In Table XIX I give my own estimates of the numbers of subjects of different types of Chiefs in 1960, and Jones's figures for 1966. In the second part of the table these figures are expressed as percentages of the total population involved. With regard to the numbers of individuals, the 1960 estimates were based on an assumed population of 218,000; and estimated total based on the findings of the 1960 sample survey; Jones has suggested that this figure may have been too low; possibly because "random choice of (sample) areas excluded the main areas of population concentration and favoured the least densely populated parts."

If this contention is correct, then the absolute increase in the numbers of followers of different types of Chiefs may in reality have been far less than indicated by this table. Of greater interest are the percentage figures in the second part of the table, which also indicate the position at the 1956 Census. These suggest that there was little change in this respect during the decade between these two censuses.

These figures indicate that although Royals outnumber the Clan Chieftains, the latter have approximately the same number of people under their control as the former. Further, since we have included among Royals all Chiefs with the title of *Mntfwanenkosi*, an allowance must be made for those whose Chiefdoms are not true Apanages. Thus, we have included under the "Apanages" heading in the 1960 figures, the subjects of the returned emigrant, Tekwane Dlamini, whose subjects probably numbered about 9,000 persons at the time to which these calculations refer.

The purpose of giving these figures here was primarily to give some idea of the numbers of people in Chiefdoms of different kinds; to demonstrate that one must not under-estimate the importance of the Clan Chiefdoms; and to indicate how relatively few Swazi (about a fifth of the total) are actually living on "Lands of the Great House of Ngwane"; that is, in Lieutenancies.

From the tenurial point of view it is important to bear this in mind. Lieutenancies, it could be argued with some force, are only administrative conveniences; and are in terms of customary law integral parts of a single land community controlled by the Swazi Central Authority. However, the situation of

the other two types of Chiefdom, in which an estimated four fifths of the rural population actually live, is rather different.

UNIFYING INSTITUTIONS

There are a number of institutions whereby the Central Authority exerts control over the Chiefdoms and their inhabitants. Some date from the early days of the Swazi state. Others are more recent innovations. The origins and methods of functioning of a few of these have already been mentioned, such as those of the regimental organization. However, a slightly fuller description of the more important of these institutions may help to put the traditional Swazi governmental system, and the relationships between different levels of land community, into a clearer perspective.

Attachment of Chiefdoms to Royal Homesteads: Every Chiefdom in Swaziland is officially "attached" to one of a small number of royal Homesteads. In some cases this attachment is direct to one of the capitals. In others it is indirect, to a royal Homestead that is in its turn, attached to a capital. Thus, in the south one finds all Chiefdoms attached to Old Zombodze, which in turn is attached to Zombodze, which is directly controlled by the *Ngwenyama*.

The resultant groupings do not (except in the atypical south) form geographical units. Chiefdoms adjacent to one another may be attached to completely different royal Homesteads; and a single Homestead may have Lieutenancies, Apanages and Clan Chiefdoms among those attached to it.

This attachment is primarily an administrative device, and does not imply that the Lieutenant of one of these royal Homesteads is necessarily superior to the Chiefs attached to him. With regard to Royals, Swazi describe the relationship by saying that they should address this Lieutenant as "father" (*babe*), and he should also call them "father"; thus implying that this relationship is not one of subordination and superordination, but rather that of two individuals with different but definite roles, rights, and duties to one another. Lieutenants of such Homesteads have stressed that they can only give instructions to Clan Chieftains attached to them when they are acting as "the mouth of the *Ngwenyama*".

Any Chief has the traditional right to summon (*kumemeta*) his subjects to perform certain kinds of tribute labour. The Lieutenant of a royal Homestead to which other Chiefdoms are attached can summon labour from these to perform tasks directly connected with the Homestead itself; but in such cases he must summon them in the name of the *Ngwenyama*, who should be informed before such a summons is issued. Lieutenants of lesser Royal Homesteads to which no other Chiefdoms are attached cannot "summon" members of their own Chiefdoms. Subjects of other Chiefs can only be "requested" to assist.

These attachments are significant in legal matters; in the organization of the regimental system; and in the organization of National tribute labour gatherings. Before the establishment of the National Courts, cases going beyond the Chiefdom, to the court of the *Ngwenyama* or the Queen Mother, were supposed to be reported first to the Lieutenant of the royal Homestead to which the Chiefdom

was attached. This should still apply to land cases with which the National Courts are not competent to deal. Similarly, a Chief wishing to accept a foreigner (a man not a Swaziland Swazi) as a subject should approach the Central Authority for permission to do so through the Lieutenant of his royal Homestead. News of the death of a Chief should be sent through the same channel, as should the beast that the people of that Chiefdom should send to the appropriate National capital on such occasions.

These links between Chiefdoms and royal Homesteads produce a number of groupings that are not dependant on physical propinquity. So, they undoubtedly serve to emphasize the importance of National affiliations and loyalties, as against those based on locality. In earlier times this was probably one of their greatest uses to the Swazi Central Authority. Nowadays, however, there are a number of other institutions which bring the Central Authority into contact with Swazi in all parts of the country; and the importance of this particular institution has inevitably grown less.

The Age-Regiments: In former times all major royal Homesteads had barracks (*emalawu*) attached to them. Every Swazi male when he reached the appropriate age automatically became a member of an age-regiment (*libutfo* pl. *emabutfo*). In each age-regiment there were two groups; the majority of men who remained at their own homes and were only called up for regimental duties on special occasions, and those who went and lived semi-permanently at these royal barracks. This last process was known as *kubutheka*; and those who took this course bore the proud title of *umbutfo*, which could be translated as "regular soldier".

A young "regular" normally aspired to serve at the National capital to which his Chiefdom was attached. Other men went and settled at other royal Homesteads, nearer to their own homes, and also called themselves *imibutfo*; though those based at the National capitals might question their provincial fellows right to this title.

These "regulars" not only provided a permanent military establishment, but also acted as police and a labour force in times of peace. From their ranks promising individuals could be drawn to fill posts of responsibility in the National Organization. Great rewards might await the enterprising and loyal warrior who chose this way of life, and full-time service attracted many men who could hope to inherit little from their families.¹³⁶

The Regimental System Today: The regimental system still survives, but in a much attenuated form. The regiments ceased to have any real military function after Swaziland lost its political independence; although this was temporarily revived during the political inter-regnum when the Transvaal administration left the Territory during the Anglo-Boer War, and again when volunteers were sought from the *Emasotja* and *Sikhonyane* regiments during the 1939-1945 war. Now

¹³⁶ Particularly middle sons, who could neither hope to be General Heirs, or even Main Heirs of their mothers' Houses, nor to have the youngest son's task of maintaining his father's Great House after the latter's death. H. Kuper, personal communication. See also Holleman, "Die Zulu Isigodi", on the role assigned to a youngest son among the Zulu.

they are used only for ceremonial purposes, and for the occasional performance of tribute labour. Very rarely they may be used to enforce the decisions of the *Ngwenyama* or the National authorities.¹³⁷

Up until the fourth decade of this century there were many "regulars" living at the National capitals. Those who were among this group have assured me that even at the time of the annual *Incwala* ceremony, which hundreds of warriors attended, this hard core was sufficient for nearly all ceremonial purposes. The demands of modern education have contributed much to this decline. Boys are now still at school at an age when their fathers went to live in the barracks. The increased need for money has also made unpaid services of this kind unpopular. Today, regimental officers only sleep in the barracks on the rare occasions when they are summoned for ceremonial or other duties. The changed conditions have been accepted; and those who aspire to wear the *simohlwane*, the beads of a regular, are now more in the position of members of a club. They are expected to come to their barracks when called up to perform certain duties, and can be fined for failing to do so; but such summonses are rare, the duties are not onerous, and permanent residence in barracks is no longer required.

In every Chiefdom there still is, or should be, an official known as "commander of the warriors" (*indvuna yemajaha*), and also "captains" (also *tindvuna*) for each age-regiment which still has surviving and active members. There are also commanders for each age-regiment at those royal Homesteads to which Chiefdoms are attached, and two senior officers for age-regiments at the national capitals; one for the sections attached to Lobamba, another for those attached to Lozhita. Above these is the overall commander, based at Lobamba, while the *Ngwenyama* himself is regarded as the commander-in-Chief.

The parade of age-regiments on such occasions as the *Incwala* is certainly impressive, but one must accept with some reservations the claims by enthusiastic traditionalists that all active males who are not away at work are expected to attend. A rough count made at one *Incwala* showed that there were approximately 1,000 warriors present, or approximately 2%-3% of all male Swazi of the appropriate age-groups.

Many of the men who attend the *Incwala* do not join their regimental groups, for a variety of reasons. They may belong to a Christian denomination that frowns on participation in a "heathen" ceremony. They may be too shy to attempt to take part in an intricate ceremony of which they do not know the details. Or they may simply lack the appropriate uniform. One item of the *Incwala* dress, a leopard skin, may cost over R10 to buy. Attendance at the *Incwala* is allegedly compulsory for all males; but in practice all that is required is reasonable representation from each Chiefdom. What is "reasonable" is variously interpreted.

¹³⁷ As was the case when one of the Clan Chief in the Lubombo District was deposed recently, an *impi* of Swazi warriors was sent by the *Ngwenyama* to reinforce the Swaziland Police... the deposition ceremony

There have been attempts to introduce the regimental organization into the schools. Opinions vary regarding the success of this move. The system of age-regiments, particularly in the form that it operated in the past, stressed National ties as against local ones. The *umbutfo*, the regular, retained his kinship ties, and his allegiance to his Chief; but he was also an integral part of the National organization; and so served as a constant reminder to his kinsmen and erstwhile neighbours that they, too, belonged to the wider world of the Swazi People.

Envoys: There are nowadays various other devices whereby the Central Authority seeks to exert direct control over, and maintain contact with, the people in the Chiefdoms. One of these is the despatch of special "Envoys" to any area where a particular problem has arisen. Thus, a special committee of Envoys was sent to Shiselweni District in 1936, to examine a spate of land disputes which had developed there. Envoys are also sent to look into such things as attempted banishments by a Chief, when the individual threatened with banishment has appealed to the Ngwenyama.

Such Envoys are chosen whenever an occasion for intervention by the Central Authority arises. But another category of agents of this Authority who are often styled "Envoys" are those permanent officials whom we mentioned earlier; the District Liaison Officers (*Tindabazabantu*) and Rural Development Officers.

District Commissioners also on occasion act as agents of the Swazi Central Authority. The latter has formally delegated certain powers to them, and frequently calls on them (and the Territorial police) for assistance in enforcing its rulings. The Central Authority also exerts its influence through agents of the *Lifa* Fund and through the "National" and "tribal" schools. The distinction between these two classes of schools is a technical one, and both are in fact financed partly by the territorial government, and controlled by a School Board which works in very close collaboration with the Territorial education authorities. Nevertheless, they provide yet another opportunity for the Central Authority to be "seen to concern itself" with the day to day life of Swazi in all parts of the Territory.

The National Courts: After the British occupation the judicial powers of the Swazi authorities was restricted to dealing with cases regarded as "civil" by western law. Most such cases were, in fact, heard and settled in the Chief's courts; and the Chiefs retained the right to levy hearing fees and to levy fines on their people. There was a right of appeal to courts at the National capitals.

This situation was altered by the Native Courts Proclamation. National Courts were set up at all administrative centres, and at the National Capitals. Each capital also had an Appeal Court, and a National Higher Court of Appeal was established at Lozhita.

These courts have limited criminal jurisdiction; and are staffed by a salaried judiciary selected by the Central Authority. They apply Swazi customary law, but have adopted many items of western legal procedure. They are courts of record, and judgments must be confirmed by the Judicial Commissioner, a central government official. Fines are paid into the National Treasury.

Many Chiefs complain that this re-organization has deprived them of powers that were always traditionally theirs, and that the loss of income from court fees has made it increasingly difficult for them to meet all their traditional obligations.

Tinkundla: In 1953 the Central Authority formally decided to adopt a new administrative device, known as an *inkundla* (pl. *tinkundla*). This is occasionally translated as "regional committee", but, in practice the Swazi form (which has the basic meaning of "courtyard, meeting place") is virtually always used.

These *tinkundla* bear some resemblances to the royal Homesteads which Swazi rulers were accustomed to establish in various parts of the country. They are, in fact, sometimes described as *imiti yenkosi* ("homesteads of the King). Each has its own "lieutenant" (*indvuna*), who is appointed by the *Ngwenyama*. Here, however, the resemblance to the older-style subsidiary royal Homesteads ends. No wives of the *Ngwenyama* have been sent to live at these places. No territories have been allotted to them. Nor do the "lieutenants" in charge of them have any subjects directly under their own control. Instead, a number of Chiefdoms have been attached to each *inkhundla*. The avowed aim of the originators of this system was to develop it into a new method of local government. The centres were designed to provide, among other things, a place where delegates from all the Chiefdoms attached to each one could meet to discuss and settle common problems; and where they could be summoned to meet representatives of the Territorial and National administration.

The system was started after the 1939-45 War, during which a fund (the *Enyakato* or "Up north" fund had been created through a levy of R10 made on every member of the *Emasotja* age-regiment. It was intended to use this fund for development loans to *tinkhundla*. In conformity with the idea that they should have a developmental role, each of these centres has a field attached to it, and the lieutenant in charge was empowered to summon labour from the Chiefdoms attached to his *inkhundla* to cultivate this. Labour can also be summoned for other purposes directly connected with the *inkhundla*.

Unfortunately, there were considerable divergencies of opinion regarding what the functions of these centres was. Government officials often tend to regard them merely as convenient places for meeting people from several different Chiefdoms at the same time. Lieutenants in charge of them often saw their own role as that of only transmitting orders from the Central Authority direct to people in the Chiefdoms. Many Chiefs undoubtedly regard them as yet another attempt by the Central Authority to increase its power at their expense. The people, now subject to yet another set of demands for tribute labour, often complain that they are no more than a cunningly disguised form of extra taxation.

Under the present Constitution *tinkhundla* have a new role as part of the electoral machinery. This appears to be a more positive and easily comprehensible function than any that they had prior to this. Nevertheless, in 1969 it appeared that there was still dissatisfaction on the part of many officials about the lack of any really functional role for these *tinkhundla*, and a continuing suspicion on the part of people in the Chiefdoms about the role that they might come to have.

Other links: Apart from these formal channels of communication between the Central Authority and the Chiefdoms there are other institutions which emphasize the importance of the Monarchy.

One of these is the marriage of female agnates of the *Ngwenyama* to important Chiefs. Kuper explains the position succinctly in the following words. "Female relatives of the King are politico-economic assets to be judiciously invested. The most important princesses are given as wives to foreign rulers and non-Dlamini Chiefs. In this way they link the King with important local units, and serve as useful informants on local politics and interests.

Since who becomes a man's General Heir depends on the rank of his mother, these women are also certain to be the mothers of the future Chiefs. Even before this, such a union places the Chief who marries one of the *Ngwenyama's* female kin in the position of a son-in-law (*umkwenyana*) to the Dlamini family. Though this is a position of honour, it also, by custom, gives the "parents-in-law" (in this case the Dlaminis) the right to reprimand the son-in-law for behaviour which they consider shows insufficient respect towards themselves. Thus, many a powerful Clan Chieftain of the present day, when he visits one of the National capitals is going not only to an administrative centre but also, more personally, to "the place of his mother" (*ekhayabonina*). For a Swazi, these are both places where he can expect kindness and help, but towards the people of which he is always supposed to show considerable respect.

Rituals are also used to reinforce the ties between rulers and people. Of these the most important is undoubtedly the *Incwala*; a series of rituals centred around the two Monarchs, and associated with the earth, agriculture, the bringing of rain: and the general well-being of all the Swazi people. There are clans other than the Dlamini who claim that their own rulers had rain-making powers in the past; but that they were forcibly deprived of the necessary "medicines" and ritual objects when they were conquered by the Dlamini. This particular ritual, with its connection both with the Monarchy and with the regimental organization, stresses in rather an obvious manner the association of all adult Swazi males in an organization (the military organization) which cuts across all local loyalties, all types of Chiefdom, and all kinship ties.

As mentioned earlier, there are some Clan Chieftains (such as those of the Mamba and Simelane Chiefdoms) who still have their own First Fruits Ceremonies, which they are not supposed to perform until after the completion of the *Incwala*.

The ritual uniqueness of the *Ngwenyama* is stressed in many other ways; by the special ritual associations of the harem quarters (*isigodlo*) at Lobamba; by the insistence on the avoidance by himself and his close kin of any contact with all forms of death; the extreme veneration accorded to all royal graves. Each *Ngwenyama* also establishes a special ritual relationship with two clans; the Matsebula and the Motsa, from whom he must take his first two wives, (known as

tesulyamsiti, wipers away of body dirt); and from which his first two "blood brothers" (known as *tinsila*, body dirt) are drawn. Later, other *tinsila* are appointed from other Clans.

Other rituals which serve the purpose of emphasizing the unity of people from all Chiefdoms under the Monarchy are the annual Reed Dance (*umhlanga*) of the girls, the annual dance of young men at the royal Homestead of Entonjeni in the north and the occasional gatherings of warriors summoned to repair the cattle byres at the National capitals. Technically, these are tribute labour gatherings. Nowadays, however, the ceremonial aspect has become of far greater importance than the work done.

One is often told that people from "all the country" attend on these occasions; and given the impression that only the sick, halt or blind would be found at their homes at these times. In point of fact these gatherings, though impressive, are not nearly so all inclusive.

In 1958 officials in charge of the Reed Dance at Lobamha (at which girls first gather reeds to repair the wind-screens at the capitals, and then stage a dance lasting two days) supplied information about the various *mkhabdza* (local contingents) participating in this ceremony, and the girls making up these contingents.¹³⁸ This Information is shown on Map 5, which gives an impression of where these participants came from.

Another similar device is an *umcwasho* (pl. *imicwasho*), which is a temporary association of unmarried girls under the patronage of a daughter of the *Ngwenyama* or a Chief. Those girls adopt a distinctive dress (normally a tasselled woollen head-dress now), lay down rules of behaviour (breaches of which are punishable by a fine); and gather together at irregular intervals to perform token tribute labour.

THE CENTRAL AUTHORITY AND THE INDIVIDUAL

The individual Swazi is thus brought into contact with the Central Authority in a host of different ways. Apart from the direct channel through the Chiefs, Ward Heads and Homestead Heads, there are also all the other channels described in this Chapter.

No attempt has been made here to analyse the effect of each of these institutions in detail. To have done so would have been tedious, and not always strictly relevant to the main theme of our investigation. Where any institution does have a direct effect on the indigenous tenurial system, this will be discussed when we deal with that particular aspect. However, in order to give some impression of the number and variety of these influences, an attempt has been made in Figure 10 to show this diagrammatically.

REED DANCE 1958.

¹³⁸ Checks and counts made at this ceremony, by myself, my wife and by literate male Swazi of an age in which the ability to discover the antecedents of any unknown girl is highly developed, suggest that this information was remarkably accurate.

CHIEFDOMS OF PARTICIPANTS

1 dot represents 1 person

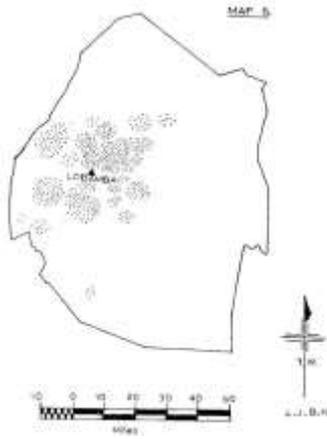
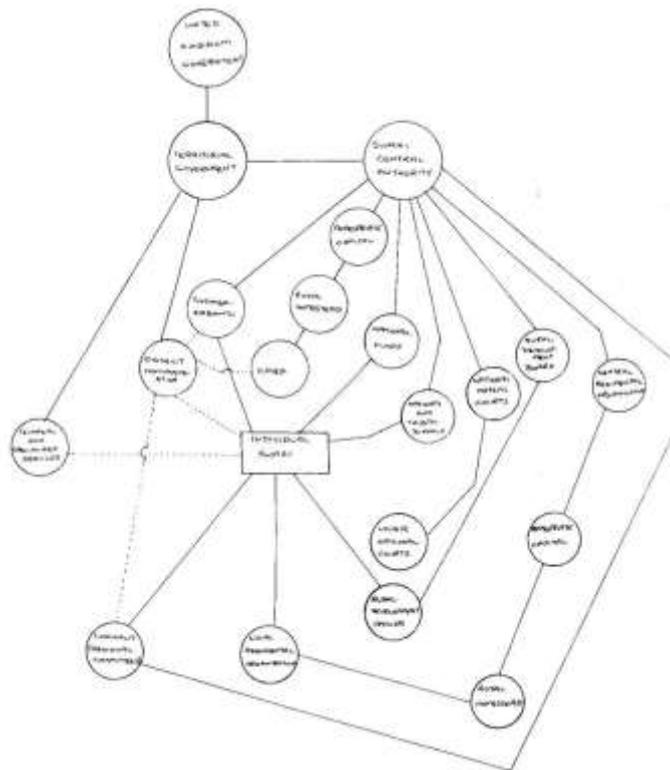


Figure 10
THE INDIVIDUAL AND THE TRADITIONAL ORGANIZATION



PART III – DEVELOPMENTAL PROBLEMS

CHAPTER 13

THE DISTRIBUTION OF ARABLE HOLDINGS

In the Introduction, the point was made that Swaziland possesses adequate natural resources to ensure a far higher standard of living for its inhabitants than is common today. It was also suggested that the various agrarian and economic problems of the Swazi areas might be due to the manner in which these natural resources were being exploited.

Before we can discuss whether the Swazi system of tenure is good or bad from the developmental point of view, and whether economically essential changes would or would not inevitably destroy the whole traditional way of life, we should examine what effects it has actually had, in terms of the pattern of rights existing at the present time. To begin with we will deal with one of the more important classes of rights that flow from a share in land community's Right of Avail, those covering the holding and use of arable land.

THE DATA AVAILABLE:

No extensive study of the sizes of arable holdings of Homestead Groups, and the spatial relationships between these, has ever been conducted over all Swazi Nation Land. Even the exact sizes of Chiefdoms are seldom documented; let alone the acreages over which sub-sections of these Chiefdoms have acquired Bantu-Ownership or other rights. During the course of this study we did not have the resources available to conduct studies in depth in more than a few selected areas. Some surveys have been conducted in the past; by officials of the Swaziland Government. In addition, from data collected during the 1960 Sample Survey it is possible to make estimates of the total amount of cultivated and fallow land in each of the four physiographic regions, and of the average amount available for each Homestead Group.

While we therefore have little in the way of valid statistical information regarding arable holdings (as distinct from land cultivated) for the Territory as a whole, investigations in a number of areas with different population densities and in different physiographic regions suggest that there is little variation in the overall pattern throughout most of the S.N.L. Population density may affect the actual sizes of holdings to some extent, and the degree of movement between one holding and another. But in all areas which were investigated there was the same pattern of fragmentation, of the demarcation of all the boundaries of arable land, and of the inheritance of land rights by Houses within the Homestead Group.

Map 6 and Map 7 give some indication of the pattern one actually sees on the ground. The former covers parts of a Chiefdom in the Highveld, the latter, part of one in the Middleveld, in Shiselweni District. The Highveld Chiefdom was relatively thinly populated, with an estimated density of the order of 40 persons per square mile; the estimate for the other Chiefdom was of the order of 80 persons per square mile.

The maps, naturally, cover areas where settlement and cultivation was relatively concentrated. The same numbers have been used for Homesteads and the fields of those Homestead Groups, to indicate which fields belong to which Homesteads. There are the inevitable cases where some of a Homesteads' fields lie outside the area mapped, while some fields shown belong to Homesteads which are outside this area.

Not all fields are plotted exactly to scale; to have done so in the case of the smaller ones would have made them virtually invisible. These are sketch maps, it must be remembered, designed primarily to give an overall impression of the situation. Calculations for the various tables given below are based on more exact measurements.

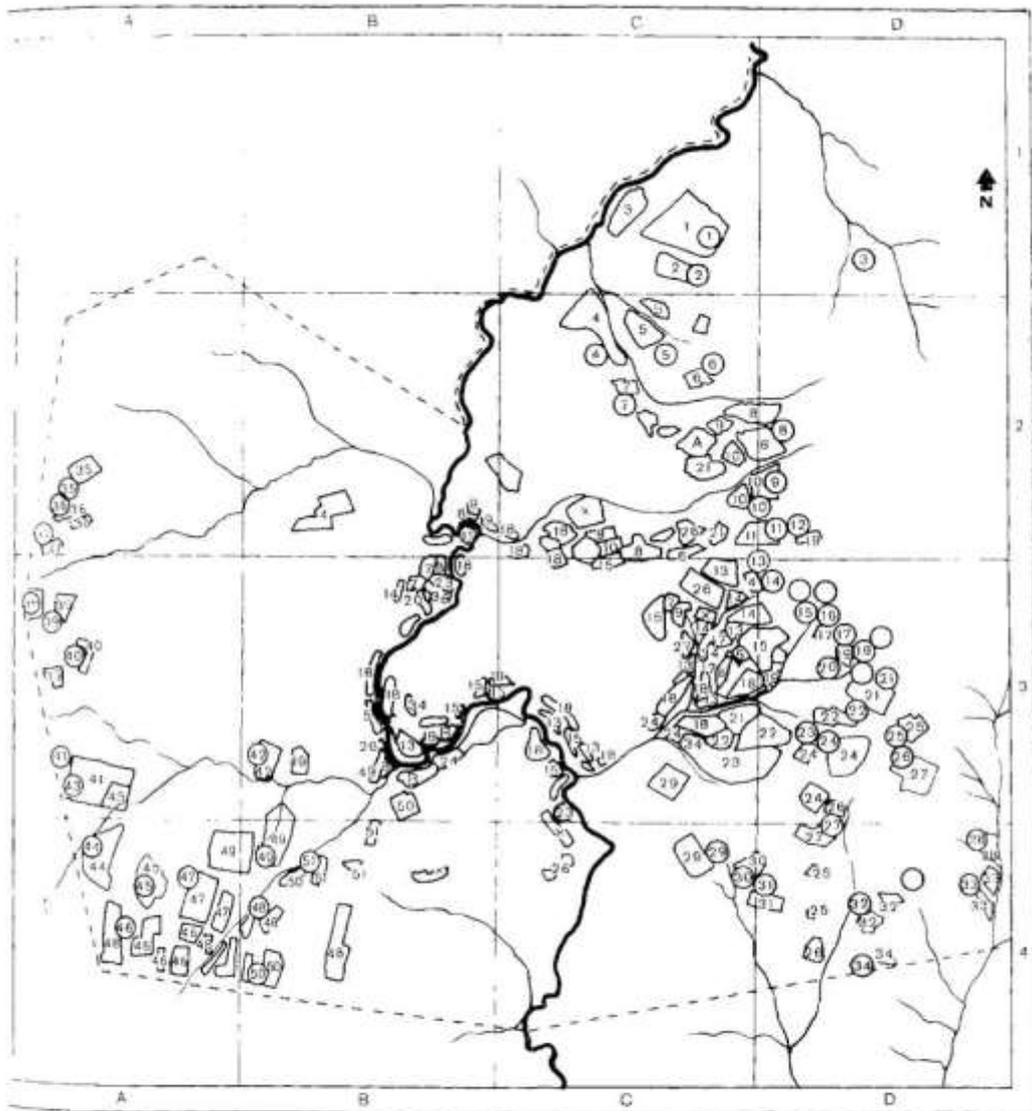
Gathering the data: The method used to gather the information on which these sketch maps are based was to approach each Homestead Group in the selected area, to ask them to indicate which were "their fields" (*emasimu abo*) to establish the location of at least two corner points of each of these by the compass and pace method, and then to use the same method to establish the shape and area of the field. The bearings and distances were then plotted on a relatively large scale (one, two or four millimetres to the yard) to establish whether this simple survey "closed" with sufficient accuracy to be accepted; and to enable areas to be measured with reasonable accuracy. As a further check, the field was plotted on a 1:10,000 sketch map of the area.

If any inconsistencies were observed after these two processes, the boundaries of the field in question, the locations of the corner points used to locate it on the 1:10,000 plot, and the boundaries of neighbouring fields, were re-investigated. This was only necessary in a small number of cases.

With regard to what we may call the "sociological" status of each field, the method employed was to enquire how the Homestead Group concerned had originally acquired rights over it. If it was a question of inheritance (as it often was), we enquired how the first member of the family had been "Placed"; what claims other individuals or groups were known to have over that land immediately before this Placing occurred; who had been present; who had been the 'Envoy' and what "beast to thank" (if any) had been paid.

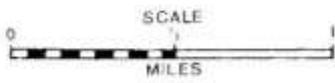
In both the areas shown on the sketch maps field investigations had been under way for some time before any mapping was attempted. It was, therefore, relatively easy to establish which other Homestead Groups might have claims over any particular field, and to obtain their version of the tenurial position in any particular case. In only a very few instances did these other versions not agree with that given by the Homestead Group currently cultivating or claiming the field.

MAP 6: DISTRIBUTION OF ARABLE HOLDINGS.
Part of Highveld Chiefdom- Central Swaziland.

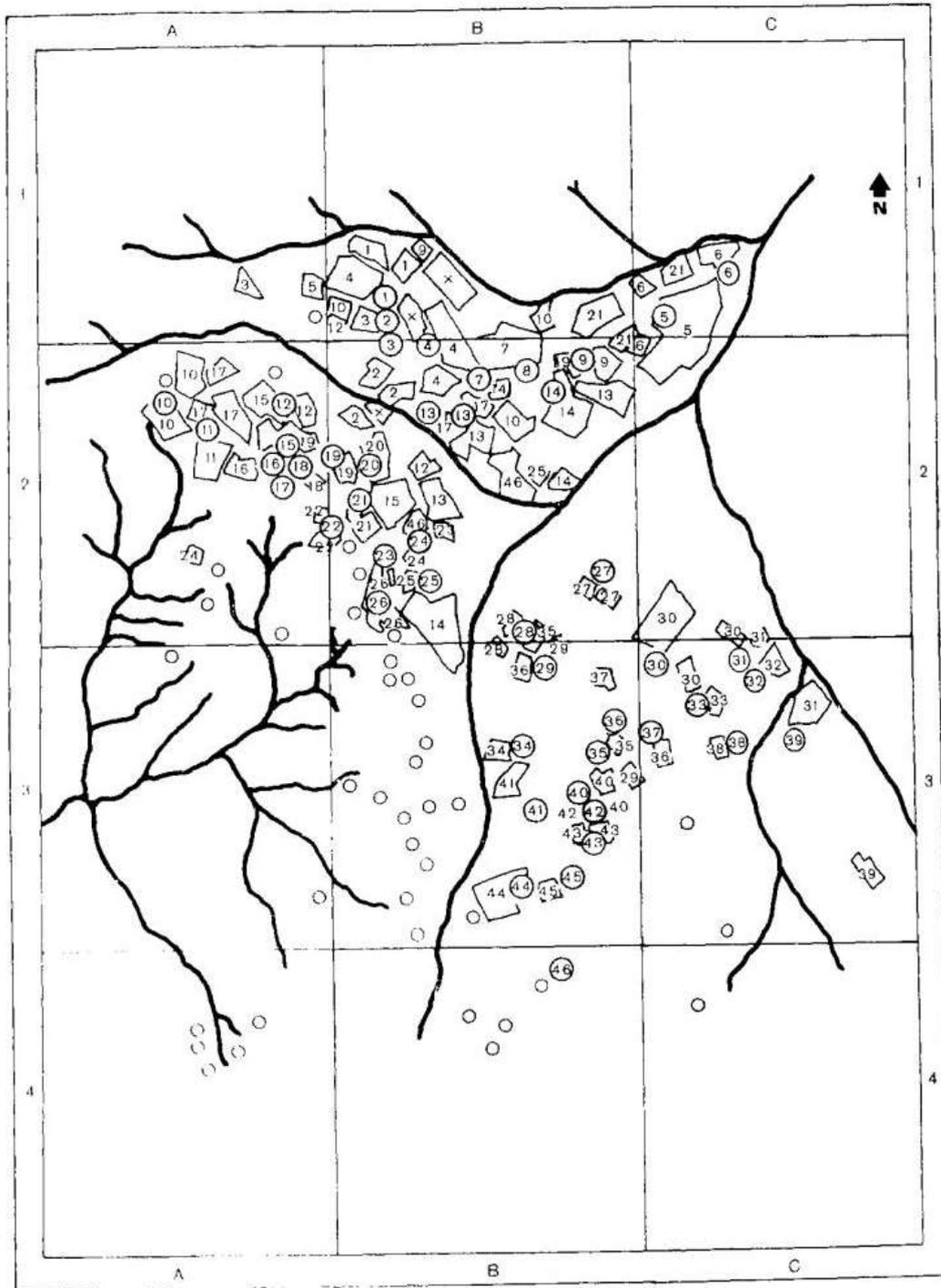


LEGEND

- Field of Chief
- Homestead
- Arable holding
- Arable holding - size unknown
- Arable holding - by Homesteads not in area mapped
- Stream

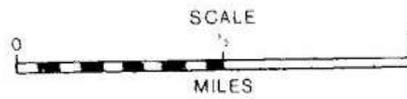


MAP 7: DISTRIBUTION OF ARABLE HOLDINGS.
Part of Middleveld Chiefdom - Southern Swaziland.



LEGEND

- Homesteads
- Homesteads (with no fields shown)
- 18 Fields
- [Unnumbered Fields] Bantu owners unknown
- x Fields held by Homesteads (area mapped)



HISTORIES OF SETTLEMENT.

The Highveld Chiefdom: This Chiefdom (which we shall henceforth refer to as Chiefdom A was originally established by the grandfather of the present Chief. The latter, though a Dlamini, was not a Royal in the sense in which we have used this term in this study. He was not sufficiently "close to the fire", of sufficient genealogical seniority in the Dlamini family, to have a Portion of his own to rule. On the other hand, he was a sufficiently doughty warrior to have been sent by the Ngwenyama Mswati to occupy this part of the country (-which was then beyond the area of Swazi settlement) and to guard what was then - and still is – one of the Swazi borders.

He originally settled in the area of Square D.3 on the map. This site was chosen because of its defensive advantages (it was on the edge of the valley, with a precipitous stretch of mountain country immediately behind it) and because of the presence there of a large cave which could be used as a place of refuge. The only inhabitants of this part of the country were a few scattered Sotho groups, who were evicted. He was accompanied by a few followers, including one of the surname Masuka, whose descendant is now the Deputy of the Chiefdom. This man originally lived in the same Homestead as the Chief. On marriage he moved to another site (still in the area of Square D.3) from which he was able to *vusela*, to greet, his Chief every morning. Later he moved to a site that is now on a farm (to the west of Square A.2), and his descendants later moved back to a site not shown on the sketch map, to the north of Square D.1.

Among the first settlers, it appears that only the Masukas and the original Chief have descendants who are still living in the Chiefdom. In fact, the names, surnames and even the total number of those forming part of the original party are now forgotten. All that is known is that some time after the original settlement other individuals desirous of settling in this area approached the Chief and asked for permission to construct Homesteads there. When this was granted, the new settlers were shown actual Homestead sites and areas of arable land they could use. They were not given extensive areas which they themselves would then further subdivide as they wished, nor were they permitted to allow any new Homesteads to be established in the vicinity of their own without referring to the Chief, who then personally arranged the Placing of the new arrivals.

Later, two royal cattle posts were established to the north and east. In due course the three Chiefs established the exact boundaries of their various domains, and marked these by burning firebreaks.

It is significant that no similar arrangements were made with regard to Chiefdoms lying to the west or to the south. In 1885 a concession was granted over these areas, and such boundary disputes as are remembered were with concessionaires, not with neighbouring Chiefs. It was impossible to establish the exact date at which the original Swazi party arrived in this part of the country, but since the first Chief survived until after the end of the Anglo-Boer War it is

obvious that this Chiefdom only developed during the period after contact had been established between Swazi and Europeans.

The Middleveld Chiefdom (Chiefdom B): Map 7 covers part of what is (in terms of population) the largest Chiefdom in Swaziland, that of the Simelane. The area between the rivers in squares B.2, B.3 and C.2; C.3 and C.4, is in dispute between the Simelane and the Chief (a Royal) whose territory lies to the east. All Homesteads marked on this map, however, belong to subjects of the present Simelane Chief.

This is a Clan Chieftaincy. The Simelane migrated from Zululand some time towards the middle of the last century. They still practise their own First Fruits ceremony (*luselwa*), and for this purpose send messengers to collect water from river's running through the country from which they came. No definite information was available regarding the occupants of this particular area before their arrival. The balance of the evidence is that these previous inhabitants had been dispersed as the result of the Zulu raids, and that the Simelane selected only those parts which were either unpopulated, or only thinly populated. They contacted the Swazi *Ngwenyama* of the time (probably Mswati) to whom they offered allegiance (*kukonta*). This was accepted, and they appear to have been left a considerable degree of local autonomy.

In the early days of their settlement the Simelane rulers migrated considerably over the region which now forms their Chiefdom. One built a Homestead (not shown in the sketch map) in square A.1 before moving elsewhere. This still survives as a named unit. Later, a member of a cadet branch of the Simelane family was made the Ward Head (*indvuna*) of the people in this area. Also living here are some Homestead Groups which owe allegiance to another branch of the Simelane who have established a separate Chiefdom further to the east.

Settlement histories of individual Homestead Groups: In the case of the Chiefly family (in Chiefdom A) and that of the Ward Head (in Chiefdom B) and of a few other groups, there was a history of residence in the area of three to four generations. Among the remainder (amounting to about half the Homestead Groups investigated) this period of residence only extended over one or two generations (that is, either the present Homestead Head or his father had been the first to settle in the area).

With regard to fields, it was seldom possible to discover the exact status of any particular one prior to the time of the father of the present Homestead Head. The sites of the few fields cultivated by the very early settlers were often remembered, but when one enquired about others one was merely told that so-and-so (sometimes a private individual - sometimes the Chief or Ward Head) had Placed the informant's father on an old field (*lifusi*); and seldom did anyone remember how the Placer had acquired this land in the first place. The same thing occurred in the case of inherited fields, it was possible to discover that the present Bantu-Owner had acquired the field from his father; but not how the latter had gained possession of it.

Such things were not remembered, and were obviously of little importance to Swazi informants. Provided that one's own claim to Bantu-Ownership was good (through having been formally Placed on the field) and that the earlier claim of the Placer had been generally recognized, why should one enquire any further?

FRAGMENTATION OF HOLDINGS.

A study of the maps will reveal the extent to which Homestead Groups' arable holdings are fragmented. The juxtaposition of holdings of different Homesteads in the area (as in Square C.3 on Map A), while these same Homesteads also have fields in other, relatively distant areas, gives an impression of the lack of "family estates" within the Chiefdom. The "estates" are there, in the form of arable lands over which agnatic groups have very definite rights, but they are not localised in any particular areas. Just as in the case of fields allocated to individual Homesteads, they are usually scattered over the countryside, and between them lie parcels of arable land over which other agnatic groups have equally strong rights. This supports the contention of Swazi informants that Bantu-Ownership of fields does not (nowadays) lead to any Preferential Right of Extension.

A good example of this fragmentation is provided by the holdings of the close agnates of the Chief in Chiefdom A (Map 7). There, these inhabit the Homesteads numbered 6, 8, 9, 10, 11, 12, 1.5, 21, 23, 24, 28, 34 and 35. An examination of the location of the fields bearing these numbers will reveal the extent to which they are scattered.

In many cases this fragmentation seems to have resulted from members of Homestead Groups seeking extra fields in areas that they for some reason considered particularly desirable; presumably because they considered it more fertile, or more likely to yield a crop in a dry year. This was allegedly the cause of many Homestead Groups in Chiefdom A seeking extra land along the banks of the main river in this area (Squares B.2, B.3 and C.3).

Some quantitative measure of the degree of fragmentation is given by Table XIII below. In this we have included not only data referring to selected samples drawn from the two Chiefdoms that we have been discussing so far, but also figures obtained from two surveys conducted in two other Chiefdoms (C and D) in southern Swaziland by the Land Utilization Department. These, being complete surveys of the entire Chiefdoms, provide a useful comparison with the data obtained from our two selected samples. The latter, incidentally, only included Homesteads with fields.

TABLE XIII
Number of Fields per Homestead

Number of Fields	Percentages of Homesteads.			
	Chiefdom A	Chiefdom B	Chiefdom C	Chiefdom D
0	-	-	3.3	2.6
1	28.3	30.2	10.3	6.6
2	23.9	39.5	20.6	23.7
3	15.2	14.0	23.8	10.5
4	10.9	7.0	19.2	19.7
5	8.7	4.7	7.9	14.5
6	4.3	2.3	5.6	6.6
7	-	2.3	3.3	5.3
8	4.3	-	3.7	6.6
9	-	-	0.9	-
10	2.2	-	-	-
Over 10	2.2	-	1.4	3.9
	46*	43*	214*	76*
	100.0% ²⁾	100.0% ¹⁾	100.0%	100.0%

l) Some Homesteads shown on the sketch maps were not included in the totals as there was doubt as to the exact total of the fields they claimed, and were recognized by the community as having rights over.

Table XIV shows the percentage of Homesteads in the four samples having three or more fields in and five and more fields each.

TABLE XIV
Percentages of Homesteads with various Numbers of Fields

	Chiefdom A	Chiefdom B	Chiefdom C	Chiefdom D
With 3 or more fields	53.8	30.3	65.8	66.9
With 5 or more fields	21.7	9.3	22.8	36.9

Both these tables, while showing the very considerable variations between different areas, also give some impression of the degree of fragmentation which has developed. In three of our samples over half the Homestead Groups have three or more fields, and between 21% and 37% have five or more. It is interesting to note, also, that the figures for Chiefdom A, which is in the Highveld and relatively thinly populated, correspond more closely with those for Chiefdoms C and D than do those for Chiefdom B, although these last three are all in the same physiographic region, in the south of Swaziland, and all are relatively densely populated.

Size of Arable Holding's: Figures obtained during the 1960 Sample Survey enabled estimates to be made of the average (arithmetic mean) acreage of cultivated and fallow land available to each Homestead in the four different physiographic regions. These are given in Table XV A and XV B below. They should be compared with the figures in Table XV C, which show the average size of holdings in Chiefdoms A and B and also in three other Chiefdoms which (since they are not the same as C and D of Tables XIII & XIV) we have designated E, F and G. The figures relating to the last three were obtained from surveys conducted some years before investigations were carried out in Chiefdoms A and B, but there is no reason to believe that the situation changed to any appreciable extent in any of the five areas in the intervening period.

TABLE XV
Acreage per Homestead
(Arithmetic means - 1960 Sample Survey)

		H	M	L	Lub ¹⁾
A	Cultivated and fallow	13.78	21.39	24.70	10.96
	Cultivated only	6.69	9.40	7.15	5.97

Acreage per head of population
(Arithmetic means - 1960 Sample Survey)

		H	M	L	Lub
B	Cultivated and fallow	1.78	2.74	3.26	1.58
	Cultivated only	0.86	1.21	0.94	0.86

Average (arithmetic mean) acreage of arable holdings

		Chief- dom A	Chief- dom B	Chief- dom E	Chief- dom F	Chief- dom G
C	Per Homestead	8.04	7.53	5.01	8.39	4.07
	Per Head	1.03	0.85	0.65	1.09	0.70

1) The letters H, M, L and Lub designate the four physiographic regions; Highveld, Middleveld, Lowveld and Lubombo.

The samples for which figures are given in Table XV C were not selected on a random basis. Therefore, there is no a priori reason for assuming that the discrepancies between these figures and those given in Tables XV A and B necessarily reflect great differences between the situation in these Chiefdoms and that in the rest of the country. There is, nevertheless, ground for some interesting conjectures. The figures in the first two tables were obtained as the result of an aerial survey and so take account of all land which is currently being cultivated and which has obviously been cultivated in the past; but we can only estimate when this last cultivation actually occurred.

Taking the Middleveld figures (since Chiefdoms B, C, D and E are all in this region) it appears that the overall average acreage of land that was classified as "cultivated plus fallow" was from approximately three to five times as large as that claimed by Homestead Groups in the samples. We cannot say definitely why this should be so. But one possibility is that no one is currently claiming Bantu-Ownership of an appreciable amount of arable land which was, in fact, cultivated in the relatively recent past. This is obviously something which requires further investigation.

Equally interesting is a comparison between the Sample Survey figures for cultivated land and the areas claimed by Homesteads in all five samples, for which figures are given in Table XV C. To some extent the discrepancies may be

explained by the large areas known to be cultivated in those parts of all physiographic regions which are thinly settled because of their inaccessibility. However, this is another aspect of the problem which would obviously repay further quantitative investigation.

Size of Fields: The areas of the parcels of arable land which our informants designated "fields" (*emasimi*) varied very considerably, ranging from under a quarter of an acre to over twenty acres in the samples from Chiefdoms A and B. The distribution table below (Table XVI) shows the percentage of fields in these two areas which fell into each size class. No similar data was available from other parts of the country.

TABLE XVI
Areas of Fields [...] [...]

Acreage	Chiefdom A	Chiefdom B
0 - 0.50	11.8	0
0.51 - 1.00	10.2	9.5
1.01 - 1.50	18.5	7.4
1.51 - 2.00	8.4	24.7
2.01 - 2.50	8.4	21.4
2.51 - 3.00	11.8	9.5
3.01 - 3.50	4.8	8.6
3.51 - 4.00	3.6	2.5
4.01 - 4.50	2.4	0.0
4.51 - 5.00	1.8	7.4
over 5 acres	11.5	18.0
	167 = 100.0%	81 = 100.0%

Acres of Homesteads Arable Holdings: Table XVI A shows the percentage of Homesteads with total arable holdings of various sizes, in this instance information was available for the Chiefdoms which we have designated E, F and G. In Table XVII B various parameters of the distribution table have been extracted for ease of reference.

One point of interest is that in all five samples the median acreage is considerably less than the arithmetic mean. In the three samples in which all Homesteads were included (E, F and G) this median varies from 2.0 to 4.3 acres. This suggests that it would not be wise to use the "average figure for arable available to assess the agricultural potential of the "average" Homestead Group. These figures suggest that well over half the Homestead Groups in the Swazi area have less than this "average" acreage.

TABLE XVII
Acres of Arable Holdings of Homestead Groups Percentage of Homestead Groups

Acreage	Chiefdom A	Chiefdom B	Chiefdom E	Chiefdom F	Chiefdom G
0 - 1.0	6.8	-	27.6	4.7	33.7
1.1 - 3.0	29.6	23.3	26.8	33.8	37.0
3.1 - 5.0	11.4	25.6	9.5	19.7	16.3
5.1 - 7.0	4.5	16.3	17.4	14.2	6.4
7.1 - 9.0	11.4	9.3	2.9	3.9	2.2
9.1 - 11.0	6.8	4.6	5.1	3.1	1.1
11.1 - 20.0	27.3	16.3	8.1	13.4	1.1
Over 20 acres	2.3	4.6	2.8	7.1	2.2
	44 = 100.1%	43 = 100.0%	138 = 100.2%	127 = 99.7%	92 = 100.1%

TABLE XVII
B

Average	Chief- dom A	Chief- dom B	Chief- dom C	Chief- dom F	Chief- dom G
First Quartile	2.3	3.2	0.9	2.3	0.8
Median	6.6	5.6	2.0	5.3	3.0
Third Quartile	13.4	9.1	6.4	9.7	3.7
\bar{x}	8.0	7.5	5.0	8.0	5.1
Largest Holding Recorded	33.2	28.8	45.0	160.0	160.0
Percentage of Homesteads with 1.1-5.0 acres.	41.0%	48.2%	36.3%	51.6%	33.3%

GENERAL CONCLUSION

These figures and maps give some indication of the degree of fragmentation of Swazi arable holdings. At the same time, the laws governing the inheritance of land rights (by different Houses within the original Bantu-Owning group) would appear to encourage the ultimate fractionation¹³⁹ of any large consolidated holdings that there might be; its splitting up into a larger and larger number of smaller holdings.

To some extent the effects of fractionation have hitherto been offset by the relative ease with which newly-established Homestead Groups new arable allocations of their own. - In passing, it is interesting to note that this is one of those instances where the lack of any sense...particular parcels...desirable results. - However...obviously short supply, ... Then any tendency to fractionation...could become a real danger for the...of this population.

Fractionalisation and fragmentation of holdings are both unpopular with those responsible for the planning of agrarian development. Fractionalisation has the obvious disadvantage that holdings are getting far too small to support a family. One ... task of ... a large proportion of the arable land in the hands of the holders who must, perforce, treat their farming as a "spare time" activity, and seek their main income elsewhere.

Problems posed by fragmentation ... difficulties of overseeing agricultural operations over a large number of scattered plots and the time needed to move workers and implements from one plot to another. In addition, conservation measures are more difficult to implement and maintain when relatively small parcels of land are controlled by a large number of different holders. It can also give rise to problems in the spheres of weed and pest control.

¹³⁹ FRAGMENTATION refers to the state of affairs where single holdings are split up into numerous and widely dispersed parcels; and can also be used for any process which would lead to this state of affairs. FRACTIONATION refers to splitting up, in the course of time, of single larger holdings into far greater numbers of smaller ones.

Swazi cultivators do not appear to be unduly conscious of these difficulties. On occasions they will even argue that fragmentation has certain advantages. Taking into account the simple nature of most Swazi agriculture, the leisurely pace of life in the Swazi rural areas, and the fact that at present there is little obvious connection between the agricultural and pastoral sides of Swazi farming, it would seem that fragmentation is not currently a major problem. It could, however, seriously inhibit the introduction of more sophisticated and productive agricultural techniques; which would probably necessitate a far greater degree of integration of stock and crop management.

The figures in Table XVTI also suggest that there is no acute shortage of arable land. By the use of improved methods of crop husbandry alone yields from arable land under cultivation could be increased many times over, and long periods of fallow made unnecessary. Daniel has suggested that the arable acreages could be doubled or trebled in many areas; without having to use land for this that was unsuitable for cultivation.¹⁴⁰

This, however, takes only technical considerations into account; and within the technical sphere only those concerned with arable production. One must also consider the linked problem of the conservation of the grazing areas and the maintenance of a supply of enough humus to support arable operations. In addition, of course, there are the many sociological factors which influence this pattern of land use; some of which we have touched on already, and which will have to be discussed again later.

¹⁴⁰ J.B. M. Daniel, "The Swazi Rural Economy," pp. 212-213; 215; 249-250

CHAPTER 16

INNOVATIONS AND EXPERIMENTS

The traditional tenurial system developed in a period when agriculture and stock rearing activities were relatively simple and standardised; when land was plentiful; and when the amount which farmers cultivated depended entirely on human [...] needs.

During the past few decades it has been [...] an ever changing economic and technical [...] developments. Quite apart from the growing importance of money in Swazi life, there have also been a number of innovations which have affected the actual day-to-day conduct of agricultural operations. These obviously have necessitated certain changes in a system of [...] that was designed for quite different conditions.

TECHNICAL DEVELOPMENTS

Techniques of Cultivation: One of the earlier innovations was the introduction of the ox-drawn plough. This has enabled far larger acreages to be cultivated than was practicable when all land preparation had been done by women wielding hoes; and may also, in turn, be partially responsible for the modern practice where all the boundaries of a field are indicated when a Homestead is Placed, instead of the older practice of merely indicating a general area within which the recipients could carve out fields.

Moreover, the introduction of the plough involved the men far more directly in the business of crop growing. They not only had to handle the ploughs; they also had to buy them. Thus was a pointer, albeit a small one, to the end of the economic self-sufficiency of the Homestead Group which had characterised the older economy.

Other types of animal drawn agricultural implements followed. Many Swazi now own planters, cultivators or harrows. Scotch carts are also common; and have provided a means of transporting relatively large loads, and made possible practices such as the application of large quantities of manure to arable lands.

Though some Swazi are now buying tractors, the widespread use of ox drawn implements has added a new dimension to the "cattle problem". The fact that "too many cattle are chasing too few blades of grass", with all the dangers attendant on this, is not solely due to the fact that Swazi keep cattle for "sociological" or "religious" reasons, as is sometimes alleged. Cattle are also needed, in considerable numbers, to supply the draught-power, without which the rural Swazi population would be unable to feed itself – though this draught could theoretically, be provided by mechanical means, the cost of motorisation on the scale required would undoubtedly be very high indeed; and might well not be an economic proposition at the present time.

Whether cattle are also essential to replenish organic matter in arable lands is another question, beyond the limits of our present enquiry.

Contract ploughing, either with tractors or oxen, is a further development. It provides another example of the increasing amount of overlap between the "cash" and "subsistence" sectors of the rural economy today. It may, in addition, have contributed to some extent to the break-up of the traditional Swazi joint family. A widow, for example, is no longer completely dependent on close male kin, either her husband's or her own agnates for her support. If a field has been allocated to her House, as should be the case, she can now arrange for others to do the ploughing required for its cultivation, and pay for this out of the resulting crops. In many cases one finds that this is what is actually done.

Other changes in agricultural techniques have been encouraged by the government's extension services, and have been reasonably widely adopted. These include the abandonment of mixed cropping, and the substitution of row planting for the earlier practice of broadcasting seed when sowing. True shifting cultivation is now rare. To maintain the fertility of the soil under constant cropping, cultivators are encouraged to remove crop stovers to their cattle byres after reaping, and to return the resulting mixture of compost and manure to their fields before they plant the next crop.

Nonetheless, the large amount of arable land left lying fallow, even when its indisputable holders are currently cultivating other fields nearby, suggests that a modified form of shifting cultivation is still popular. Enquiries revealed that many Swazi were still convinced that long periods of fallow were essential after a field had been cultivated for a number of years; and that land allocating authorities were prepared to take this factor into account when considering applications for new land to plough.¹⁴¹

The use of fertilizers is also being strongly urged; with the twin aims of improving actual crop production, and at the same time making available larger quantities of organic matter for return to the soil.

Conservation Legislation: Legislation in this sphere has been combined almost entirely to anti-erosion measures. These have been largely restrictive, but only to a minor degree. It is nowadays illegal to plough in "sponges" or close to water-courses; to plough up and down slopes (instead of along the contour); or to plough across or otherwise destroy the grass strips and contour ridges in fields which are designed to slow down the rate of runoff after rain, and so check gully-erosion. Persistent flouting of these regulations can lead to prosecution in the National Courts.

It is true that these enactments have introduced some new "non-traditional" limitations on the rights given by Bantu-Ownership; but none of them have materially affected the general structure of the tenurial system.

¹⁴¹ Experimental evidence from elsewhere suggests that there may be considerable justification in this argument, in view of the limited amount of manure that most Swazi cultivators can return to their lands.

In a few cases Bantu-Owners may have lost all useful rights that they had over parcels of land declared unfit for cultivation. This has not meant, however, that they have lost their share in the Right of Avail. They can still be granted rights over other land elsewhere.

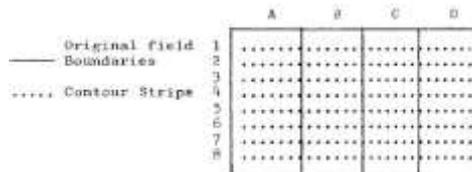
Legal enactments like these have probably had less practical effect than acceptance by individual Chiefs of advice given by the agricultural extension service. In many cases this has involved large-scale re-allocations of holdings. In many mountainous areas, for example, Homesteads are now concentrated in a relatively narrow belt, separating the upland slopes, which are now reserved solely for grazing, from the flatter areas where arable allocations are made. Similarly, where a Chief and his people have accepted the idea of rotational grazing, there have invariably been some unfortunates who had Rights of Cultivation, in some form, over parcels of land in those areas set aside as pastures. These rights they lost. All they could do was to ask the local authorities for a "fair share" of the arable land available elsewhere, if they could demonstrate a need for this.

Re-allocation of holdings was also often necessary after grass stripping was introduced into the fields. This is a conservation measure, introduced by the Territorial government, whereby strips of land six feet wide and running along a contour are deliberately left unploughed. The distance between these strips varies with the slope of the land. The steeper the slope, the closer they are together. Grass grows on these unploughed areas, and slows down the rate of run-off after rain.

Apart from depriving all land holders of part of their arable allocations, these strips introduced another complication. Original allocations were often in the form of long, thin fields running downhill, and the old practice was to plough up and down the slope of these. Thus, in the diagram given at Figure 11, the solid lines represent the original fields running down the slope of the hill. All the area under A was one field; all that under B another; and so on.

The broken lines represent the grass strips running along the contours. After these had been introduced A found himself in possession of eight small fields, in place of his original single large one. The same applied to B, C and D. Moreover, when A started to plough A.1 (parallel to the grass strips, as he was now instructed to) he soon came to B's boundary, and had to turn back.

FIGURE 11



To overcome these nuisances it was suggested that A should take all the land comprising A.1 to D.1, and A.2 to D.2 as his allocation; that B should take the two inter-contour strips immediately below these; that C should take the next two;

and D the last pair. Details varied, depending on the sizes of the original fields, and of the inter-contour belts.

Naturally, there were some disputes, misunderstandings and complaints when this was done. Nevertheless, these and other types of re-allocation, and the losses by a few individuals of rights over land that they had cultivated previously, have in most cases had only temporarily disruptive effects. Thus, where dwelling sites have been moved to follow a contour it could be argued that the rights both of the Chief and of his subjects have been curtailed. The former, by agreeing to this move, has restricted the area within which he has the right to grant these sites. The latter have a far smaller area than before in which they can obtain them. Yet, the Chief does still have the right to allocate dwelling sites, and places in which to allocate them; and his subjects still have the accepted right to some place in which to build their homes.

Similarly, although the economic lives of individuals may have been confused by fields being taken out of cultivation, these same individuals retain the right to acquire other land by any of the various means mentioned earlier. In practice, drastic measures appear seldom to have been necessary. Those who have lost rights because of conservation measures seem usually to have been able to obtain similar ones over other land in the vicinity.

Cash Crops: In pre-European times virtually the sole function of a Homestead Group's arable allocation was to enable its members to grow their own food. Though most Swazi still consider that this should be its principal use, such an allocation can now also be a source of cash income. This can be achieved either by growing a surplus of food crops and selling some of these; by bartering surplus grain for something else; or by growing special crops solely for sale.

A number of Swazi now grow tobacco and cotton. Many grow relatively small quantities of vegetables, and add to their income by selling these. There are a number who regularly grow more maize than they require, and sell the surplus.¹⁴² Rice growing on a small scale has been tried from time to time in the Swazi rural areas. Dagga (Indian hemp) is also allegedly grown; and is said to provide considerable illicit cash rewards, for those who escape the arm of the law. Attempts have also been made to involve rural Swazi in the growing of sugar cane and pineapples.

Many people have planted a few fruit trees and derive extra income from the sale of fruit.

Despite, the considerable potential, the growing of cash crops has not yet made a significant contribution to the Swazi rural economy. In terms of modern interpretations of customary land law there is no actual prohibition on an individual growing cash crops on his arable allocation. Nevertheless, there are many who argue that their large scale production on these allocations would be a

¹⁴² Although the indications are that the Swazi Nation Land population as a whole is not still self-sufficient with regard to maize, cf. Daniel, *op. cit.*, pp. 224-225; J.F. Holletnan, "Some aspects of agronomic policy in Swaziland", in *Experiment in Swaziland*, pp. 334-335.

violation of Swazi custom. Thinking is far from clear on this particular issue, and varies greatly from one area to another and between individuals.

One Chief whom I had been questioning for some time about this matter summed up his own views in the following terms. "Once a man has been Placed by me on his fields", he said, "he can grow what he likes there. However, if he fills them all up with things like tobacco, and then comes crying to me for more land because he says his children are starving, I would not give him any more; and my people would probably agree with me.

One of the most common forms of "cash cropping" is the selling of cattle. Many Swazi make sizeable incomes from rearing cattle for sale. Many more rely on the occasional sale of a beast to provide cash when an urgent need arises. This practice has aggravated the conservation problem in the grazing areas, many of which are already showing signs of damage as the result of over-grazing. Swazi tend to interpret the Right of Pasture, which flows from a community member's share in the flight of Avail, as entitling everyone to pasture, free, as many animals as he can lay hands on. So, any re-interpretation of this customary ruling in a sense that would restrict the numbers of stock that can be pastured on Swazi Nation Land would harm in a very real way the short-term economic interests of a very large number of individuals.

The opposition that has been manifested to any such suggestions in the past is therefore easily comprehensible; despite the fact that it can be demonstrated that this over-grazing could lead, in the not-to-distant future, to the complete collapse of the ecological balance of these grazing areas, when all stock owners would find themselves in a far worse plight.

Timber Plantations: In recent years a large number of timber plantations (nearly always of wattle trees) have been established in the Highveld and Middleveld. One type of wattle produces a saleable bark, which can be sold to itinerant speculators. These wattle trees, however, probably fulfil a more important economic role as providers of firewood and building materials than as bark producers. As sources of timber they have replaced the indigenous trees that were cut out by earlier generations of Swazi.

The traditional regulations governing the holding and use of land used for a timber plantation are broadly similar to those covering arable land. One may plant wattle either on arable land of which one already has Bantu-Ownership, or ask the local authorities for a special allocation for this purpose. In the latter case, some Swazi argue that this allocation should revert to the community after the first crop of trees has been felled.

The situation is complicated by the fact that wattle is self-seeding. If trees in a plantation are felled piecemeal, which is what, usually happens, new ones grow up to take their place, and it is not always obvious when the first "crop" has been completely reaped. During field investigations no instances were found of this particular ruling having actually been enforced.

Opinions differ regarding the rights that a plantation holder has to exclude others from making use of timber from his plantation. Some traditionalists contend that, although bark is a "crop" which may legitimately be sold, the trees themselves cannot. Others say that a plantation holder may sell trees if he has felled them himself¹⁴³ (thus creating Bantu-Ownership of the timber through his own labour), but that it is contrary to customary law to sell the right, to cut standing timber to another person.

Despite these arguments the buying and selling of standing timber is actually quite common. Most plantation holders accept that anyone may collect fallen timber for firewood from their plantations, but would object strongly if an individual started to cut down standing trees without first asking their permission.

Departure from a Chiefdom usually involves the loss of Bantu-Ownership of any tree plantations that one leaves behind; which revert to the "Great House" of that Chiefdom or Ward. Some individuals have tried to claim that trees are a "standing crop" which they are entitled to "reap" even after they have moved to another land community. Others have argued that they are entitled to Place a friend on their plantations before their departure, and that whether or not this friend offers them a monetary "gift" in return is no concern of the local authorities! Chiefs tend to treat such contentions coldly when they are made.

Since wattle trees are so plentiful, disagreements of this nature have not so far been common, or treated as being of great importance when they arise. There is clearly a large area of uncertainty about the "correct" customary law covering tree plantations, and what actually happens depends to a large extent on how vigorously any of the parties involved are prepared to press their own claims.

Apart from wattle, few trees are deliberately planted, except for fruit trees. Attempts to introduce other species have been opposed on the grounds that they could only be exploited (as sawn timber) on a commercial scale, and so would tend to occupy indefinitely land which might later be needed for food crops. Some Chiefs have even discouraged wattle for this reason. The National Authorities have complicated the issue further by ruling that timber plantations on Swazi Nation Land should not be individually held, but organized on a communal basis. As far as wattle is concerned this ruling has had little effect.

Water: Traditionally, Swazi have always regarded water as a "free good". This, of course, was intended to cover its uses for primary purposes, for domestic uses or the watering of stock. A new factor has been introduced through the increased popularity of small-scale irrigation, but it is still held that "free" water (from a spring or natural, watercourse) can be used by anyone, in any reasonable quantities.

The normal technique for this small-scale irrigation is to divert water from a natural source by means of a hand-dug furrow. Once water has entered the furrow it ceases to be a completely free good. That is to say, anyone else wanting to make use of water from that furrow should approach the man who constructed

¹⁴³ Or arranged for them to be felled, either by his dependants or by hired labour.

it, and come to some amicable arrangement with him about how the available supply should be divided. If the original furrow digger refuses, unreasonably, to agree to any such arrangement the second man has two choices open to him. He can either dig his own furrow from the natural source or take water from the first furrow without permission and wait and see what happens. In any subsequent case in the Chief's court, the argument that the first man was attempting to "sell the country" (*kudayisa umlhaba*) through monopolizing a communal asset would be likely to receive a sympathetic hearing.

In such cases, friends, kinsmen and neighbours would probably intervene before the argument got out of hand. The pressure on everyone concerned to behave in a "good neighbourly" mannerly would encourage them to reach an amicable solution.

Some Chiefs insist that their permission must be obtained before any irrigation furrows are dug. Others attempt to exert control through restricting the allocation of irrigable allocations. They argue that when water is led on to arable land the part covered by this irrigation ceases to be a "field" (*insimi*) and becomes a "garden" (*ingadzi*), and so must be re-allocated to the Bantu-Owner of the original "field". It is also held that when a furrow crosses someone else's arable land it is essential to obtain this person's permission before constructing it.

There is, as yet, no obvious need for any complex set of regulations covering the use of irrigation water. There is in most cases far more water available than would-be irrigators need. This, of course, is a situation that is unlikely to persist for long; and greater attention will have to be paid to this whole question of how water rights should be allocated.

Grass: Although grass itself is no innovation, the increased pressure on the grazing areas and the introduction of grassed contour- strips in the arable land have between them produced a new problem in customary land law.

Thatching grass is still the main roofing material. Formerly, it was easily obtainable whenever required. Now, spots where this grass grow tend to be grazed down by the increased numbers of livestock. Since cattle are kept out of the arable lands during the grass's growing period, the contour strips of these fields are often one of the few places where it can grow to a height that makes it useful for thatching.

These strips are held to be "in" fields, so that everyone is not free to go and cut grass on them whenever they wish. On the other hand, it is widely held that grass is certainly not a crop, and does not belong to the Bantu-Owners of the fields in which it grows.

The most usual compromise solution is that anyone wishing to cut grass in a field other than one belonging to his or her own Homestead Group is expected first to ask permission of the Bantu-Owners of the field in question. The latter are expected not to refuse this permission unreasonably, and certainly not to ask for any payment for giving it. If they want to make money out of grass in their fields, they are expected first to cut it and bundle it themselves (thus, as with wattle trees,

creating Bantu-Ownership of the product through labour). Then these bundles may be sold, as may bundles of grass cut in the grazing area.

As thatching grass is becoming increasingly scarce in many areas, there is a strong temptation to break these customary regulations. Few cases of their breach reach the Chief's courts. If buyer and seller agree, it is easy to argue that the former is only acting as the latter's agent during the actual cutting, and that the sale itself did not occur until after this had been done.

MINOR CHANGES IN CUSTOMARY LAND LAW.

Apart from the changes in traditional regulations that were mentioned in the preceding section, there have been a few other minor changes that are not so obviously directly connected with technical innovations.

Fencing: This practice, regarded by many western agriculturalists as an essential pre-requisite for any agricultural advance, is gradually gaining limited acceptance.

In most Chiefdoms, a man is permitted to fence off his own residential area, which may also include a few small cultivated patches. In many there is no objection to a person fencing his arable lands; but regulations vary from Chiefdom to Chiefdom with regard to whether this also entitles him to keep other people's cattle from grazing on them during the winter months.

In the "old time" system of agriculture fields were thrown open for grazing once the crops had been reaped (the Right of Stover), and the cattle were no longer herded but left free to range. In many parts of Swaziland today the state of the grazing areas is so bad that crop residues in the fields probably make an important contribution to the local cattle's dry-season diet.

Technically, this has the disadvantage that it removes from these fields organic material which should, ideally, be ploughed back to maintain the fertility and structure of the soil. If a man has used adequate fertilizer, say, and produced an exceptionally good crop, he may have more crop residues than he can remove to his cattle kraal. This would not matter, provided that manure was applied, and the remainder of the crop residues ploughed in.

However, if cattle are free to eat these residues and then wander off elsewhere, much of the advantage of fertilization is lost. The man who fertilizes may reap a better crop, it is true, but the structure of the soil deteriorates.

In some Chiefdoms this fact has been recognized. Since crop residues are, it is accepted, an individual's "property" in that he is permitted to carry them off to his own cattle byre, it is logical that he should also be permitted to assert ownership over them if they remain in his field. In such areas, one finds the fields of a few progressive farmers completely fenced and denied to cattle during the winter. Though this may give rise to some grumbling among the agriculturally unenlightened, no steps are taken by the local authorities to stop this exclusion of certain fields from the winter grazing area.

Even where this is permitted, such complete fencing is still a rarity. One finds most fields still unfenced; or fenced but left open after the crops have been removed.

The fencing of irrigated plots is also permitted. Since crops are grown on these in the dry season this protection from wandering cattle is essential.

Too great an enthusiasm for fencing can have its dangers. If a man decides to irrigate a large area, say, and fences this off, he may arouse the ire of his more conservative neighbours. They may argue that he is depriving them and all the rest of the community of part of their Right of Stover. In one case investigated such an attempt at fairly large-scale irrigation (which was encouraged and supported by government officials) was one of the reasons given for passing a sentence of banishment on a man. Though as usual, the main accusation was of witchcraft, it was also suggested that the irrigation, and consequent fencing, showed that he was planning to "sell the country".

In a few Chiefdoms fencing has been carried a stage further, and fenced "camps" constructed in the grazing areas. This is a development actively encouraged by the Territorial government's extension service; which can give financial assistance to communities agreeing to undertake it. One of the reasons that rural Swazi give for accepting this fencing in grazing areas is that it removes the need to herd cattle, and leaves their children free to attend school.

Everywhere where fences have been erected in the grazing areas there have always been malcontents who complain that this is an unwarranted restriction of the Right of Pasture. On many occasions they have backed their views by cutting the wire, and letting cattle into pastures that were being rested.

Recently, a few Chiefs have expressed the wish both to fence off the entire territories of their Chiefdoms (to prevent cattle from other Chiefdoms from encroaching on their own Chiefdom's grazing); and to divide their Chiefdoms internally with fences to permit rotational grazing. It appears that, when adjacent Chiefdoms agree that they can exclude each other's cattle in this manner, the National authorities are prepared to give their blessing to enterprises of this nature.

In some cases the Rural Development Board (which is essentially an agent of the National authorities) has approved the granting of Community Development funds (which are supplied by the central government) to assist in the erection of these fences.

At the time of writing no Chiefdom has yet been completely ring fenced. Nevertheless, the fact that partial fencing has been done, and is apparently accepted, is very significant development. It implies an acceptance (in some areas at least) of the "new" doctrine that the Right of Pasture applies only to grazing within one's own Chiefdom.

Rotational grazing without the aid of fenced camps is practised in some Chiefdoms. This takes the technically sound form of rotating grazing areas during

the summer, when the cattle are herded in any case, and letting other pastures have a complete rest from grazing throughout the all-important period when the grass is growing rapidly.

Compensation for Improvements: Land may never be sold. Work creates Bantu-Ownership of the product.

These two principles can complicate the interpretation of customary land law when someone leaves, or is forced to leave, a residential site on which he has built solid and possibly expensive structures. In the days when Swazi lived in beehive huts this question did not arise. The thatching grass could be removed, and carried with the framework of the huts to a new site. This is impossible with the more sophisticated forms of housing that are becoming increasingly popular now. Many huts, or houses, are built of Kimberly brick or stone, and incorporate refinements like bought windows or doors, and occasionally corrugated iron or asbestos roofing.

Swazi, when asked direct questions about the present position, point out that a man is perfectly entitled to take away any bought materials when he moves his home, or to sell them to anyone who wishes to buy them. Purists sometimes stress that this does not apply to materials that he obtained free from his environment, such as the clay for Kimberley bricks, or rafters made of local timber. If pressed, they almost invariably agree that he has the right to destroy any structures made of local materials which he is not entitled to take away. If he built the walls of a hut, then no-one has the right to stop him from knocking them down.

This reasoning opens the way to transactions which have many superficial resemblances to the selling and buying of buildings. Such transactions do occur, although both parties invariably insist that all that is changing hands are the "bought" parts of these structures; a form of sphistry which others in the community seem prepared to accept.

Nevertheless, in a great many cases well-built structures are completely abandoned when a family moves, and not sold. This suggests that the objection to selling structures built on land, because this smacks of selling the land itself, still has a great deal of force.

The principle that work, or outlay, creates rights has in some cases apparently limited the right of a community to banish one of its members. A man under a sentence of banishment by his Chief can appeal; seek the protection of "the *Ngwenyama's* arm-pit", as Swazi say. Someone who has invested a large amount in housing is likely to have a certain amount of influence. He can claim, too, that for him banishment would involve far greater a loss than it would for a person who has not made this investment. The Envoys sent by the National authorities to investigate such appeals often, it seems, take these factors into account, and may put pressure on the authorities of the Chiefdom to reconsider their sentence in view of the loss of capital assets by the banished man.

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...fields. These were often also fenced.

Although agricultural techniques were probably marginally better than the average in the Chiefdoms, they were not startlingly so. Nor was production very impressive.

As in other rural Swazi areas one had good farmers and poor farmers. For some years inhabitants of these areas remained on their original allocations, and did not start carving out new fields in the grazing areas. The same applied to residential sites. Married sons either built huts on their father's "stands", or applied for one of the extra residential sites which had been surveyed at the time of the original settlement. Although the land in these areas was not subject to any Chief, the people retained their personal allegiances to their old Chiefs.

As sons grew up and required lands of their own to plough, and residential sites on which to build their homes, there was a gradual departure from the old "planned" pattern of settlement and cultivation. Residential sites were allocated by the local traditional authorities away from the surveyed "stands". New fields were allocated in the original grazing area.

The situation whereby inhabitants of the planned settlements could retain their allegiances to their original Chiefs gave rise to complications. Later, the Swazi Land Settlement and Lifa Lands were formally incorporated into the single category of Swazi Nation Land in regard to which "the power to allocate or grant any right or privilege to any person ... will be vested in the Ngwenyama-in-council." The planned settlements were ultimately allocated to Chiefdoms, and all their inhabitants had to give their allegiance to the Chiefs of these.

In 1969 the position in one of the most "planned" of these settlements, that at Nkwene in Shishelweni District, appears to have been no different (in terms of the rules of tenure and the general local-governmental pattern) from that of a ward in any other Chiefdom. It has certain facilities not usually found in other Wards; such as neatly laid out irrigated gardens fed by concrete furrows and a larger irrigation potential (not yet developed) on part of the arable area. Nevertheless, despite these rather obvious superficial differences, tenure is still basically on the same pattern as elsewhere in the S.N.L.

Most Swazi Land Settlement areas were not surveyed in this manner, and were, to all intents and purposes incorporated into neighbouring Chiefdoms fairly soon after their establishment.

The Central Authority has also ruled that land put under irrigation shall come under their own control, not that of the Chiefdom or Chiefdoms in which, this land is situated. This was presumably intended to apply only to fairly large schemes, since no attempt has been made to control the large amount of "garden" irrigation already taking place. Although there are strong arguments in favour of centralised management, and planning for large-scale irrigation, in view of the

large amount of capital usually required, this ruling does not appear to have been particularly popular in the Chiefdoms, for obvious reasons.

In one case investigated, in the Lomati Valley, there was an irrigation potential of several hundred acres, and most of the work needed to lead water out of the Lomati River on to this land had been done several years earlier. Yet, the only signs of irrigated cultivation were a few small vegetable gardens. It appeared that the dispute which had resulted in this large and valuable asset being left lying idle centred not so much around who was to be given allocations, but rather on how these allocations were to be made, and who was to have the power to make them.

This was a complex dispute, involving personalities as well as the wider question of what rights should be held at which level in the land community hierarchy. It was interesting, however, that one of the objections advanced by members of the local community was to the idea that irrigation plots should be of a fixed size. What they wanted, they said, was to be able to adjust these at frequent intervals, so that everyone could have an irrigation plot if he wanted one; and that all these plots should always be of the same size. Impracticable as such a suggestion might be, this is clearly a reflection of the desire of a local community to retain control over its members, through retaining complete control over one of the potentially more valuable rights flowing from a share in their Right of Avail.

Recent settlement schemes: The idea of planned agricultural settlements devoted to the objective of maximising production of profitable crops has recently been resuscitated.

At Mpetseni in the Malkerns valley and at Umvuvulane in the north-east, land for Swazi settlement has been acquired in the ITH. In both instances the legal owners of this land are western-style companies. Selected "settlers" have been invited to sign leases, which entitle them to take up and use plots in these areas under fairly strict control. The leases specify not only what crops shall be grown, but also the techniques of cultivation which must be followed, Agriculturally trained European managers are based on each scheme to exercise the necessary control.

The Mpetseni scheme is devoted to the cultivation of pineapples. The company built houses for the settlers and undertook the initial land preparation, with mechanical units and paid labour. The cost of these houses and operations is covered by a loan, which the settler is expected to pay off out of his profits. A price for the land itself has also been specified, and if a settler wishes he can pay this off by instalments; until he acquires full title to the land and all improvements on it.

Once he has done this, he is, naturally, freed from the terms of the lease agreement, and the control that is exercised now over his agricultural operations. The manager has the right to specify what agricultural operations should be carried out; in what manner, and at what time. In the event of non-compliance, the necessary operation is carried out by the company with paid labour. The cost, is added to the settler's loan. In terms of the lease agreement, the company controls

the marketing of crops grown, so the collection of loan repayments presents no real problem.

It has been calculated that a diligent settler could make an annual profit (excluding loan repayments) of the order of R2,000. The total, loan and the amount for the land could be paid off by such a man in 12 to 15 years.

The Umvuvulane scheme, where sugar cane is the predominant "specified" crop, is run on approximately the same basis. The main difference is that there is no provision in the lease agreement for the ultimate purchase of the land by the settlers. However, as a result of representations by the latter, it has been agreed that their heirs may "inherit" the leases when they themselves die or retire, in both cases the controlling company has the right to evict settlers from the schemes for persistent breaches of the provisions of the lease. There have (at the time of writing) been three evictions from Umvuvulane, and none from Mpetseni.

Agronomically, both schemes are models of good land use. The high profits are also welcomed by the settlers. In terms purely of the "production maximisation" objective the strict managerial control of agricultural operations has been an undoubted success.

However, when considering whether this type of settlement suggests a pattern for the future development of the SNL, one must bear certain relevant facts in mind. First, the land itself was taken from the ITH; so it was, to all intents and purposes unencumbered by any customary rights, second, the settlers were volunteers; who presumably considered that the strict terms of the leases were more than balanced by the possibilities of high profits. Third, the settlers have not given up their Homesteads, cattle holdings or land rights in the parts of the SNL from which they came. They are, therefore, in very much the same position as migrant labourers employed elsewhere. Fourth, these schemes are still very new.

One could argue that the present position of the settlers is barely distinguishable from that of employees in any large industrial enterprise. Whether the present strict managerial control can be maintained indefinitely is far from certain. It is the avowed aim of the companies to withdraw gradually from the direct managerial role, and leave this for the settlers to organize for themselves. - In view of the history of the Swazi Land Settlements, it would not seem unreasonable to predict that this might lead to a very considerable dilution of the "production-maximisation" objective. Managers are already complaining of an unwillingness on the part of the settlers to accept agricultural "advice".

One aim of the establishment of these schemes was to create an awareness among rural Swazi that high profits, and a high standard of living, could be gained off the land. That there has been some measure of success in this is suggested by attempts to establish a few irrigation schemes in parts of the SNL, where verbal "leases" have been entered into by "settlers" and the local traditional authorities.

Whether or not the "leasehold concept" is likely to develop, and prove a successful device, is a subject we shall return to later.

Townships: At least one attempt has been made to establish a township on Swazi Nation Land (Matsapha). No strict list of special regulations was produced, but the general procedure followed was based on that operating in townships in the Individual Tenure area; in municipal areas, and on the commonages set aside for potential Municipalities.

The National authorities, in agreement with the authorities in the local Chiefdom indicated the area of land that the township should cover. Initially, a large number of residential stands were pegged; and although many of these pegs later disappeared, stands are still of a fairly standardized size. At the time when field investigations were conducted at Matsapha permission to settle there was granted by the local Ward Head, who exercised a general surveillance over the whole group living there. Otherwise, strict rules regarding tenure of these stands were most noticeable by their absence.

Private Farms: One "experiment" which a number of individual Swazi have tried is to buy farms or plots for themselves outside the Swazi area. These, of course, they hold on individualized tenure.

Many of the farms bought by Swazi some time ago are indistinguishable, as far as patterns of cultivation and settlement are concerned, from the neighbouring Chiefdoms. "Squatters" (as the central government terms them) have been Placed on arable and residential allocations in much the same way as they would be on Swazi Nation Land. Ownership is now often held in undivided shares by a large number of the original purchaser's descendants; while the senior of these acts very much as a Ward Head would in his Ward. Some have even applied for recognition as Chiefs.

In many cases inhabitants of such farms admit allegiance to a neighbouring Chief. In most matters, they are treated in the same manner as the rest of this Chief's subjects. Where land is concerned they are, naturally, in rather a "special relationship" with the rest of the Chiefdom, in that only the farm-owning group is held to have any right to say with regard to how land on that farm should be allocated or used.

Similar developments have been reported on African owned farms in the Ciskei in South Africa, where farms which were originally individually owned became group owned when the original owner died, and the property (in undivided shares) of an ever-widening group with the fluxion of time.¹⁴⁴

The Swazi National Authorities have argued on occasion that the best way for farm-owners (be they individuals or groups) to clarify their rather anomalous position would be for them to permit their farms to be incorporated into the Swazi Nation Land. This suggestion has not, to date, been received with much enthusiasm by the farm-owners themselves.

¹⁴⁴ M.E. Elton Mills and Monica Wilson, Land Tenure Keiskammahoek Rural Survey, Vol. IV, 1952, p, 57

CHAPTER 15

LAND AND AUTHORITY

RESISTANCES TO "LAND REFORM"

In the last chapter we discussed a few adjustments which have been made in the traditional system of land tenure, to meet some of the challenges of technical and economic change. As far as the rural Swazi Nation Land areas are concerned these adjustments have all been relatively minor ones, and did not affect the basic principles underlying this system. The small township areas, and the few Swazi owned farms and plots, do present a slightly different picture; but these cover only relatively small areas, and are occupied by only a part of the Swazi population.

In fact, the traditional system has shown a remarkable resistance to any really fundamental changes.

This is evidenced by the fate of deliberate efforts to induce changes of this kind, such as the establishment of the Swazi Land Settlements. Moreover, many Swazi have been very vocal indeed in their opposition to any tenurial changes in the direction of the western type of "individualised" tenure. For these people, anything which smacks of "selling the land" is something which must be avoided at all costs, quite regardless of any material benefits that such a move might bring. We have seen how, even in the case of those few Swazi who have "contracted out" of the traditional system by buying their own farms, one often finds that, to all intents and purposes, something virtually indistinguishable from the old system is operating within the boundaries of those farms.

Neither this type of tenurial system nor the problems it can cause are peculiar to Swaziland. Both are found throughout Bantu Africa; and in many other parts of the world too, for that matter.

It is often argued that the only thing which can save tribal agriculture in sub-Saharan Africa from disaster, and stop the soils in the tribal areas from all being washed into various oceans in the very near future, is rapid and radical "land reform". The principle target of protagonists of this course of action, the thing which they argue should be "reformed", is just that kind of "communal" system of land holding which we have been discussing in this study. Systems of this kind, it is contended, should be stamped out as soon as possible, and some system based on "individualized tenure" or "private ownership of land" put in their place.

Thus, in a speech at the opening of the Manzini agricultural show in July 1965, Sir Francis Lloyd, Her Britannic Majesty's Commissioner in Swaziland, is reported as having made the following policy statement. "The first essential to any improvement in farming standards is security of individual land tenure, and this is a development which the country's leaders must promote with energy and speed in order to take advantage of the many opportunities afforded in the Swazi areas".

I have already made the point that the "communal/individualized" tenure dichotomy has little in the way of really precise meaning; that it is not a very useful analytical instrument; and that, therefore, it does not provide a very good basis for the formulation of land policies. Nevertheless, it cannot be denied that in the Swazi Nation Land areas, agricultural productivity is very low indeed; that the conservation picture is far from being a happy one; and that the unfortunate manner in which the considerable natural resources in these areas are currently being exploited have been blamed, by knowledgeable people, on the way in which rights to use land are allocated and held.

At the same time we are faced with strong opposition from Swazi to any change in this system of land tenure, and the allocation of land rights.

Earlier in this study it was argued that "tenurial changes will inevitably have widespread repercussions and will be resisted by those who wish to preserve the traditional system. This view is formulated in precise terms by those Swazi who argue that, any change in land tenure would result in the collapse of the whole Swazi way of life, and would sound the death knell of the Swazi as a nation."

Before going on to consider other aspects of this problem it behoves us, in the light of our earlier discussions regarding how the traditional tenurial system operates, to consider what form these "widespread repercussions" could take; and why Swazi fear them.

LAND RIGHTS AND POLITICAL OBLIGATIONS.

The Right of Avail and Social control: In Swazi customary land law an essential pre-requisite for the exercise of any reasonably permanent rights over land is that one should have access to the Right of Avail. That is to say, one must be a Swazi (and so subject to the political authority of the Swazi Monarchy and Central Authority) and also, in nearly all cases,¹⁴⁵ be a member of a Chiefdom. Strangers may, on occasion, be granted temporary rights (of Way, of Pasture, or even Tenancies on Sufferance of specific parcels of arable land); but if these temporary rights are to acquire any degree of permanency there are only two possibilities. Either the strangers must be fully incorporated into the community, and so increase the number of those entitled to a share of the Right of Avail. Or the Right of Avail must shrink, in direct proportion to the extent of the rights acquired by the strangers.

There are, as we shall see later, other factors that can also cause a shrinkage of the Right of Avail.

Community membership involves obligations as well as rights. As we saw earlier, it is something which can be lost; with a consequent loss of a share in the Right of Avail, and of all subsidiary rights flowing from this. This is one of the

¹⁴⁵ Royals are an obvious exception, since they have an inherent right to a Chiefdom of their own, without any need to join another one.

reasons why land tenure in this type of society cannot be considered in isolation. It is part of the whole system of political organization. Individuals derive their land rights primarily from their position in the political structure, not as the result of any private transactions between themselves and other individuals. Nowadays, it is true, transactions of this nature are coming to play an increasingly important part in some respects, but the right to benefit from them is still dependent on what we may call political considerations.

A man may make a payment to another private individual who agrees to transfer Bantu-Ownership of a field to him, or who has helped him to gain acceptance as a member of a particular Chiefdom. However, this payment is virtually never calculated on the basis of the economic benefits to be derived from the transaction. Furthermore, the right of a man who has made such a payment to continue enjoying the benefits in which it may have resulted is dependent on completely different factors; such as his ability to continue to find favour both with the Chief and also with his neighbours.

The right to grant or withhold access to the Right of Avail therefore, obviously confers a considerable amount of political power on any individual or group that can exercise it. So does that of deciding the extent to which the various subsidiary rights stemming from the Right of Avail can be enjoyed. The effectiveness of both these powers must clearly depend, inter alia, on the value of the Right of Avail.

Swazi are well aware of this intimate connection between the control over land allocation on the part of the traditional political authorities (and, in a more diffused sense, on the part of the entire community) and the whole indigenous system of social control. One of the arguments often advanced against any change towards a system of more individualized tenure is that it would inevitably result in a complete breakdown of the whole existing social order. As one Swazi put it, "Individual land tenure inevitably destroys and degenerates Swazi social life, and ultimately undermines and invalidates the honour, power and significance of royalty and chieftainship". Another has expressed the fear that, if individualized tenure were to be introduced, "there would, in fact, be no need of Chiefs and *indvunas*. Each and every owner of land would be the King, Chief and *indvumia* of everything.

The comments suggest that in the eyes of many Swazi this particular social mechanism, political and social control operating through control over land allocations, is considered essential not only for the maintenance of the existing social order, but for that of any kind of social order. Westerners, familiar with the many alternative devices employed in other societies to maintain social control may find this reasoning hard to accept. Nonetheless, one must remember both that few Swazi have any real knowledge of these other methods, and that, as things are now, the power of controlling access to land rights is one of the few real powers that the indigenous political authorities still have.

It is easy to see how this type of tenurial system gives any community a powerful mechanism for enforcing conformity to communal mores. Since it is the community (or its leaders, or a pressure-group within it, depending on the

circumstances of the time) which has the final say with regard to who shall be granted the privileges of membership, the threat of the withdrawal of those privileges can provide a most effective method of social control.

It can also be understood how any interference with these rights of the community could have repercussions extending far beyond the realms of land tenure alone.

Moreover, it must be appreciated that when any community has a "built in" system of sanctions like this, its members do not solemnly work out a "spare" set of alternatives, just in case the existing ones become ineffective one day. So, if existing sanctions do suddenly lose their force, the immediate result could be anarchy.

Finally, it must be appreciated that all these remarks apply to any level in the land community hierarchy. Although the operation of these sanctions is most obvious in the relationships between individuals and Ward or Chiefdom Communities, the Swazi Central Authority can also use its powers of control over who shall be admitted to a Chiefdom, or who shall be banished from one, in much the same way. At a far lower level, a Neighbour Cluster can, through the subtle use of group disapproval which could ultimately lead to banishment, ensure that all its members fulfil the minimum obligations of good neighbourliness as these are interpreted locally.

Shrinkage of the Right of Avail: The more the Right of Avail shrinks, the less valuable will be any share in it, and the less effective will be the power of controlling access to it.

There are several ways in which such shrinkage can occur. It can result from an overall decrease in the "pool" of natural resources available to the community. It also "grows and shrinks in relation to the rights of individual members" (of the community) and in relation to the rights of subsections of the total community. The value of access to it is also dependent on the relative importance of the natural resources controlled by the community, as against that of other sources of income (in the widest sense of this term).

The granting of the concessions in the nineteenth century eventually resulted in a shrinkage due to the first of these causes. As a result of the Partition of 1907 the "pool" of natural resources covered by the Swazi Right of Avail was restricted, and also accurately delimited for the first time. Shrinkage has also occurred and has continued, due to the increase in the Swazi population; and due to the increased "weight" of rights acquired by individuals and subsections of the community. This constant shrinkage has tended to reduce the value of access to the Right of Avail, with a consequent decrease in its usefulness to the traditional political authorities as a device for ensuring the continuance of their own power.

The increased involvement of the Swazi in a money-exchange economy also introduced a completely new element into the relationship between these traditional authorities and their subjects. An individual may now be able to satisfy

a large part (or even all) of his day-to-day needs, and even his requirements for luxuries and prestige, by means over which the traditional political organization has no control.

The belief that every member of the community is automatically entitled to a share in the Right of Avail accounts for much of the opposition to the idea that land is something which can be bought and sold. "The community right is never static. It grows and shrinks in relation to the rights of individual members." The introduction of the concept that arable lands and dwellings sites are saleable would result in a very marked shrinkage indeed.

It would remove the Right of Accommodation, and all subsidiary rights flowing from this, from among the rights derived from participation in the Right of Avail. This, in turn, would mean that the rights of every member of the community would be adversely affected. They would, as a direct result of such an innovation, be deprived of something which had hitherto been rightfully theirs.

Much of the "opposition" to "obviously desirable" agrarian reforms proposed by well-meaning westerners may flow from this fear that these could lead to a marked shrinkage in the value of the Right of Avail.

In passing, it is interesting to note that some technologically desirable measure may initially be enthusiastically accepted, only to be opposed later when it is appreciated that it will lead to this shrinkage.

This early unawareness of the full implications of an innovation is a good example of the anthropological truism that members of any particular society seldom understand their own culture fully. They live that culture, but few bother to analyse its workings. Inter-connections of this type are seldom appreciated before they are brought home, forcibly, by the incidental effects of some innovation which may, superficially, be of a relatively minor nature.

A good example of this is provided by a relatively recent experience of an agricultural extension service in another country, Rhodesia.

Legislation and administrative practice in Rhodesia leaves to each tribal community the right to the final say with regard to how their own tribal lands should be utilized, and how rights to hold and use any particular parcels should be allocated.

Agricultural innovations have, therefore, to be approved by the local community and its traditional leaders before they can be put into practice.

Agriculturalists had come to the conclusion that the time was ripe to introduce the idea of integrated farming to a particular area; the idea of combining cropping and stock management in a way that would take account of the need to maintain a good biological balance and also ensure maximum production and the maximum monetary returns. The idea was explained to a group of progressive tribesmen who approved of it. They wanted higher production and higher profits.

Since the approach suggested would involve fencing off part of the hitherto "communal" grazing, it was necessary to seek the approval of the tribal authorities. They also approved; they wanted their people to be more prosperous.

The necessary fencing was done, and the experiment started. It soon proved to be an obvious success. More local groups in the area wanted to adopt the same techniques.

Then the trouble started. The tribal authorities, hitherto enthusiastic, began to quibble. They argued that when they had originally been asked to approve of fencing they had assumed that this would only be put up around arable land, not around sections of the grazing area.

As the fences around the grazing had been up for over a year, this belated objection of the tribal authorities was classified by many members of the extension service as pure "obstructionism".

But is "obstructionism" really a full or fair explanation? This is a classic case of a technical innovation which threatened to create a very marked shrinkage indeed in the Right of Avail. When one small group put a fence around a small amount of grazing the Right of Pasture of the rest of the Chiefdom was not affected to any noticeable extent. However, had every local group proceeded to fence off its "own" grazing areas this would have meant that the Right of Pasture ceased to be one of the rights flowing from a share in that Chiefdom's Right of Avail.

This would have meant that a large number of people would have lost a right, a bit of property, which they had previously possessed. Was the tribal authority's "obstructionism" really so unreasonable?

Another example from Rhodesia is provided by the Land Husbandry Act; a measure designed to introduce a limited degree of individualized tenure in tribal areas. This was done by government-controlled allocations to individuals of transferable rights to specified acreages of arable land and to graze specified numbers of stock on the communal grazing areas.

Initially this legislation was welcomed by many tribesmen and tribal authorities; since it had obvious advantages from the conservational point of view (and the results of inadequate conservation were becoming appreciated), and in many cases it merely "documented" the already existing situation with regard to land holding. However, in time transfers of these rights by sale began to occur. Tribal authorities (at all levels) then began to appreciate that "membership" of a kind of their own land communities could be acquired without their consent. At the same time, tribesmen began to appreciate that the tribal authorities could no longer use the sanction or threat of banishment from the community.

To complicate the issue further, landless tribesmen discovered that their own tribal leaders could no longer grant them any rights to use land in their own tribal areas.

This gave rise to a certain amount of unrest. Tribal authorities, when taxed with failing to control their own people, frequently made the point that they lacked any means of exerting this control since the "land sanction" had been taken away from them; that is to say, since they had lost the right to say who should, and who should not, be granted full membership of their land communities. Further, they argued that they could offer little in the way of active co-operation in encouraging conservation and agricultural advance if they had no say with regard to who should have what rights over which parcels of land in their own tribal areas.

Representations were made by these tribal authorities to the Rhodesian Government asking for new legislation. These resulted in the enactment of the Rhodesian Tribal Trust Land Act. (1967); in terms of which a large measure of control over land has been restored to the traditional "Communal landlords".

These examples have been cited to illustrate how, in this type of society, severe shrinkage of the Right of Avail can upset the whole pattern of control. The "land sanction", if we may so term it, acts as both a "stick and a carrot". Its disappearance can have a direct effect, by depriving the traditional authorities of one of the main sanctions that they have been able to use hitherto. On the other hand, this sanction will only be truly effective if loss of community membership also entails the loss of rights that are worth having.

So, where a rural population is increasing rapidly, and alternative methods of earning one's livelihood are available, the force of this particular sanction will probably tend to decrease in any case.¹⁴⁶ Western societies demonstrate that other methods of social control are possible. The Swazi, like other groups with similar tenurial systems, will probably have to adopt some alternative system of sanctions in the future. The main purpose of this chapter has been to demonstrate why such an alternative system is essential.

¹⁴⁶ In connection with another issue Holleman has given it as his opinion that "there is every indication that, in the dualistic and transitory state of (the) Swazi economy, participation in the expanding industrialization inside and outside Swaziland will cause wage earnings to assume a progressively greater proportion of the total income of the Swazi rural population". J.F. Holleman, "Some aspects of agronomic policy in Swaziland", p. 337.

CHAPTER 16

CONSTITUTIONAL CONFLICTS

LAND ALLOCATING AUTHORITIES

In recent years in Swaziland both the Central Authority and the Chiefs have been faced with demands from many of their subjects for increased recognition of individualized rights over land. Though these same subjects might have expressed opposition to individualization of tenure on the western model as such, when it came to their own cases they have tended to stress those aspects of customary land law that emphasize the rights of individuals as against those of the community.

As the value of the Right of Avail decreased (for the various reasons just mentioned) it became increasingly important for the traditional authorities, if they wished to maintain their position and their powers, to seek to check any further shrinkage.

From the point of view of the Central Authority this further shrinkage could be caused, inter alia, by increase in the rights acquired by the Chiefdoms. The Chiefs, on the other hand, had an obvious interest in seeking to restrict the rights of the Central Authority over land in their own Chiefdoms; and an equally obvious interest in seeking to increase to total "pool" of natural resources available to their own people.

We have already pointed out that we should think in terms of a hierarchy of communities, rather than attempting to isolate one particular grouping which is the community that has complete control of access to the Right of Avail. It is more meaningful to discuss the degree of control which is claimed, and exercised, at various levels in this hierarchy. Looking at the position from the point of view of the community which comprises the whole Swazi people, we can say that membership of this grouping, the mere fact of being a Swazi, does entitle one to the access to the Right of Avail. That is, it does give one the inalienable right to some place to live and to cultivate in the Swazi Nation Land. This does not mean, however, that any Swazi has an inalienable right to claim the Right of Accommodation and of Cultivation anywhere in this area. He must first be accepted as a member of a more localized community, of a Chiefdom.

In some of the larger Chiefdoms, one must also be accepted as a member of a Ward-level land community. Finally, before one; can establish a really personal residence, one must be accepted by a number of Neighbour Clusters.

Superior and subordinate land communities: Control over access to the Right of Avail implies firstly that the controller has a duty, to see that all members of the community do receive rights over a reasonable share of the available natural resources. Secondly, it implies the power to deny access to the Right of Avail.

We have seen how this operates within the Chiefdom, and how the sanction of banishment may be invoked to deny any individual or group access to the local Right of Avail. It is often claimed on behalf of the Swazi Central Authority that it has complete control over who shall, and who shall not, have access to this right anywhere in the Swazi area. This point of view is summed up in Kuper's statement which we have already quoted that "the *Ngwenyama* allots land (through his main officials) or sanctions the holding of land by Chiefs."

If this were all that there was to Swazi customary land law, then the Chiefs would be no more than agents of the Central Authority, with no rights over land in their own Chiefdoms other than those temporarily delegated to them by the latter; and whole Chiefdoms could be deprived of access to the Right of Avail, in the same way that a Chief can deny access (within his own Chiefdom) to any of his subjects.

Few Chiefs, especially Clan Chieftains, would be prepared to accept this as a true summary of the customary legal position. Nor would many supporters of the Central Authority be prepared to argue that, nowadays, whole Chiefdoms can be banished, or that Chiefs and the people of the Chiefdoms do not have a very definite right to decide how the land in their Chiefdoms should be distributed.

What appears to be generally agreed is that both the Central Authority and the Chiefs have some control over access to the Right of Avail as this affects any particular Chiefdom. For example, a Chief should not accept a non-Swazi as a subject without first obtaining the approval of the Central Authority. There is now fairly general agreement that anyone who has been banished by a Chief has the right to appeal to the *Ngwenyama* against the sentence. Nowadays, it is further accepted that the Central Authority has the right to legislate, through the Paramount Chief's Orders-in-Council, regarding such things as conservation matters, which do affect land utilization.

Disagreements regarding the "constitutional" position centre around such matters as terminology, the right of the Central Authority to establish royal Homesteads on land claimed by a Chiefdom, their refusal to approve sentences of banishment, and whether rights stemming from a share in the general Swazi Right of Avail can be arbitrarily taken away from Chiefs without reference to the Central Authority.

For example, many Swazi distinguish between land in Chiefdoms ruled by Royals and Clan Chieftains on the one hand, and that in those ruled by Lieutenants on the other, and refer to the latter specifically as "land of the Great House of *Ngwane*". Many representatives of the Central Authority (and the present *Ngwenyama*) object to this distinction being drawn, and argue that all the land in the Swazi Area is "Royal land" (*umhlaba wenkosi*). Those who speak of the "Lieutenancies" as "land of the Great House of *Ngwane*" are implying that the Central Authority has greater control over access to the Right of Avail in respect of these areas than it does in the other Chiefdoms. Those who insist that all land in the Swazi Area is "royal land" are, in effect, arguing that the Swazi Right of Avail is indivisible and that control of access to it in respect of any part of the Swazi Area is vested in the whole Swazi people, not in any sub-section.

When *tinkhundla* were established, the *Ngwenyama* argued that traditionally the Swazi ruler had the right to establish royal Homesteads anywhere, and to attach to such Homesteads any lands or groups that he wished. Many Chiefs countered this argument by pointing out that, while this had been accepted in the past, royal Homesteads had normally always been established on unoccupied land, and with the agreement of any Chiefs nearby who might have claims over that land.

In many cases one does hear that before a particular Lieutenancy was established, the *Ngwenyama* of the time "begged" (*kucela*) an area of land from the local Chief, and decided on the boundaries of the future Lieutenancy in collaboration with that Chief.

Another objection raised to the *tinkhundla* organisation is that it has involved the people in the Chiefdoms attached to each *inkhundla* in a double set of tribute labour obligations; to the *inkhundla* and to the other major royal Homestead to which each Chiefdom is affiliated. It was pointed out, with some justice, that when a cattle post or similar minor royal Homestead was established in the past the only people who were liable to be summoned to tribute labour gatherings (*imimemo*) were those who had been granted land rights in the territory attached to that cattle post; not those in the neighbouring Chiefdoms, as is the case with the *tinkhundla*.

All reports suggest that it was the claim of the Central Authority to be establishing *tinkhundla* wherever it wished as a right stemming from "Swazi custom" which resulted in the objections to this system on the part of many Chiefs and their people. It was seen as the thin edge of the wedge, as the beginning of a process whereby control over access to the local Right of Avail would pass more and more into the hands of the Central Authority, and out of hands of the Chiefs.

With regard to the question of banishment, the Central Authority appears to have successfully established its claim to have the last word in any case where an appeal has been made against such a sentence. Many Chiefs may argue that they are independent of any higher authority in such matters, and it is also true that even if the Central Authority refuses to approve a sentence of banishment, there are many ways in which a Chief can make life so uncomfortable for the banished man that he might as well move in any case. Nevertheless, there have been many instances in which the Central Authority has effectively quashed a sentence of this kind.

If a man who has been banished refuses to move, and the sentence has not been approved by the Central Authority, the Chief cannot take any forcible action to remove him without the risk of falling foul of Territorial law. Nor can he call on the police to assist him in removing the man. For these reasons, there are, therefore, a number of people in different parts of the country whom their Chiefs have wished to banish but have been unable to do so.

More subtle questions of traditional law are raised when people owing allegiance to one Chief have arable Lands, and often their Homesteads, in areas recognized as falling within the territory of another. This is a sort of situation that

one often encounters in southern Swaziland. The Chief who controls the territory may demand that they leave; but he cannot banish them from his Chiefdom (*sive*) for the simple reason that they do not belong to it.

The people concerned can always argue that *sive* properly refers to the group of people politically subject to the Chief, and that they owe allegiance to another one.

In such cases they often claim that they cannot be evicted from lands that were ploughed by their fathers or grandfathers. They are, in effect, arguing that rights stemming from the general Swazi Right of Avail are "heavier" than any more localized right of the Chief to decide who shall reside in the territory now recognized as coming under his control.

In many cases Chiefs have refused to evict people owing allegiance to other Chiefs for those reasons. In others, where the Chief has insisted on eviction, many of the people concerned have suffered prosecution several times rather than admit that the eviction was justified.

Historical considerations: The "Swazi custom" which regulates the allocation of land rights in the SNL evolved under very different conditions from those obtaining today. When the Dlamini first entered Swaziland, land was relatively plentiful, people were relatively thin on the ground, and security for life, limb or property was minimal unless one had the support of a numerous and militarily powerful group. For the political leaders at all levels of organization, control over people was of far greater importance than clearly recognized rights over specific territories.

Under these circumstances there was also little need for any rigid definition of the exact pattern of subordination and super-ordination existing among the leaders of various sub-sections of the Swazi people.

The Swazi rulers, it is true, insisted on all these other leaders admitting their own political subordination to themselves; and reserved to the Monarchy certain ritual functions, such as those connected with rain-making and the *Incwala*. They also built up a military organization which served the threefold purpose of discouraging open rebellion, of offering protection against external enemies, and of increasing the number of these directly under the control of the Central Authority. But apart from these devices, the relationships both between the Central Authority and the leaders of subordinate groups, and also those between these leaders themselves, were based largely on a delicate balance of power, and of rights.

This balance was constantly changing, depending on the sizes of the groups concerned, the personalities and abilities of their leaders, and the amount of influence which each could exert on the Central Authority. Thus, when a royal Apauage was created in an area hitherto claimed by a Clan Chieftain, it was not a case of the latter being superseded by the Royal who came in, and so ceasing to be a "Chief". Rather, the Clan Chieftain acquired a powerful and potentially useful neighbour. There was, in fact, no way of saying in Swazi, that he either had, or

had not, ceased to be a "Chief" prior to the importation of the alien word *sikhulu*. He remained the genealogically senior member of his own clan, and was still their *inkosi* (ruler). The incoming Royal had borne the title (*Mftwanenkosi* - child of a ruler; prince) before the creation of the Apanage, and he continued to do so after it had been given to his mother as her Portion.

Similarly, there was the delicate balance of power between the Royals and the Lieutenants; a relationship which Swazi describe by saying that "each should call the other 'father' (baba)."

There was also no pressing need to define with any degree of precision the exact rights of the local Chiefs and the Central Authority respectively over land. What was important was that the political relationships should be clear cut. It was important to define exactly who should be permitted to display such outward symbols of power as performing the *Incwala* (with its intimate connection in Swazi eyes with the welfare of the whole Swazi people and the natural resources on which they subsisted); which Chiefs should have the right to perform their own First Fruits Ceremonies; and who should be permitted to organize and control a system of age-regiments (a right that apparently only the Mamba Chief had, apart from the Central Authority). Provided that the political unity of the Swazi State was so assured, questions of who should have what rights over which natural resources could normally be settled amicably. There was, in any case, little obvious shortage of any of these resources. Quarrels over those in specific areas were often inhibited by the fear of both parties concerned that such a quarrel might lose them the support of the other.

On occasion the Central Authority did "banish" a Chief and all who remained loyal to him, by force of arms. The application of this sanction, however, inevitably weakened the Swazi state; so there was a strong incentive for the Central Authority to seek some less drastic solution.

When an *Ngwenyama* "begged" land from a Clan Chieftain for the establishment of a Lieutenancy or an Apanage, it would have been unwise for the Chief to have refused except for some very good reason. The *Ngwenyama* would also have been unwise to have forced the issue in such a case, and gone against the wishes of the Chief and his followers, if he wanted to be able to rely on their continued support. It is against this background that one must assess the significance of such apparently contradictory statements as that "The *Ngwenyama*..... sanctions the holding of land by Chiefs" on the one hand, and on the other, those to the effect that he cannot interfere in any matters regarding land distribution within a Chiefdom without the agreement of the Chief concerned.

Conflicting views of the Chiefs and the Central Authority: We have already outlined the main differences in the traditional relationships between the Central Authority and Clan Chieftains, Lieutenants and Royals. We also mentioned that there are considerable differences of opinion as to what rights the Central Authority does have in terms of Swazi customary law, particularly with regard to land matters.

These are most clear cut in rotation to the Clan Chieftaincies. Most Clan Chieftains appear to subscribe to the view that their ancestors entered into "treaty relationships", as it were, with the Central Authority, to which they only transferred certain specific powers. They appear to regard it as merely another Clan Chieftaincy; albeit one with a special position. Its agents are regarded as ambassadors from a more powerful neighbour. When there is any doubt as to whether a certain power is vested in the Central Authority or in the Chiefs, the Clan Chieftains tend to assume that it must be the latter.

The Central Authority, while admitting the very definite rights of Clan Chieftains, tends to the view that since it is the governing body for all the Swazi people, any powers not clearly recognized as belonging to the Chiefs must obviously be vested in itself. This is the basis of what we have called the "constitutional conflicts" which are so common in Swaziland today. There is general agreement among Swazi that land rights in the Swazi National Land should be allocated according to "Swazi custom". There are, however, fundamental disagreements as to what the customary rights of the various parties concerned are, particularly when Clan Chieftains are involved. The Central Authority is apparently prepared to admit that it should not interfere in the ordinary day-to-day allocation of land rights in a Clan Chiefdom; but does insist that it does have the right to legislate regarding any matter (including land matters) for all Swazi.

Thus, the Rural Development Officers (agents of the Central Authority) were instructed not to interfere in any land allocations in any Chiefdom (not only Clan Chiefdoms). Yet the *Ngwenyama* claimed, in connection with the establishment of *tinkhundla*, that he had a traditional right to establish a Royal Homestead anywhere in Swaziland. The Central Authority ruled that any land which came under irrigation should automatically cease to be under the control of the Chief of the area. Most Chiefs, especially Clan Chieftains, have disputed its competence to make such a ruling. As a result, huge areas of potentially irrigable land are now uncultivated, because no decision can be reached regarding who has what rights over them. Similarly, agents of the Central Authority have, on occasion, given rulings when there has been a boundary dispute between Chiefs, which have often been ignored by the Chiefs concerned.

In Lieutenancies there is less doubt regarding the rights of the Central Authority. These are definitely "lands of the Great House of *Ngwane*", and Lieutenants are, in theory, no more than agents of the *Ngwenyama*. Moreover, since there is nowadays little land in the Swazi Area which is not generally recognized as forming part of one Chiefdom or another, the Lieutenancies are virtually the only parts of the country left from which Apanages can be carved out for future Royals. If this degree of control by the Central Authority is accepted (which it is), a Lieutenant has few grounds for objecting, on principle, to its other claims.

The position of the Royals is more difficult to define. They do not have the historical justification for claiming the same degree of autonomy claimed by the

Clan Chiefdoms, but in practice their position is little different. They also tend to resist claims of the Central Authority to exercise any powers which can have any direct effect on the land situation in their own Chiefdoms.

These conflicts of opinion between the Central Authority on the one hand, and Clan Chieftains and Royals on the other, still have to be resolved. They concern not only land rights, but the whole pattern of relationships which are governed by "Swazi Custom".

Mere statements by the Central Authority that they do, traditionally, have the very wide powers that they claim are obviously not enough. Chiefs have been resisting these claims and will continue to resist them, also in the name of "Swazi custom".

LAND DISPUTES BETWEEN CHIEFS.

Despite the expressed abhorrence of any "disputing of land", boundary disputes between neighbouring Chiefs are relatively common; particularly in the south of Swaziland. Since they are less easily settled than similar disputes between Bantu-Owners in the same Chiefdom (there usually being no "spare" land which can be granted to one of the disputants in lieu of the area in dispute), they tend to persist.

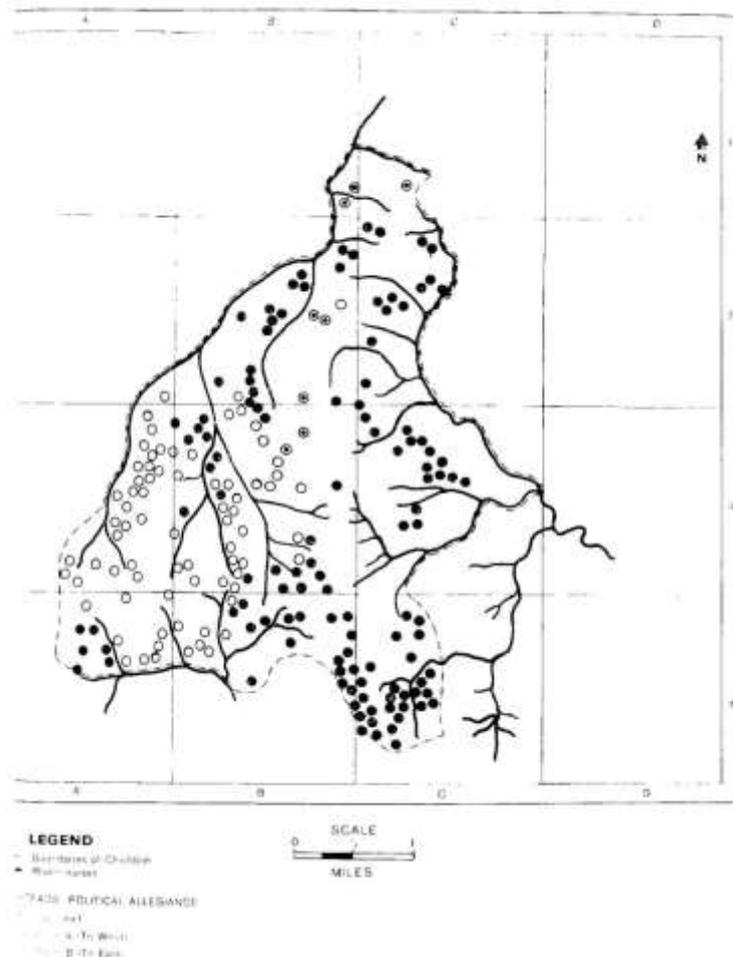
When the Chiefdoms of Swaziland were first established, their boundaries were often, not unnaturally, only indicated approximately. They were "up to" such-and-such a mountain, or up one stream to its headwaters and then down another which might rise half a mile to a mile away. When pressure on the land was slight, boundaries were not of great consequence. As the density of population increased, there was a tendency to define them more accurately; but in many cases, before this could be done people owing allegiance to one Chief had settled in an area claimed by one of his neighbours. In other cases family groups moved from their own Chiefdom on what they imagined was a temporary basis, were granted a Tenancy on Sufferance of arable land and a residential site by a neighbouring Chief, and then remained there so long, that this was converted (in their eyes) into Bantu-Ownership. One still encounters cases today of Chiefs granting rights over land (sometimes by the process of Placing, which implies a grant of Bantu-Ownership) to Homestead Groups from neighbouring Chiefdoms without insisting that they become their subjects.

Nowadays, therefore, one often has an inter-fingering of groups belonging to different Chiefdoms along the boundaries between these. One such situation is shown in Map 8. Sometimes there is a dispute as to the exact location of a boundary as happened in this particular case. In others there is no dispute regarding the boundary itself, but the intruders claim to have established Bantu-Ownership of their arable lands and residential sites through length of occupation.

From time to time these disputes have become so acrimonious that appeal has been made to the Central Authority. At one period a special committee was set up to deal with the spate of boundary disputes in Shiselweni District. In the case of the Chiefdom shown on the map, the Ngwenyama in person visited the

area and defined its boundaries; but added a rider to the effect that the Chief could not dispossess any Homestead Groups settled on his land who owed allegiance to other Chiefs. Later, the Chief and his own people agreed to a general resettlement scheme suggested by the Territorial Government as a conservation measure; and it then transpired that this did not apply to these other Homestead Groups which comprised about a third of those in his territory.

MAP 8: SOUTHERN SWAZILAND CHIEFDOM.
Political Allegiances of Inhabitants.



To the westerner it may seem extraordinary that Chiefs permit such situations to persist, or that the intrusive elements can claim that they are justified in remaining in the other Chiefdom in terms of traditional land law. They are not members of this Chiefdom, so how can they claim a right to any of the natural resources belonging to it?

Yet such claims are not completely unreasonable in terms of Swazi concepts. The intrusive Homestead Groups are Swazi, so have a share in the general Swazi Right of Avail. This, in turn, entitles them to a share in the natural resources in the Swazi Area. The lands and residential sites which they are occupying are certainly in the Swazi Area, so are covered by this Right of Avail. Furthermore, they have (in most of these cases) been occupied and cultivated now for a minimum of two generations. If one regards the Swazi Right of Avail as

indivisible, then one must certainly agree that, such long occupation must have established Bantu-Ownership.

On the other hand, if one argues that, the Right of Avail is limited by any exclusive rights that Chiefdoms, as groups, have established to particular, defined territories, then the intrusive Homestead Groups cannot be said to have acquired more than a Tenancy on Sufferance.

The conflicting claims of the Chief of the Chiefdom and the intrusive Homestead Groups are based, therefore, on different interpretations of Swazi customary law; both of which are perfectly reasonable interpretations.

Within a Chiefdom the community, or the Chief on the Community's behalf, can insist on his own interpretation of customary law being accepted, and can use the ultimate sanction of banishment if they are not. No similar sanction can be applied in this type of case. The Chief to whom the intrusive Homesteads owe allegiance has no incentive to banish them. In fact, their being in the neighbouring Chiefdom leaves more land available for the rest of his own people. The Central Authority has every incentive to argue that the general Swazi Right of Avail is not limited by any rights of Chiefs over specific territories, since this must weaken the power of the Chiefs, and so increase that of the Central Authority. The Chief of the affected Chiefdom and his own people can do little because one cannot take away membership of one's own community from people who are not members of it.

This Chief can, admittedly, appeal to the Territorial Authorities, and have the intrusive elements ordered to move. However, many Chiefs are loth to take this step, in view of the doubts that exist regarding which rights are "heavier" in terms of customary law. So these disputes persist, with all the problems that they bring in their wake.

MAJOR CLASSES OF LAND RIGHTS.

Other analytical needs: In Chapter 4 we discussed the concept of the "land community",¹⁴⁷ the "communal landlord" as it were, to which a Swazi must belong before he can acquire rights to use land in the Swazi area. Later, the point was made that there is actually a hierarchy of such communities¹⁴⁸ and we have just seen how there are differences of opinion regarding the customary rights possessed by communities at different levels in this hierarchy.

Despite these various complications, this idea of a hierarchy of land communities is not a particularly difficult one to grasp. It can be represented diagrammatically in the form of a simple organization chart, as in Figure 12.¹⁴⁹

However, when we come to the question of what rights are acquirable and exercisable by communities at different levels in this hierarchy the situation is far

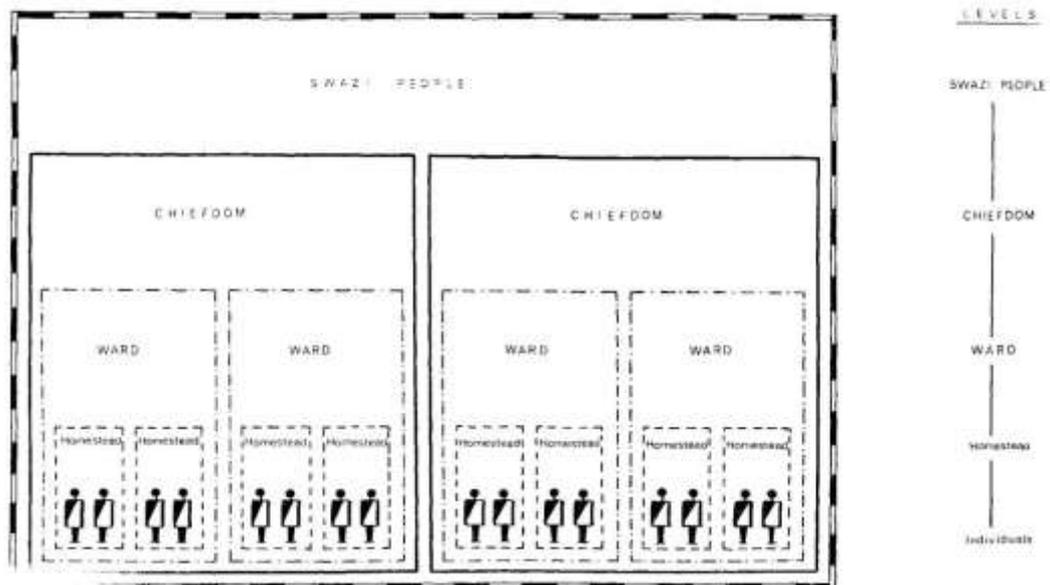
¹⁴⁷ See pp. 60 ff.

¹⁴⁸ See pp. 67 - 68 above

¹⁴⁹ It will be recalled that "individual" is used in this context in the sense of "individual or family group"

more complex. I have pointed out¹⁵⁰ that the schema given in Figure 2¹⁵¹ dealt primarily with rights acquirable by individuals, and that we should always remember that in this type of tenurial system communities also have rights which they can exercise over their members.

FIGURE 12



However, this is not all. In later chapters we have been dealing more and more with "group-to-group" relationships, as against "man-to-land" and "man-to-man" links. We have discussed at some length the pattern of relationships between the Chiefdoms and the Swazi Central Authority, and those between one Chiefdom and another.

This highlights the need for an understanding of two other major classes of rights. First, there are the rights (including rights of exclusion) which any territorially-defined land community can exert against members of other similar land communities. Second, there are the rights which superior levels in the land community hierarchy can exert over their subordinate land communities.

The first of these two classes is exemplified by the question - "Can a Chief exclude cattle belonging to another Chiefdom from grazing within the boundaries of his own Chiefdom"? The second, by a question such as - "Can the Chief instruct all the people in Ward "A" to move and settle in another part of his Chiefdom?" In both cases the word "can" has the sense of "does he have the accepted right to do this in terms of Swazi customary law?"

Thus there would seem to be four major classes of rights about which information is required. These are:

- a) Those rights which are acquirable by the individual;

¹⁵⁰ See pp. 153-154 above.

¹⁵¹ See p. 61 above

- b) Those rights which are exercisable by the community over its members;
- c) Those rights which a land community (at any level in the hierarchy) can exert against members of other, like communities, and
- d) The rights exercisable by superior levels in the land community hierarchy over subordinate levels.

It is not argued that these four are the only classes of rights involved. For example, there are the rights which subordinate land communities, as whole, derive from their corporate membership of wider, superior land communities. These, however, are not only analogous in many respects to rights exercised by individuals, but are also to a large extent complementary to those exercised by superior land communities over subordinate ones. Therefore, it has not been considered necessary to deal, at length with these or other possible classes of rights here, since they are not directly relevant to our main theme.

In this study we are concerned mainly with how the traditional tenurial system operates; the effects it has on the ways in which land is used; and the possible effects of radical tenurial changes on other aspects of Swazi social and political organization. It is submitted that an understanding of the four classes of rights listed above is an essential prerequisite to a gaining of any real insight into these aspects of the matter.

Inter-community rights: In Figure 13 an attempt has been made to represent this situation pictorially. One thing that the diagram does serve to illustrate is the complexity of the situation. It must be stressed that this is a schematic representation, designed to show the overall pattern rather than detail. It is not designed to show all the sub-divisions within these major classes (such as the various rights which flow from an individual's share in the Right of Avail); nor all the channels through which each class of right can be exercised.

Thus, the rights exercisable by the Swazi Central Authority over all of the members of the Swazi People are in fact, exercised through a number of different channels as was explained earlier in this study. Some of the channels pass through agencies connected with lower levels in the land community hierarchy. The case of the age-regiment system, with its Chiefdom-level command structure, is a case in point. Others provide a more direct link with the individual Swazi. This diversity of form, however, does not alter the fact that these are all examples of the same major class of rights, Rights of Control; exercised in this instance by the wide land community comprising all the Swazi People over members of the subordinate land communities of which it is comprised.

A word should be said about the indication in the diagram (Figure 13) that there are rights which the Swazi People as a whole can exercise against other similar land communities (unspecified, but shown by a question mark). That the Swazi Central Authority, on behalf of the Swazi People, does claim various Rights of Exclusion is a fact. For example, no Chief can accept a non-Swazi as a subject (and so as a member of his Chiefdom's land community) without the

approval of the Central Authority. What is not so clear is how the Central Authority sees its own relationship with other land communities; and whether it is prepared to accept that the Swazi People today are, in fact, part of a yet wider (and so superior) land community.¹⁵²

Of the four major classes of rights the first two, those acquirable by individuals and those exercisable by communities over individuals, have a very obvious and direct connection with present patterns of land utilization. The former we discussed in terms of a precise analytical schema, and have examined in detail how these rights can be acquired and lost.

The second class, rights exercisable by communities over their members, was also examined in some detail. This class does not lend itself so readily to the type of diagrammatic analysis adopted for the first one; largely because of the diffuse nature of the mechanisms of social control in Swazi society.

Some of the more obvious and revered ways in which the community (at whatever level in the hierarchy) exerts its rights over its members are, in fact, more assertions of the right to social control than mechanisms for its enforcement. These include such things as tribute-labour gatherings called by the National Authorities or by Chiefs; the obligations flowing from membership of an age-regiment, and such colourful practices as that of "carrying the *umcwasho* of a daughter of the *Ngwenyama* or of one's Chief. To have listed each and every one of these as "a right exercisable by the community" in competition with the more diffuse devices of group disapproval, and the ultimate threat of banishment, might have given a completely wrong impression of the relative importance of the various mechanisms involved.

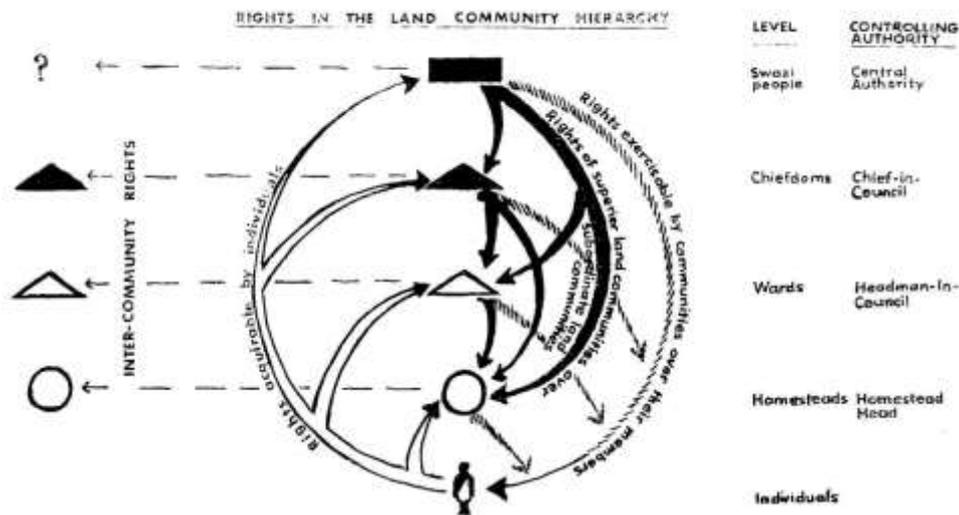
The last two classes of rights are those which one land community can exercise (in terms of accepted Swazi customary land law) against or over another. These also do not lend themselves readily to detailed diagrammatic representation at the present time. We have seen in our earlier discussions how many areas of disagreement exist about what these rights actually are. Any detailed schematic representation of the position would, perforce, have to be based on only one of these interpretations of the present rules of customary law, and ignore all other views. Instead, I have sought in the descriptive sections of this study to show where some of these areas of disagreement lie; such as the doubts regarding which levels in the hierarchy have what rights in cases of banishment or attempted banishment; and those regarding the role of the *tinkhundla*.

What has actually happened in most cases where these disagreements have had to be settled is that this has been done on an ad hoc basis. Either the Central Authority, for example, has not sought to exert all of what is considered to be its rights when local opposition was likely to be strong, or some other compromise was reached.

Such an approach may have helped to keep the peace, but it has not served to clarify the customary legal position.

¹⁵² See p 52 above; and pp. 287-289; 290-291 below

Figure 13.



Inter-group rights and development: These rights have a particular importance in connection with agricultural development. It would be pointless, for example, for any particular land community (say, at the Ward or Chiefdom level) to practise meticulous rotational grazing of the stock of its own members if cattle from neighbouring communities were free to graze at will on the pastures which were being rested. Yet a progressive land community cannot effectively exercise rights of exclusion against cattle from other communities if these other communities deny that these rights exist in customary law.

Enforcement in such a case would be dependant on a superior level in the land community hierarchy making a clear ruling that all subordinate communities at a particular level did have such rights of exclusion; and the provision of some machinery to ensure that such a ruling was observed.

The same would apply if two or more land communities at any level wished to join forces for some particular agricultural purpose. In such an instance it would be most desirable to have a clear ruling from a superior level with regard to what rights these land communities were entitled to exercise over the smaller land communities within them.

So, to add to the complications resulting from the conflict of views regarding the present provisions of customary land law we must also consider what future refinements may be required to meet modern conditions.

The "constitutional conflicts" which gave this chapter its title are centred around these doubts, or disagreements, about what the present pattern of intercommunity rights is. We have already mentioned some of the forms which these disagreements take. There would be little point in discussing them at greater length now, since, as I have said, it is obviously more important what future developments are in the particular aspect of customary land law.

This is something to which we shall have to return later. However, before doing this we should examine in slightly greater detail what effects this particular system of land tenure may have had on the ways in which land is actually being

used; and what other fears Swazi have regarding the possible results of any radical change in this system.

CHAPTER 17

THE PRESENT ROLES OF LAND

So far in this study we have tended to take the value of land for granted. We have examined in some detail how rural Swazi can obtain what sorts of rights over which kinds of land; but we have not paid a great deal of attention to what they do with these rights once they have obtained them.

Western agriculturalists and economists tend to assume (often, one feels, without really examining this assumption) that the only "obvious" role of rural land is to produce as high an economic return as possible. This is not unreasonable, if one looks at the question on a world-wide basis; and takes into account the much discussed population explosion, the current state of world agriculture and the dire predictions of many well-informed investigators regarding the possibility (some even say the inevitability) of widespread famines within the next decade or so.¹⁵³

However, for the Swazi this assumption is not necessarily so "obvious". For them, land clearly has a number of other roles.

Some of these roles have only tenuous connections with what Westerners would normally consider to be economic functions. We have mentioned its role, for the community, as a social regulator. We have seen how control over land allocation is an essential element in the present indigenous system of local government. It is also important in the field of family relationships. Since the extent and nature of the land rights that one can obtain depends very largely on who one is, and on how good standing one is in with one's kinsfolk, land community ties are clearly a factor encouraging cohesion within the agnatic group, and good and friendly relations with one's affines and cognates. Many a Swazi, as we pointed out earlier, has found a home with his mother's people (*ekayabonina*), or with those of his wife (*akakhakho*).

The acquisition and holding of land rights also has a strong emotive significance for most Swazi. A man with little or no land tends to lack "shadow" (*intunzi*), prestige; while the "shadow" of an individual with rights over much land, some of which he could grant to dependants if the need arose, is clearly increased by the possession of these rights. The knowledge that one can get land at or near one's own childhood home also undoubtedly provides a sense of emotional security for many.

Quite apart from these "intangibles" and the clear connections between the present tenurial systems and other aspects of Swazi social and political organization, land does also have a number of truly economic functions in rural Swazi life. What must always be remembered is that there are a number of these, and that its function as a producer of immediate income is not the only one, nor

¹⁵³ I) Cf. Erlich, P. "Paying the Piper", *New Scientist*, 14th December 1967, pp. 652 ff.
Lester R. Brown, "Population growth, food needs and production problems", in *World Population and Food Supplies*, 1950. (American Society of Agronomists), Madison, 1965, pp. 6 ff.

necessarily even the most important one in Swazi eyes. It is a lack of understanding of this simple fact which leads to much of the frustration of western and western-trained technical advisors when members of tribal societies, such as the Swazi, do not adopt some of the "obviously desirable" technical innovations which they recommend.

Before discussing these roles in detail, however, it might be advantageous to examine certain other characteristics of the rural economy as a whole.

THE SEMI-SUBSISTENCE ECONOMY

It is often argued that the vast majority of rural Swazi, are still living in a "subsistence economy"; and that, it is essential, in the interests of agrarian development, to encourage them to enter the "market economy" as soon as they possibly can.

The phrase "subsistence economy" has hitherto been more favoured by agriculturalists and economists than by anthropologists. The latter are aware of researches which have revealed the existence, even among the simplest societies, of formalized sharing relationships, of systems of exchange, and of embryonic forms of trade. They are therefore possibly more aware of the dangers of arbitrarily classifying any particular economic system as being just inside or just outside the "subsistence" stage.

The term is useful in some contexts. It is a convenient and concise way of distinguishing between the type of economic organization (like that of the Swazi in pre-European times) where money and extensive bartering are unknown, and those other systems in which money and the regular exchange of goods are accepted as integral parts of the normal way of life. The difficulty arise when an economy is in a state of rapid, change. Then one has the problem of deciding exactly when it ceased to be, or will cease to be, a "subsistence" one.

"Subsistence economy" is also sometimes used to cover situations where money is in reasonably common use, where markets are known and the cultivator deliberately produces for those markets, but where the bulk of his own day to day needs are met from his own land.

Various suggestions have been put forward to deal with this problem of more precise definition. Thus, in a Rhodesian government report, an attempt was made to resolve the problem by breaking up "the journey" from a subsistence to a market economy into four parts. The first, which might be called the true subsistence economy, is the stage at which exchange is absent. The second stage, in which the producer is mainly concerned with providing for the needs of his family, but in which he seeks to barter or sell such surpluses as he gets from time to time, is also referred to as a "subsistence economy". The third stage, it is argued in this report, is where the producer deliberately plans to produce surpluses for sale "but at which the annual value of the produce consumed is greater than that of the produce sold." This, apparently was still a subsistence stage; since the fourth stage, which is described as the transition to a market economy, is categorized as

being marked by the production for sale of produce of greater value than that consumed.¹⁵⁴

This convenient schema can, however, only be legitimately applied to an economy as a whole if one has reason to believe that nearly all the food consumed by cultivators' families is, in fact, produced by themselves.

As far as the rural Swazi arc concerned, there is ample reason to believe that in many instances this is not so. Swaziland is still striving to achieve self-sufficiency in maize, the staple carbohydrate in the Swazi diet. Since there are still many European farmers in the country who produce maize primarily for sale, this suggests that "imports" of this staple foodstuff into the Swazi Nation Land areas must be considerable.

That the buying of food, even this staple, was an accepted pattern emerged quite clearly during my own field work in the rural areas. I encountered numerous instances in which migrant workers had sent quantities of food itself (often several bags of mealie-meal at one time) to their families; or had sent money to buy this locally.

No recent measures of the extent of this food buying by rural Swazi are available. However, figures we obtained in the 1960 socio-economic survey revealed that over half the Homestead Groups in our sample (55%) had to buy some maize during the 1959-60 season, while in one physiographic region (the Highveld) this proportion rose to nearly three quarters (72.7%) of the Homestead Groups in the sample. Table XVIII gives some indication of the general position at that time.¹⁵⁵

TABLE XVIII
1959-60 - Maize Production, Sales and Purchases 2)
(After J.B.McT. Daniel)

	Percentages of total in sample				
	H	M	L	Lub.	Total Survey Area
Homesteads buying Maize	72.7%	45.9%	54.5%	35.6%	55.0%
Homestead producing just enough for their own needs	13.5%	19.3%	29.4%	21.8%	19.7%
Homesteads storing some surplus production, but not selling	6.9%	20.7%	11.9%	26.9%	15.2%
Homesteads selling Maize	6.9%	14.1%	4.2%	15.7%	10.1%

Further light was thrown on this question by other work on the figures obtained from this survey. Four sub-samples (numbering 60 Homestead Groups each) were drawn from the main samples for each of the four physiographic regions. For the Homesteads in these sub-samples the total cash incomes received (by all members of the Homestead Group) during the year-ending 30th June 1960

¹⁵⁴ Second Report of the Select Committee on Resettlement of Natives. L.A.S.C. 3, Salisbury, 1960,

¹⁵⁵ Daniel, J.B.McT. "The Swazi Rural Economy" in *Experiment in Swaziland*, pp. 216-217.

were calculated manually. Since this information was derived from statements made by informants, it is quite possible that some cash receipts were not recorded. Nor was it practicable to take account of rations or other perquisites received by migrant workers.

The probable result is that the cash income figures derived from those calculations were lower than the amounts actually received. Even so, tabulations revealed that in a large proportion of the Homesteads cash incomes were reasonably high (one quarter of the Homestead Groups receiving R133 or more during the year reviewed); that most of this (82.8%) was derived from wage labour; but that in four-fifths of the Homestead Groups examined (88.0%) total cash earnings were insufficient, to have alone supported the family concerned in food, let alone make allowances for other purchases.

Abbreviated tabulations are set out below, to give a fuller picture of the situation.

TABLE XIX
Annual Cash Incomes (1959-60) per- Homestead Group (Rand)

	H	M	L	Lub.	Total
First Quartile	15.40	1.00	11.00	0.00	4.80
Median	69.00	32.00	62.80	33.60	45.00
Third Quartile	171.00	131.00	121.00	107.60	133.60
Quartile Deviation	73.20	65.00	55.00	53.80	64.40
Highest Reported Income	1160.00	556.00	884.00	4162.00	4182.00

TABLE XX
Sources of Cash Incomes - Sub-Samples

	Percentage contributions to total cash incomes in sub-samples.				
	H	M	L	Lub.	Total
Wages	88.2	79.8	83.9	58.7	82.8
Cash Crop Sales	0.6	4.2	1.2	9.1	2.5
Grain Crop Sales	0.2	0.1	-	3.2	0.3
Cattle Sales	1.7	3.8	6.1	16.7	4.0
Handicrafts	2.2	1.7	1.4	1.1	1.8
Services	5.1	10.1	1.3	10.0	6.6
Other Sources	2.0	0.4	6.2	1.2	2.0

TABLE XXI
Sources of Production Incomes¹⁵⁶ (Percentages)

¹⁵⁶ Production Income: A term coined for this investigation which included both total cash earnings and the estimated value of food grown and consumed. See Hughes, op. cit., pp. 26(1 ft.

Source	H	M	L	Sub.
Wages	32.9	20.3	20.5	15.3
Other Cash Earnings	3.0	2.9	4.8	16.8
Subsistence Sector (Value of food produced and consumed)	64.1	76.7	74.8	67.9

TABLE XXII

Percent ages of production incomes derived from cash earnings

	H	M	L	Sub.	All sub-samples
Percentage of Homesteads deriving 50% or less of production incomes from cash earnings of all kinds	81.6	91.0	89.0	88.4	88.0
Percentage of Homesteads deriving 30% or less of production incomes from cash earnings of all kinds	65.0	75.0	74.6	71.7	71.7

The figures in the last table are significant if read in conjunction with those in Table XVIII which give the percentages of Homestead Groups that had to buy some maize in the season under review. 88.0% of the Homesteads in the sub-sample could not have purchased all their food requirements even had they had no other cash expenditure, and 71.7% could not even have met half their food needs.

This suggests that there is a widespread tendency to supplement home food production by purchases, using for this purpose money obtained from outside the rural Swazi areas; but that this home food production still provides the bulk of the rural population's requirements.¹⁵⁷ In this connection one must remember that Swazi have now to provide money for other expenditures; such as clothing and school fees.

Table XXIII shows the quantities of maize imported into Swaziland as a whole between 1963 and 1968 (not all of which necessarily went to the rural areas); and estimates of maize production during those same years (not all of which was grown in the SNL).

These figures, based on the Ministry of Agriculture's annual reports, suggest that the pattern of buying some of one's staple food, but still growing a considerable part of this, may have remained fairly constant over the past decade or so.

TABLE XXIII

Maize imports and estimated production (all Swaziland)

¹⁵⁷ That this state of affairs is not peculiar to Swaziland is confirmed by a similar type of investigation in Gutu Tribal Trust Land, Rhodesia. Cf. A.J.B. Hughes, Report on an Experimental Socio-economic sample survey in Gutu T.T.L. (duplicated), 1965.

Year	Imports (short tons)	Production (short tons)
1963/64	17,900	33,600
1964/65	20,009	35,000
1965/66	17,505	42,000
1966/67	13,188	69,000
1967/68	7,119	40,000

In addition to maize, 3,000 to 4,000 tons of sorghum (primarily used for brewing the traditional beer) are imported into Swaziland annually.

Elsewhere I have enlarged on some of the possible implications of these figures; and urged the development of more precise instruments for measuring changes in this kind of economic situation. With regard to the enquiry that we are undertaking in this study these figures are of interest primarily because they bring out some of the relevant characteristics of the type of dualistic economy. It is not a true "subsistence economy", i.e. the sense that virtually all day to day needs are satisfied by the rural families' own lands or stock through the medium of their own labour. On the other hand, it is not the type of "income economy" where families accept that a large proportion of their cash earnings must immediately be spent again on subsistence needs.

I have suggested that this type of economy could perhaps best be described as a "semi-subsistence" one. However, in this particular context terminology is not of vital importance. What must always be remembered, when we are considering the various roles of land, is that the land rights which a Swazi can obtain through the mechanism of the Traditional tenurial system do satisfy some very real subsistence needs.

VARIOUS ECONOMIC ROLES OF LAND

We have already made the point that land in the Swazi rural areas should not be regarded purely from the economic point of view; that to do so would be a gross over-simplification of what is in truth a highly complex situation. However, it would be desirable to examine in slightly more detail some of the economic roles that it does have in Swazi society, in view of the economic importance of its potential productivity in the present-day context.

In the previous section we touched on the question, often asked, of whether the rural sector of this economy is "subsidizing" the industrial sector (in both Swaziland and South Africa, in this instance) or whether migrant labour earnings are "subsidizing" the rural sector. As things are now this is a moot point; and any decision must depend to some extent on value-judgements with regard to what one sector or the other "ought" to contribute to the incomes of the people and families concerned. What does emerge is that the dualistic basis of this economic arrangement provides a convenient "shock absorber" in times of reduction of wage-earning opportunities. This undoubtedly benefits the industrial sector, but also has advantages for the migrant labourers themselves.

This "shock absorber" effect is one of the economic roles that land has as far as the community is concerned. Were the tenurial system to be changed so that all available land rights were "tied-up" on a long term basis land would clearly cease to have this particular role, and the whole concept of community membership entitling one to a share in the Right of Avail would inevitably take on an entirely different meaning. Either this share would become virtually valueless, or the communities would have to devise other methods whereby their members could benefit from it.

This economic role of land for the community under present conditions depends, of course, on the economic roles that land plays in the lives of its members; be these individuals or family groups. As things are now, the most important of these roles are as:

1. A dwelling place;
2. a source of raw materials; for building domestic needs and handicrafts.
3. a grower of crops;
4. a provider of grazing for one's stock;
5. a potential source of monetary income; and
6. the basis of a "social security" system for oneself and one's dependants.

The importance of the first two roles listed should certainly not be underrated. Though it is difficult to put any precise quantitative value on these rights. Experience in urban areas in Southern Africa has revealed the difficulties of trying to provide adequate living accommodation for families of African workers at economic rates which they can afford. So, the right to a dwelling place, and free access to most of the raw materials needed to erect dwellings on these, is of very real economic importance.

These two roles of land are naturally closely connected with the last role listed, that of providing the basis of an indigenous "social security" system.

Producing roles: The next three roles have already been mentioned in the previous section of this chapter. There we attempted to make some quantitative assessments of the part that Swazi Nation Land plays as a grower of crops, as a provider of grazing, and as a source of monetary income. We concluded that it was probably satisfying much (but not all) of its population's needs for grain foods, though there was evidence that the wage sector was subsidizing the rural, non-monetary sector of the economy to some extent in this connection.

We also saw (in Table XX) the negligible contribution that this land was making to cash incomes. Though there are individuals who make considerable cash incomes from stock sales, and others who earn largish sums from the sale of crops, it is clear that the effects of these activities on the economy as a whole are not very significant.

With regard to non-vegetable foods, we have no precise knowledge of the extent of the contribution made by Swazi owned cattle and other stock which are consumed in rural areas. However, we do know that considerable numbers of cattle are slaughtered, and that many others die and are eaten.

In this connection we also know that there is no technical reason why both crop and stock production could not be increased greatly. Apart from the large areas of once-cultivated land that are regularly left to lie fallow, yields per acre are distressingly low. These could easily be increased, and there are few Swazi who have not seen examples of how these increases can be brought about. The agricultural extension service has ensured that.

With regard to cattle, the situation is a little more complicated, since the Swazi Nation Land is, in general, overstocked under present conditions of stock management, and this is causing a serious erosion hazard. But even in this field the adoption of more sophisticated techniques of management could result in a very large increase in the production of stock and stock products.

To sum up, we can say that the roles of land as a crop grower and grazing provider are important ones in the Swazi rural economy. Its potential as a provider of extra monetary income has not yet been much exploited. However, there are no technical reasons why production should not be raised well above the level needed to supply the needs of cultivators' families. This has not been done, although rural Swazi clearly desire money enough for large numbers to seek to earn it through selling their labour.

It is possible, as we shall see, that the reasons why so many Swazi have made this particular economic choice are closely connected with the last of the economic roles which we listed; that, of providing the basis of an indigenous "social security" scheme.

Land as a "pension scheme": I have suggested that the sixth economic role of land in the present Swazi situation is that of providing the basis of a system of social security by this was meant a system whereby the subsistence needs of the old, the unfortunate and the temporarily destitute or unemployed could be met.

We have already mentioned the land's role as a "shock absorber" when there is a reduction in employment opportunities. This role is of importance both to the community as a whole and to individuals who may themselves be forced to rely on it.

Even under a system of individualized tenure the ownership of land provides a very real form of economic security. Under the Swazi system, however, individuals do not "own" land, and so cannot sell it. The security which it provides is not quite the same as that provided by chattels. As far as the individual Swazi is concerned, the protection land provides is not in the form of some type of "nest egg" which he can realize at will, but in his inalienable right to a reasonable share of the natural resources available to his community.

The operative word is "available". If there has been a marked diminution, through any cause, of what is available, this will naturally tend to prejudice the rights of those who may wish to take advantage of their share in the Right of Avail in times of trouble.

So, there is a certain degree of conflict between those various economic roles of land. If individual members of a community seek to exploit the available natural resources to their full potential this must inevitably lead to a shrinkage of the Right of Avail. If, however, there is for some reason a reduction in the extent to which these natural resources are being exploited, and a consequent reduction of individual claims to utilize specific parcels of land for particular purposes, the Right of Avail will expand.

It was pointed out earlier that western technicians tend to assume that the productive roles of land are all-important, and to ignore the need to avoid undue shrinkage of the Right of Avail. The question we must now examine is how the Swazi themselves tend to regard the relative importance of these various economic roles of land.

There is ample evidence that many regard its role as the basis of a social security system as one of the most important, if not the most important, of all the economic roles which it has. When discussing the possibility of any change in the tenurial system Swazi often express the greatest concern regarding the chance that this security might be lost. Often this concern is couched in terms which do not make it obvious to the westerner unfamiliar with this kind of tenurial system what the problem actually is; that these fears are that a complete system of social security might disappear.

"Where are our sons and daughters going to plough if the land is all divided up?" is the type of statement one often hears. If the reply is that they must buy land, as westerners do, this can lead to the further query, "Who is going to sell land which he has been given for his own, if he can make money by going to work even if he cannot get it from that land?"

This line of thought was interestingly illustrated in the essays which were written by trainee Land Utilization Officers, in answer to a question on the relative virtues of individualized and traditional tenure.¹⁵⁸ These were individuals who had not only undergone a course designed to indoctrinate them with western scientific, agricultural and economic concepts but who had also presumably opted for a partially westernised way of life through their applications for this training. In addition, they had received lectures on the subject of land tenure, in which the advantages of the "security of tenure" were stressed; particularly the economic advantages.

Yet one of these trainees made the following comment. "Say the Swazi farmer¹⁵⁹ gets thirty sons and daughters, and these get their sons and daughters, how on earth are they going to fit themselves there once the farmer father dies?"¹⁶⁰ The contention here, which was also found in most of the other essays, is

¹⁵⁸ See Hughes, A.J.B., "Some Swazi views on land tenure."

¹⁵⁹ Who (in the context of the question which resulted in these essays) holds a farm under a system of individualized tenure.

¹⁶⁰ Hughes, A.J.B., *op. cit.*, p. 267. It should be reiterated that these essays, or answers, were written by the Swazi trainees in the English language. The minimum amount of editing was done; since it would destroy some of the force of the colourful and succinct modes of expression that they used.

apparently that land held under a system of individual tenure would tend to be locked up, as it were, in the hands of a limited number of owners; whereas under the indigenous system there is sufficient flexibility to allow everyone participating in the Right of Avail to get a "fair share" of what is available.

Another was even more forthright. "So I think that individual land tenure," he remarks, "would into many a man's mind plant too many undesirable seeds of self-confidence and self-relying...Even if a man is removed¹⁶¹ it is quite good; for during the time when he was still young his education was that whatever thing he does, it is not for his but for the *Iusendvo*¹⁶² and the Nation. So, if he has been improving the land given to him he has been doing it for the Nation." After these comments, he gives his own very definite opinion with regard to the commercialization of land in a statement that "if our Swazi men have realised the value of money they should go to work for it under Europeans."

This last remark is an interesting formulation of the belief, of which one finds many indications among rural Swazi, that in this dualistic economy the productive roles of land should be more or less limited to satisfying the subsistence needs of those holding it.

These statements were similar in tone to those made by the other trainees in their answers. The tabulation which follows shows the main objections raised by them to the idea of individualizing tenure, while the figures in brackets at the end of each statement show how many out of the total of 14 trainees made this particular point. The trainees argued that individualized tenure would inevitably result in:

- a) The emergence of a large, landless group and the development of economic classes. Some even used the term "slavery" to describe the plight of the landless, who would have no other course open to them except to go to work for the land owners (10).
- b) Land owners who failed to pay back loans could lose their land, and so be forced to join the ranks of the landless. (2)
- c) Land owners impounding the stock of other Swazi which might stray on to their lands. (4)
- d) "Foreigners" (presumably Europeans) buying up all the land. (3)
- e) The closing of rights of way over individually held land. (1)
- f) The end of the great National ceremonies. (10) and
- g) The loss of all political power by the Ngwenyama and other traditional authorities, with a consequent collapse of the whole existing system of social control. (9)

If these objections were to be put in rank order according to the number of essays, in which they occurred, (f) and (g), relating to matters of social and political control, would come immediately after (a), the fears that a landless class would emerge.

¹⁶¹ That is, removed from his arable or residential allocations of land by the traditional authority.

¹⁶² The close agnatic group. See pp. 90-91

It is clear from those essays that the economic implications of any change in the tenurial system evoked a strong emotive reaction. Running through nearly all of them was the fear that a landless class would arise, and that this would be accompanied by increasing differentiation between economic classes.

Western technical and economic thinking about agrarian problems is based on the assumption that the endless sub-division of agricultural holdings to accommodate an ever-increasing population is economic suicide. This leads to the conclusion that ultimately (and in some cases, possibly quite soon) there must come a division between a class of farmers, with holdings of a reasonable size and adequate security of tenure of those holdings on the one hand; and those who will have to seek alternative forms of livelihood on the other.

Our trainees were obviously unwilling to concede the inevitability of this process. They apparently considered that such a division could only arise as the result of individualizing land tenure. Since they considered this division to be in itself deplorable, they were naturally opposed to individualization.

Thus, one has (in one essay) the fears expressed that "people who are too poor to buy lands or provide security for a loan can be the slaves of those with lands"; and that "the unfortunate (landless) ones would become their (the land owners') servants, working for the land which once belonged to everybody. They could remain workers for life, as they are not paid. As a result classification could take place."

Although the writer of the last comment did not make it clear why he felt agricultural workers would not be paid, his fears that "classification could take place" were obviously shared by many other trainees.

It is interesting, in view of the Swazi National Authorities pre-occupation with the results of the concessions and partition, that only three of the fourteen mentioned the danger that "foreigners" might buy up all the land. What clearly horrified them far more was the thought of an economic class structure. The Swazi are not an egalitarian society. As Kuper has demonstrated they have a complex rank system, with a heavy emphasis on ascribed status. So it was presumably not the idea of social "classification" per se which was so upsetting to the trainees, but the thought that this might come to be based on wealth rather than birth.

These essays have been quoted and discussed at some length here because they express succinctly what many Swazi, obviously feel; and express more indirectly in a variety of different ways. It is clear that there is a very definite belief that the primary role of the Swazi Nation Land should be to provide this kind of social security; or "pension scheme" as I have described it here and elsewhere. View's regarding the roles of land as a producer are summed up in the comment "If some of our Swazi men have realised the value of money they should go to work for it under Europeans."

The writers were well aware that there were distinct commercial, advantages in individualized tenure; but they did not try to refute the arguments

for commercialization in detail. Presumably, they saw no reason for trying to do this, since such arguments were quite irrelevant to their main thesis.

Since for the vast majority of Swazi there is no other form of social security available, the argument that the primary role of land should be to provide this security cannot be lightly discounted. Once again, we come up against the need for some form of alternative, if there is to be any hope of winning the Swazi over in large numbers to the contrary view that its primary role should lie to produce.

We must also not forget that more than economic security for these presently alive is involved. We must bear in mind the thinking behind the question, "But where are our sons and daughters going to plough if all the land is divided up?"

As things are now, a Swazi in good standing with his own community has something of real value to pass on to his heirs; an inalienable right to a share in the natural resources available to that community. This is another aspect of the land's role as a provider of social security. If, for good technical and economic reasons, its effectiveness in fulfilling this function must be decreased, what substitute could be offered? What other form of "capital" could Swazi be encouraged to accumulate; to compensate for this "life insurance" element which now flows from one having a share in the Right of Avail?

THE USE OF LAND FOR COMMERCIAL PURPOSES

We have seen that, according to Swazi formulations of their own rules of tenure, there is no objection to Swazi who have been Placed on arable allocations using these to grow crops for sale. Yet we have also seen that this does not seem to be happening to the extent that one might have expected it to.

The selling of cattle off Swazi Nation Land appears to be more common, and of greater economic significance, than the sale of crops. The proportions of Homesteads covered in the 1960 sample survey that had sold cattle in the previous year (or had used them as "payments" in situations where money would otherwise have been required) ranged from 24% in the Highveld to 76% in the Lubombo.¹⁶³ There are also some large cattle owners who make a business out of rearing cattle for sale, and are not regarded as having transgressed against Swazi customary law by doing so.

These facts, taken together, suggest that there may be some social mechanism which tends to inhibit the commercialization of arable land; but which does not operate to the same extent against what is, in effect, a commercialization of the right to graze stock on the communal grazing.

¹⁶³ J.B.McI, Daniel, "The Swazi rural economy", p.247 - These figures include cattle transferred as bridewealth payments, since these were shown as "sold" in the dip-tank registers. Nowadays, bridewealth can often be paid in money alone; or else a cattle-less bridegroom is expected to buy cattle for this purpose. So, it is not unreasonable to equate such transactions with sales.

We have discussed in the previous section the views of our Swazi essayists regarding what they feel the primary role of land should be; and their implicit assumption that rights over arable land are granted mainly to supply the cultivators' subsistence requirements. Earlier, we mentioned the objections to the individual (who was later banished from his Chiefdom) who indulged in large-scale irrigation; to the development of plantations of timber other than wattle; and even to wattle plantations in some areas. Further, we pointed out that objections to activities such as these were often phrased in terms of complaints that the individuals responsible for them were trying to "sell the land".

Any increase either in the physical extent of the land over which individuals have exclusive rights, or in the "weight" of those rights, inevitably results in a shrinkage of the Right of Avail. Further, the "weight" of rights held over any particular parcel of arable land grows greater in direct proportion to the length of time that these rights are effectively exercised. We mentioned earlier that it is often contended that no Chief can insist on an agnatic group moving from arable lands on which they have been Placed, short of banishing them. However, the point was also made that it would be unwise for an individual to refuse to "help" a Chief by surrendering some of his arable lands, for allocation to a newcomer or a landless newly married man, if it was clear that he was not making use of the land in question.

If those contentions are accepted, then it follows that any action which leads either to an increase of individual rights, or even merely to a greater desire to increase those individual rights, must threaten to decrease the "pension rights" which now flow from a share in the Right of Avail.

Under present conditions the value to an individual of any particular parcel of arable land is relatively low in purely economic terms. In few instances does it provide a large proportion of his cash income. Yields are so low that little effort would be needed to get similar yields even from inferior land. Moreover, there is no great immediate material incentive for an individual to seek to increase the area of his arable lands to any marked extent, nor to refuse to allow one of his dependants to cultivate part of them. As things are now, if the number of his dependants requiring land increases, he stands a reasonably good chance of being able to get other arable allocations for them when the need arises.

If land is yielding a high financial return, however, the picture changes. Then there is strong incentive for an individual gaining such a return to try and increase it by expanding the area of land giving that return. He is also less likely to be willing to see this land revert to the community, or to allow a dependant of his (who would otherwise have a claim against the rest of the available arable land, or potentially arable land) to deprive him of the use of part of it. The same applies to any land to which relatively permanent improvements of any kind have been made; whether this be the creation of a timber plantation, the construction of irrigation works, or even the large-scale application of fertilizer.

Anything, in fact, which encourages the permanent retention of rights over specific parcels of arable land must also encourage a shrinkage of the Right of Avail. So does anything which, by increasing the value of such, permanent rights

offers an increased incentive to individuals to increase the areas over which they exercise such rights.

This formulation of the position could serve to explain (I will say nothing stronger than could) some of the facts we have noted earlier in this study. It could explain the apparent lack of interest in producing cash incomes from land holdings, and the apparent preference for wage labour as a source of these cash incomes. It could explain the objections to timber plantations; except those of wattle, which has a relatively low commercial value. It could explain the objections so often raised to any individual who shows signs of making a success, in commercial terms, of his agricultural activities, and the otherwise incomprehensible complaint that such an individual is "selling the country".

It could also explain the lack of complaints against those who make a business out of rearing cattle. They are not advancing permanent claims to any particular patch of grazing. They are, admittedly, depleting the communal "pool" of grass; and are, in fact, advancing very permanent claims indeed to each blade of grass (nowadays too often only one of very few) which their own stock reach first. But, since the vast majority of Swazi are firmly convinced that as much grass as has been eaten will inevitably re-grow during the next rainy season, this does not cause any alarm. At least the land on which the cattle graze has not been removed from the "pool" of natural resources to which the Right of Avail gives access; or so Swazi, few of whom know anything about the process of soil erosion, fondly imagine.

[2 pages missing]

...are narrowly institutionalised are impossible. In all visible systems there must be an area where the individual is free to make choices so as to manipulate the system to his own advantage. In my view, therefore, an anthropological structural analysis which appears comprehensive in that it narrowly defines all possible relationships, is wrong in some rather fundamental way.

Though he is here clearly referring to analyses which seek to define all the possible social relationships an individual can have in terms of strict rules, this comment could apply with equal force to an analysis covering only one particular set of relationships, such as those concerned with land tenure. The rules and regulations are there to define the permissible limits of an individual's actions, but within these he is still free "to manipulate the system to his own advantage." Thus, the Swazi land holder is permitted to grow whatever annual crops he likes on his arable land. He is permitted to sell these. He and his family are permitted to obtain income from other sources, such as wage labour. He is permitted by traditional law and custom to graze as many stock as he can acquire; and to use these for commercial purposes if he so wishes. He is nowadays also frequently granted the right to a wattle plantation, and to sell the bark for profit. As we mentioned earlier, opinions differ regarding the degree of exclusive rights that he acquires over the timber in such cases. He is permitted to make use of natural resources such as clay, grass or wood for various handicrafts, an activity which he (or she) may commercialize if he wishes.

He is free to use the rights flowing from his own share in the Right of Avail for his own personal profit, as well as to satisfy the subsistence needs of himself and his family. There is, however, one proviso; that he should not exercise this freedom of choice in a manner likely to cause an undue shrinkage of the Right of Avail, and thereby prejudice the benefits that others can derive from their share in this right.

So, although the individual Swazi is free to manipulate the system to his own advantage in some ways, there are various forms of negative feedback (if we may use the language of cybernetics) which start operating whenever such manipulations threaten to alter the nature of the system itself. Since the keystone of this system is the fact that community membership gives access to a share in the Right of Avail, this negative feedback becomes evident whenever any particular action will obviously lead to a shrinkage of this right.

It would seem that this negative feedback not only inhibits certain developments, but also encourages a Swazi to divert his efforts to "manipulate the system to his advantage" into channels that will not result in such a shrinkage. Thus, one has the remark quoted earlier that "if some of our Swazi men have realised the value of money they should go to work for it under Europeans."

THE INFLUENCE OF "PROTECTION"

At the beginning of this study, it was argued that the present Swazi system of social and political organization, including their tenurial system, has evolved during the last century or so in an atmosphere of what I called "protection".

It is clear that during the latter part of the nineteenth century the continued existence of the Swazi state was due to a large extent to the mutual jealousies of two of its powerful neighbours. From 1902 the Swazi have been (until very recently) under the political protection of one of these erstwhile neighbours (the United Kingdom); and have become increasingly dependent on the successor state to the other (The Republic of South Africa).

This has inevitably had an effect on the development of Swazi institutions of all kinds. Though traditionalists may insist that these are based purely on "Swazi custom", in practise they have had to operate, during the last four generations, under conditions which were very different from those of the days when Somhlolo emigrated from Eshiselweni to the Dlomdlomo ridge.

The tendency for politically powerful sub-sections of the Swazi People to hive off and establish their independence was inhibited by the lack of places to which to migrate. The delicate balance of power between the Central Authority and the Chiefs has also undoubtedly been affected by the realization of many of the latter in earlier times that there were distinct advantages in all Swazi presenting a united front to all outsiders. This has led to the interminable wrangles which have persisted ever since regarding the division of rights and powers between the Chiefs and the Central Authority.

At the same time, this involvement with outside powers considerably curtailed the freedom of action of the traditional political authorities. The use of arms to enforce a decision (on the part of the Central Authority) or to resist such enforcement (on the part of the Chiefs), was actively discouraged. Though the cessation of the Zulu raids, again brought about by outside influences, permitted the Swazi monarchs before 1894 to build up their centralized state in relative peace, they could not do this in complete isolation, and purely in terms of traditional political notions. They did, admittedly, make various attempts to force the concessionaires to accept their own ideas of what customary law was, but with little success.

Finally, the extent of the natural resources available to the Swazi People was rigidly demarcated (at the Partition) in terms of alien legal concepts. This limitation on the freedom of action of the traditional authorities undoubtedly removed much of their power; but it also enabled them to disclaim any responsibility for many unwelcome developments. As far as land tenure is concerned, the sudden and dramatic shrinkage of the Right of Avail caused by the Partition was certainly a traumatic experience for many Swazi. It has also confused the issue ever since; and has served to inhibit any changes, even minor ones, in the tenurial system which might make it better suited to present conditions.

At the same time, the fight to regain more of the "Swazi heritage" has undoubtedly tended to mask the very real differences of opinion that exist within the Swazi body politic regarding who should have what rights over which parts of this "heritage".

The dualistic economy and Swazi aspirations: We must also remember the changes which have occurred in the economic roles that land plays. The decline in economic self-sufficiency has resulted, among other things, from the other opportunities now available for satisfying one's needs, through non-rural types of endeavour. This economic "protection", as it could quite legitimately be called, of the rural sector of this dualistic economy has undoubtedly affected the present form of Swazi customary land law; and Swazi views regarding what the "proper" function of land should be.

Moreover, the Swazi live in an economically plural society. The shortfall in food production on Swazi Nation Land has not resulted in obvious overall shortage of foodstuffs, with accompanying price rises. The activities of White farmers in both Swaziland itself and the Republic, coupled with controls on some products, has ensured an adequate supply for the market at reasonably stable prices.

Therefore, there has been no obvious need, from the Swazi point of view, for radical "land reform" to ensure increased agricultural production. One can sympathise with the individual Swazi who feels that he has made the wisest economic choice by devoting just enough energy to agricultural pursuits nearly to satisfy his subsistence needs, and interspersing this with more intensive periods of work as a migrant labourer.

The fight by the National authorities to regain the "Swazi heritage" has not only tended to mask the various internal constitutional conflicts. It has also tended to confuse the economic picture. If one's argument is that it is essential to have more land, it would not be good advocacy to stress, at the same time, that the land one already has could produce far more than it is currently doing. Furthermore, even if land is regarded primarily as the basis of a "pension scheme", there is no doubt that the larger the area of that land, the better the benefits that can be expected to accrue to those participating in this "scheme".

The attempt by the Swazi to acquire more land has tended to obscure the fact that the traditional tenurial system has been to a large extent "frozen" into a form ill-suited to present-day needs. It has been possible for the political authorities (including the Central Authority) to explain away any of the more glaring shortcomings of the present system as being the direct result of the Partition, and the consequent limitation of the Swazi Right of Avail.

Since the Central Authority's activities have, in fact, resulted in a considerable increase in the area of the available "pool" of land, this explanation has tended to be accepted. This area has been nearly doubled since 1907; and at the time of writing the Swazi authorities are trying to obtain further extensive additions. While the possibility exists of a constant increase in the available natural resources there has naturally been little incentive for the Central Authority, or any other level of political authority, to court unpopularity by urging any radical changes in the ways whereby rights over these natural resources are acquired.

I have said that the emotive appeal of this attempt to gain more land has tended to obscure the economic issues involved. What must be remembered in this connection is that the questions of how large an extent the Swazi Nation Land should cover and how rights over this land are allocated are actually quite separate ones. If, as is the case, this land is producing far less than it could, and is also liable to severe erosion in the near future, additions to its area can be no more than a palliative.

There is not enough land in all Swaziland to re-create the "golden age" when every family allegedly had access to far more land than they could themselves use. So, whatever the outcome of the present negotiations may be, the basic problems of land use remain the same; and the related questions of how rights to use are allocated. The only really important result of a large addition to the Swazi Nation Land is that it might give agrarian planners a little more room (and time) for manoeuvre.

PRESENT DANGERS.

In the Introduction I stated that "My primary aim in this study is not to indulge in special pleading in favour of any particular course of action (or inaction). Rather, I wish to examine as objectively as possible the links between the present Swazi tenurial system and other aspects of their social and political organization in the belief that any policy which is not based on an adequate appreciation of these links is most unlikely to succeed.

Despite this disclaimer, I feel that we cannot leave this subject without a brief consideration of the probable effects of some possible alternative future policies. The Swazi traditional system of land tenure is of more than merely academic interest. It is bound up with all the other developmental problems of Swaziland, and the entire economic future of the Swazi People. To put the whole question which we have been discussing in this study into a proper perspective we must see it in this context.

THE CONTINUATION OF THE PRESENT SYSTEM

First of all, is there any need to think about changes in the present tenurial system? Many Swazi are clearly opposed to such changes; and earlier we discussed the unfortunate results that certain kinds of change could have. So why bother about change at all?

To answer these questions we shall have to accept the conclusions of experts in these various fields of study with only relatively brief and nontechnical discussions of the reasons why they have reached these conclusions.

In the introduction, I also claimed that "some radical changes (in the pattern of land use) are clearly essential if this slide towards ecological and economic disaster is to be halted." Have we reason to believe that this "slide" is taking place; and that it is somehow connected with the tenurial system?

Agriculturalists are mainly interested in two things; the best use of land in terms of production, and the conservation of that land so that it can continue to produce.

We have already' discussed how low the agricultural productivity of the Swazi Nation land is. Many thousands of tons of maize have to be imported annually and the low "out-turn" from the national cattle herd was deplored by the Swaziland Department of Agriculture. The local creamery, originally established to provide a profitable outlet for locally produced dairy products, has had to rely increasingly on butterfat imports from the Republic; imports which have risen from 23% of the total intake in 1962 to 68% in 1966.

In a country with many agricultural advantages and where, in its own government's view, "the main potential for general economic development lies in agriculture" figures such as these could surely be regarded as indications of a general economic malaise.

It is known that it is technically possible for agricultural productivity to be increased vastly. Thus, the use of fertilizers and modern cultural practices has produced average maize yields of well over 30 bags to the acre elsewhere in Southern Africa; as against the 2 to 4 bags per acre among the Swazi. Similar comparisons could be made with regard to most other types of agricultural activity. We have seen how this low productivity could be connected, with the traditional tenurial system, and accepted attitudes about what the "proper" function of land should be. There would, therefore, seem to be ample justification

for the contention by agriculturists that "in the long term the system of Swazi land tenure will inhibit the further development of Swazi agriculture."

Apart from the productivity issue, there is also the more pressing problem of conservation. Soil conservation, (unlike mineral "conservation", for example) is not simply a matter of slowing down a process of deterioration which is bound to occur in any event. On the contrary, it has been defined as the treatment and use of land in a manner that will not only safeguard it against erosion, but also steadily develop its productive capacity. There is no technical reason, why this happy state of affairs should not be achieved in the Swazi Nation Land areas; but there is good reason to believe that it is not being achieved.

"Positive conservation", which will actually increase the potential productivity of the land so conserved, involves two main types of action. First, the topsoil must be protected against mechanical agents which might otherwise remove it; primarily water and wind. Secondly, the amount of organic matter in the soil must be maintained at a satisfactory level. In addition, one may have to add plant food in the form of fertilizer, or trace elements, if these are being "cropped off" at a faster rate than they can be naturally replaced.

"Mechanical conservation", the construction of contour ridges and associated works, can reduce the rate in which topsoil is lost; from arable land due to the run-off after rainfall. This should, however, be coupled with "biological conservation"; protection of the soil through the maintenance of an adequate plant cover during the growing season, and deliberate effort to keep up its content of organic matter. These last can take the form of adding manure or compost, ploughing in crop residues after reaping, or a combination of these measures.

One way of ensuring that there are sufficient crop residues to maintain the soil structure is to encourage a heavy crop through the reasonably liberal application of fertilizer. Even this will only be effective if there is already sufficient organic matter in that soil. If there is not, one may have to spend several years on a deliberate programme of building up the soil.

Fertilization with bought fertilizers costs money. The application of compost and manure, even if this happens to be available in sufficient quantities, can also be "expensive" in terms of the human labour involved. In commercial farming these costs are recovered from the increased crop. This is not the case when crops are grown mainly for home consumption, and arable land is not "costed" according to its area.

It is true that a rural Swazi who now reaps 15 bags of maize from 5 acres could probably reap more from one acre properly worked and fertilized. However, this would involve an increased monetary outlay; quite apart from the more intensive labour needed. As things are now, his wisest economic choice in the short term might be to plough up two more acres, in addition to his present five, and get some four to six more bags through the use of his traditional cultural methods.

These, then, are some of the ways in which the traditional tenurial system could, as far as crop production is concerned, "inhibit the further development of Swazi agriculture."

The problem of the grazing areas: The grazing areas present a different and rather more acute problem. Mechanical protection, though technically possible is not always economically feasible; over such large areas. For the same reason biological conservation cannot be based on the physical insertion of organic matter into the soil. What one must do is to control the pattern of grazing, particularly during the summer growing season, so that natural processes can take an ecologically desirable course.

Rotational grazing, whereby certain pastures are periodically rested, is one of the simplest of these measures. Bush control can also help in instances where other vegetation is competing for food with the edible grasses. At the other end of the scale one can, if the economic returns justify this, markedly increase the carrying capacity of any area by using specially planted and fertilized pastures. This, apart from the extra monetary returns obtainable from the cattle themselves, also makes available more manure for both grazing and arable lands.

In short, there is no doubt that if animal husbandry and crop production were to scientifically be integrated, throughout all the Swazi Nation Land, production and income could be increased many times over, and the danger to the natural resources removed at the same time. The increase of the per capita income of Swazi resident in this area should be more than enough to compensate for what some individuals might lose through a shrinkage in the Right of Avail. There is, of course, the problem of how this increased income should be distributed, and how "compensation" for those adversely affected could be arranged.

These are the technical dreams. These are things which we know could be achieved, if only the "system" encouraged their achievement. But what is the present position of the grazing areas?

Daniel has been very forthright regarding the position in 1960. "Unless positive steps are taken to adjust the number of livestock units, the carrying capacity of the land", he says, "any extension of the area under cultivation will only aggravate the problem of overstocking. That such steps are a matter of urgency in the immediate present, let alone the future, need not again be laboured. The continued deterioration and destruction of the vegetation cover on which the well-being of the livestock industry depends can only lend to disastrous consequences."¹⁶⁴

Latest figures indicate that the number of livestock has not been "adjusted" (i.e. decreased) to suit the carrying capacity of the grazing areas. One also has the ominous report that "grazing management is conspicuous by its absence and erosion is on the increase.

¹⁶⁴ Daniel, "The Swazi Rural Economy", pp., 236 ff. 249

Visible erosion, it must be stressed, is nearly the end product of this process of resource deterioration. The natural vegetation cover is the best "mechanical protection" for soil in grazing areas. Over-grazing results in palatable species being replaced by less palatable species which are also less efficient as a protection. Later in the cycle the vegetation cover becomes sufficiently thin to allow the soil to be washed or blown away. Once this starts on a massive scale, the erstwhile grazing can rapidly deteriorate into typical "badlands", useless for agriculture or grazing.

The only answer once this stage has been reached is what conservationists classify as "reclamation"; a process which is invariably very expensive, and may often not be economically feasible.

The trouble with grazing areas in tenurial systems of this kind is that what is everyone's property may be no particular person's or group's responsibility. What should be done when the effects of over-stocking become noticeable, is that the grazing load on that area should be reduced. Cattle should either be removed to another area or, if this is impracticable, disposed of. When the pastures have recovered grazing should still be controlled, so as to prevent any repetition of the deterioration in the vegetation cover. Simpler methods of grazing control often involve destocking. More sophisticated methods may involve considerable outlay on such things as planted pastures.

If there is no "owner" to do these things, the problem arises of who is to do them. In the long term it may be to a group's advantage to de-stock so as to preserve the pastures on which their stock graze. Put in the short term it is not to an individual's advantage to forgo part of his Right of Pasture if this merely means that other members of that community can graze more cattle there.

In this instance we have more than another example of a way in which the traditional land holding system could "inhibit the further development of Swazi agriculture." This is rather more dangerous. Widespread land collapse in the grazing areas would involve the destruction of one of the main natural resources on which present Swazi agriculture is based.

POLICIES FOR DEVELOPMENT.

Anthropologists should beware of allowing personal value judgments to colour their analyses. Nevertheless, there are instances where an analysis becomes more meaningful if it is considered in the context of some rather obvious value judgments.

This would seem to be a case in point. I would suggest that we should accept as our starting point:

- a) That, the development of Swazi agriculture along scientifically and economically sound lines is both essential and "good"; and
- b) That any major ecological disaster, such as a collapse of the grazing areas or a serious depletion in the fertility of the arable areas would be "bad".

Notwithstanding Swazi objections to the commercialisation of land, it would also seem to be self-evident that the continued dissipation of human resources between a thoroughly uneconomic agriculture and inadequately developed alternative economic outlets, has certain disadvantages. Even if the alternative economic outlets were to be better developed, it would be an economic tragedy to allow so vast an asset as the Swazi Nation Land to remain so fantastically under-used.

One must also consider the problem of population increase, and the possibility that at some future date, the theory that everyone has a right to land may result in no-one having sufficient land to satisfy his own subsistence needs. If there was then, for any reason, a marked curtailment in alternative ways of earning a livelihood disaster could soon follow.

Furthermore, the Swazi Nation Land would quickly cease to be a vast asset, if erosion were to spread seriously.

All in all, there would seem to be an excellent case for a change in land use in the Swazi Nation area. We know that there are technical solutions which could be applied, and both safeguard that land and increase its productivity. We have also seen that there is evidence that the traditional tenurial system, in its present form, is inhibiting, and will tend to continue to inhibit, the application of those solutions.

Sociologists and anthropologists naturally stress the need to take into account the "human factor", and the culture of the peoples concerned, when solutions are being sought to developmental problems. The sociologically oriented must be equally willing to take into account economic and ecological considerations when these have a real relevance.

In this case we cannot consider the "problem" of the Swazi tenurial system purely in terms of its sociological significance. If we have evidence, as I would suggest we do have, that its perpetuation in exactly its present form for any length of time could lead to ecological and economic disaster, then I would submit that we have to accept that it must change; however awkward the results of these changes may be.

Change, or the evolution of human institutions, is never completely "unguided". If the government whatever its form, or the people concerned decides to adopt a laissez faire attitude, "guidance" will still come from pressure groups having particular interests.

I would, therefore, suggest that there is yet one more value judgment of which we should consider the validity. This is that when the inevitability of certain fairly radical changes is foreseen, the government concerned should consider very carefully exactly what degree of guidance it should give; and that at the same time it should seek to involve the people most likely to be affected by these changes in deciding exactly what forms they should take.

Over thirty years ago, Mair, discussing similar problems and apparently accepting that some form of planned guidance is essential, remarked that, "the problem for the development of native societies is how they are to evolve a system that will meet the social needs which are no longer provided for in the traditional way, and one of the main questions of policy ought to be how this evolution can be guided."¹⁶⁵

I am as sinning, in my subsequent discussions, that both the Government of Swaziland and the Swazi Central Authority are also prepared to accept this contention.

¹⁶⁵ L. Mair, "The growth of economic individualism in African Society" in *Studies in Applied Anthropology*, London, 1957, p31.

CHAPTER 19.

"ENFORCED CHANGE OR 'EVOLUTION'?"

LAND USE PLANNING

In 1966, the Swaziland Government issued a document entitled A Policy for Agriculture, 1966. A key passage in this, from which I have already quoted in parts, reads as follows; "It is the Government's view that while in the long term the system of Swazi land tenure will inhibit the further development of Swazi agriculture, the problems posed by fragmentation of arable holdings, the inefficient and haphazard pattern of land use and various agricultural malpractices are of greater immediate economic consequence than those of land tenure per se. Government's policy is accordingly now directed towards the elimination of these bottlenecks to progress."¹⁶⁶

From this it appears that the Government, possibly influenced by past scientific reports on this question,¹⁶⁷ has accepted that the consequences of a rapid and imperfectly planned change in the tenurial system might be catastrophic; and that for this reason it would be unwise to contemplate the enforcement of such a change in the immediate future.

Nevertheless, one cannot but wonder whether this does not cut both ways. We have seen how intimately the system of land tenure is bound up with other aspects of the present Swazi way of life. We have discussed reasons for believing that it has affected the ways in which land is being used. We have seen how changes in these methods of land use could affect rights that many Swazi currently have; and how this could cause opposition to these changes themselves.

Therefore, can methods of land utilization be changed radically without also bringing about some changes in the system whereby rights over this land are acquired and held?

For example, further on in this same report one finds these complaints. "The pattern of land usage in most Swazi areas is not efficient and not orderly. Arable holdings are commonly fragmented and much of the arable land lies fallow. In aggregate considerable amounts of potential grazing are wasted in small areas of grass interspersed between arable fields. In spite of the fact that about half the arable soil is not tilled, Chiefs find it increasingly difficult to allocate new lands to farmers' sons and to newcomers."¹⁶⁸

It is envisaged that these problems can be overcome by, among other things:

- a) The provision of village sites for the houses of non-farmers;

¹⁶⁶ A Policy for Agriculture, 1966, pp 1-2.

¹⁶⁷ Cf. J.F. Holleman, "Some Aspects of Agronomic policy in Swaziland", in Experiment in Swaziland, pp. 334 ff. A.J.B. Hughes, "Some Swazi view's on land tenure" Africa, XXXII, 3, July 1962, pp. 253 ff. A.J.B. Hughes, Swazi Land Tenure (duplicated) 1964.

¹⁶⁸ A Policy for Agriculture, 1960, p. 3 •

- b) Consolidation of fragmented arable land by mutual arrangement;
- c) Enclosure and sub-division of grazing areas;
- d) The limitation of livestock numbers to carrying capacity; and
- e) The aggregation of spare arable into blocks, for issue by Chiefs to new farmers.

It is intended that these land-use plans should be implemented, "in co-operation with the Chiefs and the people concerned", in what are known as Rural Development Areas. Since provision is made for the constant creation of new Rural Development Areas, one must assume that the aim is to introduce this type of land utilization throughout most, if not all, of the SNL.

I certainly do not argue that steps of this nature are undesirable. In the previous chapter I mentioned some of the dangers of permitting the present pattern of land use to continue indefinitely. The point that I do wish to make is that this sort of agricultural planning must, when implemented, have an effect on the rules regulating land tenure.

Consider the complaint about the amount of arable land lying fallow. Presumably, in many cases rights over parcels of this fallow' land are held by people who, for some reason, were unable to cultivate it during the season when it was inspected. Does this policy, then, envisage that a "new custom" should be introduced into Swazi customary law; a rule that says, "You must plough and plant your arable allocation every year or lose all rights over it forever"?

This raises another possibility. In some parts of Swaziland the traditional authorities already tend to frown on absentees retaining rights over land which is left fallow for long periods . They are liable to suggest that it should be handed over for use by the landless in their communities. As we have seen, such a request is difficult to refuse in some cases. To obviate any risk of this happening, persons liable to be away for long periods (like labour migrants) may ask a kinsman to cultivate their lands during their absence. It is often noticeable that these lands are cultivated less intensively and less carefully than that kinsman's own arable allocation.

If such a device were to be adopted in the Rural Development Areas would it be necessary to adopt yet another "new custom"; in this case ruling that "Either you cultivate your arable land in the manner that I (the agriculturalist) say you shall, or lose all rights over it forever?"

It is unlikely that the framers of this policy statement had such extreme developments in mind. Nevertheless, some kind of changes in traditional rules of tenure would seem to be an inevitable result of so thoroughgoing a change in the pattern of land use.

Similar effects could flow from the fencing and sub-division of the grazing; and perhaps even from the implication that a Chief is the only person who has any say over land allocations, which suggests that only a Chiefdom-level land community has any control over who has access to the Right of Avail. De-stocking, which is also suggested, must curtail the Right of Pasture.

The "provision of village sites for the houses of non-farmers" would introduce another alien element into the rural scene, and might confuse the Neighbour Cluster pattern of relationships in their vicinity. The aggregation of "spare arable into blocks, for issue by Chiefs to new farmers" would presumably take away from many an agnatic group the prescriptive rights over fallow once cultivated by one of their members; rights which many now have, but which only become obvious when they are approached by a kinsman from afar who is seeking to settle in their area.

I must stress once again that I am not arguing that these proposed agricultural measures are not desirable. What I am suggesting is that it would be quite unrealistic to believe that they could be implemented without at the same time inducing changes in the traditional system of tenure; changes which would be both profound and ultimately most obvious to the people affected by them.

If this is so, might there not be some merit in making this clear during the initial discussions with Chiefs and people in the planned Development Areas; and also taking the matter up at all other levels in the land community hierarchy?

As we have seen, changes in the tenurial system do not affect only the people in the particular vicinity where these changes are occurring. All Swazi could be said to have some sort of rights over all land in the SNL. If people (or authorities) discover some time after a technically-oriented scheme has been started that it is adversely affecting their own rights, they inevitably will oppose any further implementation of this scheme. An example is provided by the Rhodesian experience which I cited earlier.

If however, they can be convinced that their own well-being is seriously threatened by certain ecological developments, and that the only solution is to alter their customary way of doing things, they might be far more ready to accept the necessity for these changes.

In brief, what I am suggesting is that, in this type of situation, it may be dangerous to place virtually all the emphasis on the advantages of technically sound land use planning; dangerous, that is, if one's aim is to gain general acceptance of these ideas. The implementation of these new patterns of land use will, perforce, have repercussion in other spheres of the traditional way of life. In view of the many roles that land plays in the rural Swazi situation, it will be unwise to assume (as this policy statement appears to assume) that, once the technical and economic advantages of these changes have been demonstrated, any social or local governmental problems which they may cause will automatically "sort themselves out" in some undefined manner.

THE CASE FOR THE INDIVIDUALIZATION OF TENURE.

If those responsible for giving guidance to a rural population wish to urge the latter to change their tenurial system it would be obviously desirable for them (the guiders) to have a clear idea of what changes in that system would encourage the desired results. In other words, they should have decided what form they would like the tenurial system to change into.

In the policy statement from which I have been quoting there is evidence that the guiders (in this instance, the Swaziland agricultural extension service) would favour a system of "individualized" tenure. Thus, in addition to the land-use plans for the SNL, provision is made for special settlement schemes for selected Swazi farmers. It is stated (following a comment on how co-operative societies offer "considerable prospects of mitigating the adverse effects of the land tenure system"¹⁶⁹ that tenure on these schemes will be on a leasehold basis, and that they will "not only create a new class of prosperous Swazi farmer but will also test and demonstrate the value of this system of private ownership."¹⁷⁰ Despite the inclusion of the word "test" the juxtaposition of this criticism of the "adverse effects" of the traditional system and plans to introduce leasehold tenure on the settlement schemes leaves a strong impression that the latter is considered the ultimate ideal. This impression is heightened by the further statement that it is hoped to provide also "a limited area of suitable title deed land to be purchased for settlement".

We have already noted Swazi objections to individualization; and some of the complications that such an innovation might bring. I have also pointed out that there is considerable justification for the complaints about the unfortunate results of the present system. Since we are faced with this dilemma, and this conflict of opinion between the Swazi and their agricultural advisors, we should examine the questions of whether:

- a) individualization of tenure has, in fact, brought about the desired results when it has been introduced elsewhere; and
- b) Whether it is the only system which is likely to produce these agricultural results.

Individualisation by ukase: The western system of individualized tenure is the result of a long evolution from rather different systems. One of the reasons why it is popular with agriculturalists is because it was in force in England at the time of the "Agricultural Revolution" in the eighteenth century.

We have already remarked that terms like "individualized tenure" or "private ownership of land" can cover a wide spectrum of meaning. In passing, it is also worth noting that when "Turnip" Townsend and Coke of Norfolk were developing their systems of "high fanning", the prevailing system of tenure in their country was based on a landlord and tenant relationship; not on the outright ownership of small parcels of land by a large number of peasant proprietors.

If private ownership of land is desired, in any form, in Africa it will clearly not be practicable to wait for natural evolution and a "change of attitude" to bring this about. The conservational and economic problems are far too pressing. What will be needed is some legislative action; as was, in fact, necessary in many European countries.

¹⁶⁹ From the context it is clear that it is the traditional system which is meant here.

¹⁷⁰ A Policy for Agriculture, 1966, p2

Several African countries have tried such legislation; and it is constructive to consider what the results have been.

South African and Ugandan experiences: In South Africa the Glen Grey Act of 1894 permitted a number of African farmers to obtain small farms on individualized tenure. We have already mentioned Elton and Mills' study of this area, and their findings that many of these farms had ceased to be truly "individually" owned; and were held in undivided shares by members of large agnatic groups. These research workers also found that this land was farmed no better, and no more intensively, than order land held on "communal" tenure in the same area. In many instances the security offered by this form of tenure actually militated against intensive and sustained cultivation. The freeholders, with nothing to fear from community pressure if they left their land lying idle, were more prone to long term migration away from the rural area than were men living in other villages nearby where tenure was "communal", and where the effective and continued use of arable land was essential if one wished to retain a right to continue to use it.¹⁷¹

Mair sums up this particular situation with the statement that, in the Keiskammahoek situation, "freehold gives security", but secure tenure does not lead to the improvement of the land".¹⁷²

The story of Buganda, where Sir Harry Johnston introduced freehold tenure on the English pattern, is often quoted as a warning to those desirous of rushing into individualized tenure before acquiring a full knowledge of the role of land in the society whose system of tenure it is wished to "reform". "Here ... the Buganda Agreement allotted a total of 8,000 square miles in freehold to persons described as 'chiefs or private landowners', believed already to have the rights which freehold title would merely confirm."¹⁷³ The recurrent riots and agitations following this settlement have demonstrated in no uncertain fashion that these changes in the pattern of tenure did have disruptive effects on the traditional social order, and that these effects were felt and resented by an appreciable proportion of the Ganda people.

The original number of claimants for these freehold allocations was nearly 4,000. The number of owners of land has increased markedly since then, and in 1933, Mukwaya estimated them as numbering between 45,000 and 55,000. He notes that much land was sold to raise money for non-agricultural purposes, such as the "purchase of motor cars, the building of houses, or to raise capital to start shops or commercial companies and even to pay for luxurious living."¹⁷⁴ Legislation had to be passed to protect tenants on this land from the exactions of their landlords, with the result that when some of the latter wished to lay out their lands for mechanised cultivation they could find no areas of suitable size on which there were no "protected" tenant holdings.

¹⁷¹ M.E. Elton Mills and Monica Wilson, *Land Tenure, Keiskammahoek Rural Survey, 1952, Vol IV,*

¹⁷² L. Mair, "The contribution by social anthropologists to the study of changes in African land rights" in *Studies in Applied Anthropology, London, 1957, p. 59*

¹⁷³ Mair, *op. cit.*

¹⁷⁴ A.H. Mukwaya, *Land Tenure in Buganda, Nairobi, (East African Institute for Social Research), 1953*

In neither of these instances has the introduction of a western type of individualized tenure in itself been sufficient to ensure agricultural advance. "Security of tenure", though obviously essential for sustained and expensive farming enterprises, can have other results. As Mair says in another passage, "To the question 'what does the tropical farmer do when given the full control of his land?' the history of India has supplied an answer. He uses it as a security for credit, but the money he raises is rarely invested in the land."

The Rhodesian experiment: A more sophisticated attempt to provide "security of tenure" for tribal cultivators is represented by the Rhodesian Native Land Husbandry Act of 1951. One of the aims of this legislation was to make it easier to enforce legislation relating to soil conservation; but great emphasis was also laid on the need to give "security of tenure" to the tribal cultivator, and to remove any danger of "the corruption of the kraal's head authority with regard to land allocation."¹⁷⁵

Floyd argues that such corruption was "commonplace" and that the Land Husbandry Act was "intended to ameliorate irregularities and injustices of the present-day tribal distribution of lands." Speaking of security he states that "there is another tenurial aspect to the degeneration of tribal responsibilities which was as pernicious as the inequalities of land allocation. This was the sense of insecurity among main land holders regarding the stability of their rights to cultivate a given piece of land ... Under such conditions of instability, there could be no incentive for a farmer to attempt agricultural improvements such as building up the fertility of the soil or constructing conservation works. As soon as he had accomplished those improvements the lands might be coveted and, at the earliest opportunity, he would be forced to vacate his holding for an undeveloped piece of land."

Despite the fact that there was some truth in those observations, a later Rhodesian Government report contained the following comments on this question of "insecurity of tenure". "In customary law the permanence and inviolability of the land rights of individuals are not conceived (as is ownership in our law) as a relationship to a specific holding in perpetuity, but as a perpetual relationship with any such unencumbered portion of the land of the community as may be available for individualized occupation whenever required as such from time to time. Herein lies the individual's security, that is, in his vested right to claim a share.

"If then, the Native Land Husbandry Act aims 'to provide individual security of tenure of arable land and individual security of grazing rights'¹⁷⁶ this reveals an ignorance of the nature of customary land rights. The African, at any rate, can hardly escape the impression that what the Act generously offers as something special to a qualified number, his own laws had always accepted as the obvious birthright of all."¹⁷⁷

¹⁷⁵ B.N. Floyd, *Changing Patterns of African Land Use in Southern Rhodesia*, Lusaka, (Rhodes-Livingstone Institute) p. 119.

¹⁷⁶ NADFORM Broadsheet No. 3/1960.

¹⁷⁷ Report of the Mangwende Reserve Commission of Enquiry, Salisbury (Rhodesian Government), 1961, pp. 35-36.

Agriculturalists can argue that there is a real distinction between the type of "security" offered by African customary law and "security of tenure" of a specific parcel of land. The former is not likely to encourage the sustained agricultural effort that is essential for agricultural advancement and true conservation of the natural resources.

Nevertheless, it is now clear that this Rhodesian legislation did not produce the results which it was hoped it would. In the words of another report it "has not achieved what it was designed to achieve. It has not created a free market in land and cattle rights in the tribal areas. It has not resulted in rights of cultivation of arable land being transferred, whether on a permanent or a temporary basis, to those best able to make the land produce most. On the other hand, it has created a landless class. It has created a great deal of ill-feeling among that class towards agents of the Government. It has disturbed social stability, in that it took away from the traditional political authorities one of the few remaining props of their power ... The outcome has shown that whatever tenurial systems are evolved should not merely be palliatives to a disgruntled pressure group, but be so designed as to aim at the maximum productive capacity of the land used by all the members of the community who have the right to it. As a result of this experience, the Native Land Husbandry Act is to be replaced by a new Act¹⁷⁸ which, when promulgated, will restore much of the flexibility of the old traditional system of tenure."¹⁷⁹

These examples have been cited to show that we know of many cases where "the magic of property" has not turned "sand into gold". In Mair's words, it appears that "proprietary rights in themselves have but little magical effect".¹⁸⁰ We have also seen that the "security of tenure" which, it is argued, is an essential prerequisite for sustained agricultural effort does not always result in this effort. Nor does it seem that this "security" is seen by the African who obtains it as being as great an advantage as it is claimed to be.

The provision of credit: Before leaving this subject we should mention one other advantage claimed for individual tenure; that land so held can be used as a security for loans with which to finance agricultural operations.

Apart from the fact that these loans may be used for other, non productive purposes, there is a further factor which must be considered. The value of the land (which is dependent on a variety of conditions) may not be sufficient to finance loans of the size needed for sophisticated agricultural operations. Such a situation has arisen in respect of land held on individual tenure in Angola (to quote one documented example), and the authorities in that territory have sought to devise other bases for the provision of this necessary working capital.¹⁸¹

¹⁷⁸ The Tribal Land Trust Act, (1967).

¹⁷⁹ Proceedings, Ninth Ordinary Meeting, Southern African Regional Committee for the Conservation and Utilization of The Soil, Pretoria, 1964, p.71

¹⁸⁰ Mair, "The contributions of social anthropology to the study of changes in African land rights". pp. 54 57.

¹⁸¹ E.C. de Carvalho and Guimaraes, "A evolucao do credito agricola em Angola" in Proceedings of the Regional Symposium on Traditional Systems of Land Tenures, 1968, Pretoria

So, even where individualized tenure does prevail, credit provision may still have to be based on some system other than the mortgage of land, by mortgages on crops or by assessing the personal credit-worthiness of the farmer, if this can be done (as it is being done in some African countries) yet another argument in favour of general individualization would fall away.

Examples could be given of instances where the provision of land on an individualized basis has resulted in the adoption of more advanced agricultural techniques. The African Purchase Area farms in Rhodesia are a case in point. Nevertheless, here would seem to be good reason to doubt, in view of those various experience, quoted above, whether individualization of tenure is in itself a panacea for all agrarian problems.

CONCENTRATION ON CONSERVATION

In his paper on "Some aspects of agronomic policy in Swaziland" Holleman has argued that "the very marginality of food production" in the Swazi Nation areas suggests a "mental orientation (which) seems to be of the utmost importance to any future agronomic policy". This, he continues, means that "a policy purporting to produce surplus (cash) crops would be difficult to accept by a people who do not wish to produce more from the land than their bare subsistence requirements."¹⁸²

He concludes that "for the great majority of the present-day rural Swazi, population, intensive crop production is neither essential nor indeed a practical proposition." Since the importance of income from wages is likely to increase, he suggests that agricultural extension should concentrate on the small proportion of Swazi who are "genuinely farmers at heart," but that otherwise "extension services would probably have to be largely confined to the essential aspects of soil conservation, and to reducing the hazards of staple crop production at subsistence level." He recognises the special problem of the grazing areas; accepts that "large-scale de-stocking is necessary" and suggests that this should be linked to an inducement scheme whereby communities who destock most should have access to more land."

With regard to the question of land tenure, he is opposed to a move (even a gradual one) in the direction of individualization, but suggests certain measures which might help to overcome some of the more obvious imperfections of the present system. He is also in favour of "a clear statement of policy that no immediate change of land tenure is contemplated with regard to tribal land."

The 1966 policy statement by the Swaziland Government conforms very closely to these suggestions, and even incorporates the "clear statement of policy" that no immediate tenurial changes are envisaged. It diverges only in its overt disapproval of the present system of tenure, and the implication that individualized tenure is the only realistic ultimate aim.

¹⁸² Holleman, "Some aspects of agronomic policy in Swaziland"

In this study we have seen that there are good reasons to accept Holleman's contention that, as things are now, a policy urging increased commercialization of the SNL, would be most unlikely to receive widespread acceptance. We have discussed at length some of the reasons, and possible reasons, for this particular "mental orientation."

What is more difficult to accept is that adequate conservation measures, and adequate encouragement of the more agriculturally progressive will be possible, in perpetuity, within the framework of present policy.

Whether or not the agricultural potential of the SNL should remain unrealised for the foreseeable future does, of course, involve a value judgment. It is, however, a value judgment the full implications of which should be thoroughly appreciated by all those responsible for framing policy; and this includes the humblest Swazi cultivator as well as the Minister of Agriculture of the day. I would not, myself, have the temerity to give a conservative estimate of what the potential productivity of the SNL could be if this issue were not complicated by cultural considerations; nor of how many millions of Rands in increased annual income this would represent.

This could be an interesting exercise for those in a better position to undertake it. Apart from letting the policy-makers gain a better idea of what their own value judgments could involve, it might also strengthen the arm of the agricultural extension service.

When we come to consider the question of conservation the situation is rather different. I would submit, as I have suggested above, that the type of conservation measures envisaged in the Swaziland Government policy statement could not possibly be implemented on a wide-spread scale without inducing changes in the tenurial system. I am also prepared to accept that these measures are probably the minimum enquired to ensure positive conservation; the reversal, however slow this may be, of the process of resource deterioration, rather than a more slowing down of this process of deterioration.

Ultimately, it must become obvious to all that these conservation measures are inducing tenurial changes. If this stimulates a "negative feedback" among the rural population which slows down the rate at which these measures are adopted, the "slide towards ecological and economic disaster could well continue, though perhaps at a slower pace than if nothing had been done at all.

So, there would seem to be two possibilities. Either these conservation measures are generally accepted, with the result that the tenurial system will begin to change. Or there will be opposition and unwillingness to implement them, the natural resources will continue to deteriorate, and enforcement of conservation legislation will ultimately become necessary.

There is, of course, yet a third possibility. The process of resource deterioration may be permitted to continue to its conclusion. This will also cause

radical changes in the tenurial system, since the present Swazi population are not geared for life in a desert.

LEASEHOLD TENURE.

A little more must be said about the possibilities, and possible implications, of introducing a system of leasehold tenure into the Swazi-occupied rural areas.

In the policy statement quoted earlier it was envisaged that tenure on settlement schemes for selected Swazi farmers would be on this basis. There is also good reason to believe that the "leasehold concept" may be the cornerstone of agricultural development policy in Swaziland in the immediate future. Moreover, it is said to be favoured by external agencies which could be a source of loan funds for the acquisition of further land for Swazi settlement.

The present official view is, I understand, that it will only be practicable to bring in this type of tenure in new settlement areas; and perhaps on large irrigation schemes in the present SNL.

One obvious advantage of leasehold tenure is that it permits reasonably strict managerial control of agricultural operations; and that rents from settlers can be used to re-pay any loans which may have to be raised to acquire new land for settlement.

We have already discussed the situation on schemes which have been established on this basis. In Chapter 14 it was pointed out that the settlers are in a position very different from Swazi cultivators in the SNL; that they have apparently not been expected to give up their traditional land rights in the areas from which they came; and that there is already evidence that many of them are possibly more concerned about the "social security" which their holdings could provide than in "production maximisation". This is suggested in their insistence (on a scheme where there is no provision for them to purchase their holdings) that their leases should be inheritable by their heirs.

I have also suggested that it may prove increasingly difficult to maintain the strict control over farming operations which operates now. Where holdings can be purchased, such control would only be kept if individuals who have obtained title voluntarily relinquished much of their own freedom of action to some controlling body; or were forced to do this by some legislative act. In other cases, the "inheritance" of leases by individuals who have not themselves voluntarily bound themselves to these agreements could lead to a considerable dilution of the "production maximization" objective.

The application of strict leases to holdings on irrigation schemes in the present SNL raises the possibility of other complications. There are local communities which already have rights over the land which could be irrigated. They might well resent any drastic shrinkage of the Right of Avail to which they have access; and the introduction of strict managerial control over that land would certainly result in this sort of shrinkage. These communities could easily advance

the argument put forward by a tribal authority in another country when faced with a similar situation. "The English word 'lease' means to borrow land from someone else. But how can we 'borrow' that which is already ours?"

Leasehold tenure, in the form in which it is found on the existing settlement schemes, is merely one type of western-style individualized tenure. The Swazi settler is offered a "package deal", based largely on western concepts of which he has no direct experience in his own culture. In this society it could give rise to all the complications and anomalies which any type of individualization of tenure could, and which we have already discussed.

Furthermore, if it is confined largely to newly acquired land, it can leave little effect on the situation in the present SNL. Past experience suggests that, far from this idea seeping spontaneously into areas of older occupation, the tendency may rather be for these settlement schemes themselves to be gradually "tribalized" with patterns of land tenure tending to approximate more and more to the traditional one.

It must be appreciated that the adoption of this type of tenure in new settlement areas could have several distinct advantages in the short term. It could provide areas in which the overspill of population from the present SNL could be housed, feed themselves, and also be offered profitable "employment" (in the growing of saleable cash crops on their holdings). It could finance the acquisition of these additional areas. It could, as we pointed out earlier, demonstrate in a very obvious manner that farming can be more profitable than many forms of wage labour.

However, when we come to examine the long term implications, it seems highly doubtful (for the reasons which I have been stressing in past chapters) that this type of tenure (with its strict control of agricultural operations and generally western tinge) could be easily adopted throughout the SNL in its present form. It would have to be considerably modified, one might say "Swazified", before there could be any real hope of this happening.

RURAL LAND AND THE TOTAL ECONOMY.

It has been estimated that the Gross Domestic Product of Swaziland in the financial year 1966-67 was 52.4 million rand. "Rural households", according to the same estimate, contributed only 8 million rand to this total; of which 5 million rand was in the form of production for their own consumption, and 1.6 million was derived from the sale of products.

In contrast, mining and construction contributed R11 million; forestry R4.8 million; and "other" agriculture (European farms and large estates, R6.8 million). These figures might be taken to suggest that the minimum development of the SNL is not a matter of great urgency. Even if production of saleable produce was to quadrupled, this would add a mere 8% to the Gross Domestic Product of the country as a whole. Further expansion of other types of enterprise would probably yield far higher returns.

Is this, then, an argument in favour of adopting a completely laissez-faire policy towards the development of the SNL?

I would submit that this is a conclusion which we cannot accept. First, there is the question of soil conservation to be considered. As I have pointed out, one of the best forms of soil conservation would be to demonstrate to rural Swazi that what is known as "conservation farming" can be economically attractive. The alternative is to rely largely on restrictive measures, which could only decrease the present rights enjoyed by inhabitants in the rural areas, and so are unlikely to be accepted with much fervour.

Second, an increase in the population must lead to an increase in the land hunger which is already evident. Settlement schemes, of the types mentioned, could act as a palliative some time, but cannot do so indefinitely. If things remain exactly as they are now, a constant "creeping" increase in the area of land held on traditional tenure will continually be reducing the area available for true income-producing development.

Third, many of the enterprises which are now making large contributions to the economy of Swaziland are based on mining. Mines are wasting assets. Other non-Swazi enterprises, although not based on wasting assets, also have certain limits on the extent to which they can expand.

These three considerations alone would seem to argue against the adoption of a completely laissez faire approach to the SNL, and in favour of attempting to bring about a more economically sound situation in these areas as soon as possible. This is likely to be a lengthy process; and it would clearly be the height of foolishness to wait until the present tempo of economic development in Swaziland slows down before doing anything about it. By then it may be too late.

OTHER ALTERNATIVES

If a policy of leaving things as they are for the foreseeable future is not acceptable, this brings us back to the linked questions of what should be done; how it should be done; and who should do it.

In this chapter I have considered various suggestions for future policy, and my analysts of these has been largely destructive. My arguments have been to the effect that, in my own opinion, none of them are likely to provide permanent solutions to the problems of the SNL. I have sought to show how, in some cases, they would result in loss of rights by individuals and rural communities; which might ultimately lead to their adoption having to be enforced through some legislative action by the central government.

I have already pointed out that the main purpose of this investigation was to provide an analysis of a situation; not to lay down in detail what future land policy in Swaziland should be. Nevertheless, having drawn this rather depressing picture of future prospects, it clearly behoves me now to examine the question of whether there are any other possible lines of approach which might have better hopes of success.

This I will attempt to do in the next (and final) chapter of this study.

CHAPTER 20

DECENTRALISED DEVELOPMENT?

The arguments advanced so far suggest that some change of the tenurial system in the SNL is inevitable. This raises the further question, which we have already discussed, of whether these changes should be guided solely by the actions of interested pressure groups and intermittent legislation based largely on expediency; or whether there is a case for government agencies themselves seeking to provide this guidance.

Swaziland has recently acquired a predominantly Swazi government, and is no longer subject to the control of another country. This does not necessarily make the solution of the tenurial problems that we have been discussing very much simpler. Swazi officials may, it is true, have a greater appreciation of the attitudes and problems of their fellow countrymen in the SNL than many an expatriate European official. There may be less reason for the rural population to believe that government decisions are based on western concepts and are made by people who are ignorant of their own values and way of life. Nevertheless, even a Swazi official may have difficulty in convincing a rural community that they would somehow be better off if they were to relinquish a whole complex of rights which they now possess, simply to make tenurial change possible. Even a Swazi-dominated government may find itself in conflict with various levels of local government over where certain powers should be vested; as the present government has with the Swazi National Council. Moreover, a Swazi government, like its predecessor, still has to decide how best to use the advisory and other agencies under its control.

The National government, regardless of its composition, has to make the decision of whether or not to seek to guide the process of tenurial change.

If the inevitability of tenurial change and the necessity for planned guidance are both accepted, the next need is to decide on the steps which should be taken to establish exactly what these changes should be; and how best to guard against any unfortunate side-effects which they might produce. The question we must consider now is how these two things can best be done.

THE DEFINITION OF OBJECTIVES

In the parlance of agricultural extension the definition of "objectives" is considered an essential step in any "extension programme". Thus, Kok defines an extension programme as a "statement of a situation with its problems, solution, objectives (goals, targets) and a plan of work."¹⁸³

I would submit that one of the very first steps which should be taken is to establish with complete precision exactly what the conservational and agricultural objectives of any programme involving tenurial change actually are.

¹⁸³ F.J. Kok, "The need for extension programmes" in *Extension methods in Southern Africa*, Pretoria 1962, p. 141

This precise definition of objectives is not always a simple matter. It is only too easy to confuse an actual objective with a series of procedures which one believes (often with excellent reason) could lead to the achievement of that objective. For instance, when the supporters of individualized tenure urge the adoption of this system is it a western legal form, with all its attendant legal and administrative procedures, that is the final objective? Or is it some kind of land use which it is hoped that this kind of tenure will encourage? When leasehold tenure is advocated is the primary objective to provide homes for overspill population from the present SNL; to increase agricultural production; or merely to establish control over farming operations?

To bring this discussion down from the airy realms of semantics, I am going to have the temerity to suggest some agricultural objectives (purely to illustrate my argument) which I consider that agriculturalists and conservationists in Swaziland could set up. I would suggest that, these could be:

- a) The maintenance of the fertility and soil structure of all arable land; and the intensive utilization of this land to produce the maximum output of subsistence and cash crops (in appropriate proportions, and always keeping in mind the need to produce marketable cash crops at a profit;
- b) Stock management of a kind that will serve to protect and improve the grazing areas, while at the same time producing the best economic return in the form of various types of animal produce; and
- c) The use of the most efficient techniques of both crop culture and stock rearing (within the economic limits of the situation) so as to minimize the expenditure of both human effort and money.

It will be noted that in (a) and (b) I have listed "conservational" objectives first. These are, of course, essential in a country where the fertility status of the soils is often low; and the erosion hazard high. These priorities should also conform to the traditionalist Swazi view that the land "belongs" among others, to "the countless generations as yet unborn."

If one has one's objectives phrased in this form (I am not, it should be noted, arguing that these three objectives are necessarily the only ones which could be set up) the next logical step is to decide on the technical procedures which would lead to these results.

Thus, one might decide that the cropping objective (a), could best be achieved by rotation; the use of (bought) certified seed; fertilization (with manufactured fertilizer's) to full recommended standards; and heavy applications of animal manure coupled with the ploughing in of crop residues. One might (I repeat might) decide that the ... [*text illegible*]

To get an idea of how the answer to this last question might be found, let us examine our agricultural objectives, and the technical procedures needed to achieve these, in slightly more detail.

The cropping objective necessitates the expenditure of time, labour and money on a specific parcel of land. It also involves the type of enterprise which is

perhaps best carried out by an individual, or a very small group. It involves some risk, but also offers hopes of reasonably high rewards for individuals. It would also clearly be desirable if anyone undertaking such an enterprise knew that he could continue to conduct it on the same piece of land for some time; and that his activities were not arousing marked disapproval among his neighbours and the traditional authorities.

Thus, the main "sociological" problems would appear to be that of providing reasonable security of tenure of that arable land (not necessarily in perpetuity), and how to overcome the deep-rooted aversion to the commercialization of land. Difficult as the finding of solutions to these problems might still be, I would suggest that they are rather more precise, and rather easier to solve, than the vast problem of changing the whole tenurial system.

Thus, it might be possible to persuade a community to grant security of tenure of land used for such purposes for a fixed period of years; subject to certain clearly defined conditions. It might help to overcome some of the aversion to the commercialization of land if some of the profits of such enterprises could be clearly seen to be used for the benefit of the community as a whole. One might use the argument that, since work creates rights in terms of traditional land law, special work creates special rights (such as ten-year security of tenure). Also, since the land is regarded as the basis of a "social security" system, it would only be reasonable to expect that some of the profits from these intensive enterprises should be diverted to the same use. The exact devices to be employed for this purpose would, I suggest, be for the local community to decide.

When we come to consider intensive development of the livestock industry, the individual element is perhaps not so important. For grazing control one needs generally accepted local "bye-laws", which will be strictly enforced. If the aim were to embark on such adventurous ideas as planted and fertilized *vlei* pastures, the outlay involved might be well beyond the capabilities of any individual; quite apart from the customary legal complications.

One can, however, envisage a situation where a whole community might decide to embark on such an enterprise; and recover the initial outlay and upkeep through the running of a number of "cattle of the community" on these improved pastures, and also charging grazing fees on all other cattle that benefit from them. In such a case one could have whatever combination of "collective farming" and "private enterprise" proved most suitable and acceptable.

But what of the rights of other levels in the land community hierarchy? These cannot be simply ignored.

It would clearly be necessary for superior levels in this hierarchy to admit that their subordinate land communities had the right to make arrangements of this kind; or specifically to grant them such rights through some special legislative act. To meet the fears of the superior levels that they might be losing for all time some rights which they have hitherto had, it might be stipulated that these powers were only granted, or delegated, for a specified number of years; and that the renewal of such a "charter" would depend on the circumstances of the time. It might also

be advantageous to have such arrangements clearly recorded in writing, alien as such an idea might be to Swazi tradition, to avoid subsequent confusion about, these "new customs", which is what such charters would be.

Confusion of objectives: By these examples I have tried to demonstrate how the initial precise definition of objectives could perhaps simplify the process of pin-pointing exactly what changes in the existing system of tenure are essential in any particular situation. I have also tried to show how the disruptive effects of these changes could possibly be minimised.

By the same token, confusion about objectives could unnecessarily complicate the introduction of these changes; and could give rise to unanticipated side-effects which might make the people concerned less willing to accept them.

In a situation like the one in Swaziland some confusion of objectives can come about only too easily. There are many problems involved, and there is a natural temptation to seek "blanket" solutions which promise to solve all of these problems at the same time. For example, one has the problems resulting from the increase in the population of the SNL, and the resultant land hunger. In addition, one has the problem of the very low rate of agricultural production in these areas. It is only human nature to try and find some all-embracing panacea which will alleviate the land hunger and also result in a marked increase in agricultural yields.

The leasehold settlement schemes which we were discussing earlier are a case in point. One of the main advantages claimed for leasehold tenure is that it permits strict control to be exercised over all settler's agricultural operations. So, clearly one of the main objectives could be described as "production maximisation". Yet, at the same time, these settlements are favoured as a device for providing homes for the ever increasing population of the existing SNL. Here we have evidence of another objective, which we could perhaps classify as the "welfare" objective. Yet another objective is to create an awareness among rural Swazi of the simple fact that one can make a good living from farming. This could be classified as the "awareness creating" objective. Allied to this is the desire, on the part of many agriculturalists, to "raise the standard of living of rural Swazi", and to demonstrate that this can be achieved through agricultural endeavour. This we could call the "prosperity creating" objective.

The question is, are all these four objectives completely compatible with one another? "Prosperity creation" necessitates holdings of a fairly large size; and "production maximisation" necessitates the devotion of far more time to their cultivation than the average Swazi is accustomed to devote to this activity. Is there not a possibility of having to dilute these two objectives if one also wishes to achieve the "welfare" objective, and use these plots to accommodate overspill from the more crowded parts of the SNL? From what we know of the many roles that land plays in traditional Swazi society, it is possible that the mere fact of having a settled population may tend to interfere with the "production maximization" objective. So may the fact that on some schemes settlers can ultimately buy their own plots, and so free themselves from the terms of the lease agreements.

Similarly, the "prosperity creating" objective might best be achieved by encouraging settlers to employ paid labour, to leave much of the direction of the agricultural efforts of those labourers to the existing trained management on the schemes, and to act themselves primarily as labour managers. However, it is doubtful whether those responsible for planning these settlement schemes would welcome such a development, since another avowed objective is to make the settlers into skilled farmers of cash-crops, not rentiers.

The principal point that I am anxious to make here is that, when one has a multiplicity of objectives, it is not usually possible to give equal weight to each one. To avoid disappointment \when one of the many objectives is not being achieved in its entirety, I am suggesting that planners of developments such as these should spend far more time and effort on the precise definition of ALL their objectives than is usually devoted to this exercise. If this were to be done, it might simplify the problem of deciding which were the most important objectives, and where limited achievements of other objectives must be accepted if one wishes to achieve those principal ones.

DECENTRALIZATION OF DECISION MAKING

In the previous section I have argued that one of the first, steps which any "change guiding" agency should take is to establish precisely what the objectives of any proposed change are; and, if there is more than one objective, whether there is any inherent incompatibility between these.

I have also implied, particularly in the case of the hypothetical examples I used to illustrate my argument, that there may be a need to set different objectives for each small local area. Since Swaziland is not a large country, it might appear unwise to base any plans for agrarian development on a host of completely different objectives. It might seem that this could lead to a dissipation of official effort over far too wide a range of disparate activities. Since the basic problems throughout the whole SNL are much the same, might it not be wiser to seek to define a limited number of national objectives, and then try to achieve those throughout the entire country?

We must keep the whole question of national policy and local differences in the implementation of this policy in a proper perspective. I am certainly not advocating the writing of a completely separate agricultural policy for each and every Chieftdom in the country. What I am suggesting is that the overall policy should be sufficiently flexible to permit local communities a considerable degree of freedom to decide what aspects of it to adopt; at which times; and what methods they would like to use to achieve its objectives.

This brings us back to the distinction between objectives themselves, and the procedures which may be adopted to achieve these objectives. What I am suggesting is that overall national policy should be concerned primarily with objectives; and that local communities should be encouraged (by every means known to the extension service) to desire these objectives, but to work out for themselves the procedures they would like to use to reach these.

When any overall policy is unduly concerned with procedures, there is a natural tendency to try and ensure that different areas, perhaps with very different types of internal local governmental and social organisation, develop along absolutely standardised lines. There is a real danger that these procedures may tend to become regarded as the main objective, while the ultimate objective is lost sight of.

Small as Swaziland may be, there is a great deal of diversity among its Chiefdoms; and even in some cases within the same Chiefdom. What I am advocating is that there should be an acceptance of the need to decentralize decision making with regard to the exact procedures which should be followed in order to achieve any particular agricultural objective. I am suggesting that this would be a more realistic approach than any attempt to impose a standardised set of procedures on this existing diversity.

If this decentralization of decision making is to be successful, this will involve more than its acceptance by the central government's extension services. As I have pointed out earlier, any procedural decision (such as the restriction of grazing rights at certain times of the year) may involve more than one level in the land community hierarchy. It is not sufficient merely to get agreement from "the people" in a particular area to a particular development project. One must ensure that all land communities likely to be involved are also agreeable to the proposal. As things are now, this is not always easy to do. Central government agents and the people in a particular Chiefdom may agree on a measure, only to have its implementation delayed when the Central Rural Development Board (an arm of the Swazi Central Authority) complain that they have not been consulted. There may be yet further delay if other Chiefdoms sharing the same inkhundla then insist on debating the matter all over again.

These are matters which will have to be clarified before the decentralization of decision making could be a real success. It will have to be established whether Chiefdoms are, in terms of customary land law, analogous to large estates, and so free to decide what lines of developments to follow; or whether they are mere in the position of "tenants" of the Swazi Central Authority. It may be, as I have already suggested, that the solution may be for the Central Authority to relinquish voluntarily some of the powers that it now claims to exercise over the Chiefdoms; in exchange for a clearer recognition of its own right to guide overall development through the Central Rural Development Board.

I should stress that the recognition of the value of decentralizing decision making does not necessarily preclude planned regional development, covering areas larger than a single Chiefdom. In any exercise designed to clarify the powers held at different levels in the land community hierarchy sufficient should be retained at a fairly high Level (by the state or the Swazi Central Authority) to make it possible to implement regional development plans when these are needed. With the decentralization of decision making powers, this implementation may not be quite as easy as if every detail could be planned in some central office, and then put into practice through a simple directive. Yet it should not be impossible, provided that a clear distinction is made between what must be done in the

national interest, and what should be done in the interests of local communities themselves.

THE EXTENSION TASK.

The emphasis laid so far on the need for planned change may have given the impression that I am advocating the importation into Swaziland of something entirely new; of some, kind of "social engineering" in the horrific tradition of George Orwell's fictional world of 1984.

This is not so. What I have been discussing is the role which could be played by the existing government extension services. For many years Swaziland has been served by an agricultural extension service. Its agents are a well-known and accepted part of the rural scene. Such a service must accept that one of its purposes in life is a form of "social engineering"; that it is trying to change attitudes and introduce new practices. There is nothing particularly evil about this approach, nor is it particularly new. Many countries, even technologically advanced countries like the USA, have long accepted that this sort of "social engineering" is essential; and have built up extension services to carry it out.

As we shall see in a moment, "extension" need not be concerned only with agriculture. Hence my use of the term "extension services."

For their part, cynical extension workers in Swaziland might argue that the proposals which I have put forward in this chapter are completely unrealistic; that it might take years to get agreement to such measures from all the necessary levels in the land community hierarchy. I would be inclined to agree that it might take years. It is for that very reason that the sooner problems of this kind are broken down into specific terms, and Swazi authorities at all levels are asked to offer their own suggestions as to how minor amendments to their customary law could encourage specific types of agricultural advance, the better it will be for all concerned.

I have deliberately chosen as my examples advanced agricultural techniques, which would necessitate considerable changes in patterns of land use. I have done this so as to demonstrate that, even in such cases, the number of "new customs" needed to encourage their adoption may not be very large.

I must reiterate that what should be avoided is the offering of any kind of "package deal", the full implications of which the rural population cannot be expected to understand, and which have not been explained to them. I would suggest that it would be far preferable to devote considerable time to working out, with all parties likely to be involved, exactly what changes would be needed in customary law to encourage the achievement of precisely defined agricultural objectives and leaving to the Swazi authorities the final decision as to whether they will forgo the advantages promised by the particular agricultural advances in question, or make the necessary changes in their custom.

The scope of extension: I would be the last to deny that the programme which I have suggested would throw a very large extra work load on to the extension

service. It would also necessitate this service moving into fields of activity with which few agricultural extension services have hitherto concerned themselves.

For a discipline on which so much money is spent in various parts of the world extension is singularly ill-defined; or perhaps over-defined. Definitions range from simple statements of equivalence, of the form "extension is adult education", to multi-page operation definitions in terms of what one or more extension services actually do. Between these extremes, one finds statements like "extension work seeks to effect improvement in giving people new ideas, motives and knowledge, and by organizing or assisting them in the organization of action."

This last definition has the advantage of bringing out the "information transmitting" role of extension, and linking this with the idea that the transmission of information should lead to action. It also leaves the way open for the consideration of "extension" as a number of methods whereby information relating to any relevant subject may be transmitted to those who should utilize this information; and avoiding the confusion of thought which sometimes treats the term "extension" as invariably being an abbreviation for "agricultural extension", and so limited to matters of direct agricultural interest.

"The extension service" reads another statement, "seeks to pass on information and desire for improvement by a variety of methods, by individual contacts, group contacts or mass contacts; by the written or spoken word, by actual demonstrations, or by various visual techniques. The content of the message varies; it may deal with home economics, agriculture, credit, handicrafts, co-operatives, community development, health or other matters".¹⁸⁴

If we accept this broader definition, then the problem of the "guiding agencies" in Swaziland would seem to be very largely an extension problem. First, there is the need to transmit information relating to the ecological, economic and tenurial situation in a form that will be both comprehensible and acceptable. This is no mean task. It is a matter of mass adult education, and will necessitate, *inter alia*, that those responsible for the planning and carrying out of this "information transmission" themselves have a good knowledge of the various complications of Swazi customary land law with which this study has been concerned.

Further, if this is to lead to action, it would be fatal for this educational process if it were to concentrate in the early stages exclusively on the transmission of a message of doom. It must be made clear, as early as possible, that suitable action would not merely avert the doom but could also, ultimately, markedly improve the lot of all concerned.

This means that all extension agents must have a clear idea of what "new customs" might be needed, why these might be needed, and what their effects might be. They must have a good grasp of the overall situation, and be able to discuss this intelligently with all levels of the Swazi population. If action is wanted by any local community, the extension service must also be in a position

¹⁸⁴ A Sociological Manual for Extension Workers in the Caribbean, M G. Smith and C.J. Kruijer, University College of the West Indies, 1957

to give truly sophisticated advice on how such things as local "bye-laws" should be framed, how the local authorities could best explain to their own people the need for the provisions of these, and how they could best be enforced.

Integrating research and extension: To "back up" these aspects of the extension process a great deal of more localised research will be essential. In this study I have sketched the broad outline of the Swazi traditional tenurial system. It would have been impracticable to have sought to describe here every local minor variation. In specific cases, however, these local variations may be of considerable importance. It would be highly desirable for an extension agent working in a Clan Chiefdom, for example, to know the details of how the people of that Chiefdom first came into their "special relationship" with the Swazi Central Authority; and to know the history of any disputes which there may have been in the past regarding the powers held at different levels in the land community hierarchy in that area.

Moreover, the type of land-use planning which will be needed will necessitate planning for the utilization, over a period of time, of defined areas of land by known human and stock populations. This will mean that the boundaries of the territories of land communities at all levels, will have to be precisely delineated.

It may be necessary to carry out land-use planning for large areas occupied by several different land communities, or parts of these. There will have to be settlements of all boundary disputes in that whole area; or at least agreement to continue to disagree while accepting (perhaps only for a specified number of years) some machinery for the control of land use in the disputed area.

To provide the necessary data for the agriculturalist, an essential pre-requisite for this extension programme may be a complete "land community delineation" exercise throughout the SNL. This could also record the "special status" of particular parcels of land, such as burial sites and other locations revered for particular reasons, and so enable the land-use planners, at the outset, to take account of these.

Although such an investigation might require the services of several full-time workers for one or two years, and would certainly not solve all the problems of boundary delineation, this sort of "direct outlay" of skilled effort would undoubtedly obviate the expenditure of a great deal of misdirected effort by experts in other fields later on.

Nor should its educational role (for the extension service) be underestimated. The conducting of an investigation of this nature should give those directly concerned an unrivalled insight into the varying minutiae of Swazi customary land law, and the effects of these.

Another type of research, or investigation, which will be required will be in the field of what I have referred to earlier as "social compensation". Many of the innovations which will be essential for technical reasons will adversely affect some of the rights presently held by individuals and groups. They will also

undoubtedly tend to limit, the usefulness of the land as the basis, in itself, of the existing "social security" system.

It should not be beyond the powers of human ingenuity to devise alternative methods of achieving the same ends without limiting the ways in which land may be put to profitable use. Many of these alternatives will, in detail, involve concepts and administrative devices that will be completely outside the experience of the vast majority of Swazi. This will involve yet another type of "information transmission" task for the extension service, to ensure that those to whom such alternatives are recommended are fully aware of all their implications, and of how they should operate.

Some fairly sophisticated thinking will also have to be devoted to the question of what role those without present access to land could play; and how they could best be fitted in to a new pattern of rural society.

It may well be that these alternatives, if they are based on western models, may not always be ideally suited in all their minutiae to Swazi conditions. They may have to be modified to suit these conditions. This task of modification will require an intimate knowledge both of the manner in which the selected device is supposed to function and of the Swazi social and local governmental organization.

Finally, there should be continuing research into the results of the introduction of all these necessary innovations; so that any unanticipated unfortunate developments can be spotted in their early stages, and appropriate steps taken to counteract them.

The mere fact that Swaziland now has a Swazi government does not make these moves any less necessary. A Swazi cabinet minister or official might have a considerable knowledge of customary land law; and an intimate knowledge of the situation in two or three Chiefdoms. This may, in some cases, actually militate against their having an adequate appreciation of the situation in other areas. There is still a need for the organization of this type of knowledge, in a form in which it is readily accessible to all members of the extension services and to others if need be.

Administrative problems: Exactly where such a broadly based extension service should be "housed" in the administrative structure is another matter.

What I have tried to bring out are my reasons for believing that something of this kind is required. If these arguments are accepted, then it would seem to stand to reason that the extension methods which have hitherto been largely confined to dealing with agricultural technicalities could also be used to find and explain possible solutions to the related sociological problems.

This, in turn, suggests that either the existing agricultural extension service must be broadened to cover a number of other specialisms, or that other government agencies (who are currently more closely associated with these other specialisms) should have access to the same, or similar, "extension machine."

If, as I have recommended, various levels in the land community hierarchy are invited to select for themselves the solutions they prefer, this may well result in rather different types of tenurial systems evolving in different parts of the country. If this trend does become evident, I would submit that it would be advisable to accept and try and work with this diversity, rather than to attempt to enforce uniformity. To quote Hollemann once again "it is easier and more realistic to adjust policy to suit a people, than to try to change the people to suit a policy." "Blanket" planning can only too often lead to diversities of interpretation to suit local conditions, and so to ultimate chaos; if the need for absolute, rigid uniformity is implicit in the original plan.

Under such conditions of diversity the local extension agent may have to call on a variety of specialized skills other than those traditionally associated with the discipline of agriculture.

He may find it necessary to discuss and advise on sociological, legal, administrative and economic matters. It would be unrealistic to expect the ordinary extension worker in the field to acquire an adequate mastery of all these diverse subjects. This implies the need for specialist support for the field services, which could be called upon for advice whenever a particular need arose.

This could be arranged in a variety of ways. One could have a large, single, multi-disciplinary "development extension service". Or one could rely on, and develop, an existing pattern of interdepartmental cooperation. There might be merit in the establishment of a small "tenurial advisory service" to co-ordinate extension activities in this particular field; and in maintaining this coordinating body in being until the initial problems attendant on tenurial change had been overcome.

It is for the Government of Swaziland to decide on the particular administrative arrangements which they would prefer. My point is merely that there would seem to be a strong case in favour of providing this type of service, in one way or another.

THE GORDIAN KNOT.

In this study I have made a social anthropological analysis of a particular aspect of the social organization of a particular people.

The subject with which it deals is, however, of considerable and immediate interest to many who are not anthropologists. Nor is this type of situation, with its attendant developmental problems, peculiar to Swaziland or the Swazi. Similar problems are found in many countries in sub-Saharan Africa; and different administrations have favoured a variety of different approaches in their attempts to deal with those problems. The approach suggested here could have a relevance to many places outside Swaziland.

I have tried to explain how a Swazi individual can acquire, retain or lose rights to make use of land. I have tried to demonstrate how land rights flow from community membership; and how this can have an effect on patterns of land

utilization. Since land and community are so closely linked in this society, I have described the main characteristics of the principal types of communities found among the Swazi; and how what I have called the "local governmental system" operates. I have tried to show the links between land holding and this local governmental system.

Without going deeply into economic matters, I have explained the many roles that land has in Swazi society, and that the production of "income" is not necessarily the most important of these. I have discussed the dualistic economy in which most Swazi live; and have produced evidence suggesting that many Swazi regard migrant labour as the only "natural" source of cash income, while the land is merely a provider of subsistence needs. I have discussed the "land community hierarchy", and the complications which the rather confused pattern of inter-group rights can introduce into any programme of agrarian reform.

I have tried to explain, on the basis of the evidence led regarding the main characteristics of the traditional tenurial system, why programmes of "land reform" based on western concepts have not been very successful in the past, and are unlikely to be successful in the future.

Finally (despite my earlier disclaimer) I have suggested a course of action which I personally feel might provide a solution to present economic and ecological problems without doing undue violence to the traditional Swazi way of life.

I have argued that the first aim should be a precise definition of technical objectives; and that one should then endeavour to establish how these could be achieved with the minimum changes in Swazi traditional land law. I have also suggested that this is a much more realistic approach than to insist on the adoption by rural Swazi of a large number of procedures based on western models and ideas.

Some attempt should obviously be made in the near future to find a lasting solution to the problems to which the present Swazi system of land tenure gives rise. Swaziland is fortunate in that it has recently achieved complete political independence, and that Swazi are now politically dominant in the government. This should remove any suspicion that any particular race or group is trying to impose "their" solution on another.

Historically, the question of "land tenure" in this country has been dominated by the attempts by the Swazi to regain control over land that they lost at the Partition. It is to be hoped that, as time passes, there will be a wider appreciation of the fact that the constant provision of more land for "tribal type" settlement cannot continue indefinitely, and offers no real prospect for long term solution of the various economic problems of the Swazi People. A locally controlled government may find it easier to explain this in their extension "message" than the earlier British regime did.

Alexander, lacking patience, cut the Gordian Knot with his sword. One way of dealing with the "Swazi Knot" which I have described in these pages

might be to adopt a similar approach; to seek to enforce a change towards a western type of economic and tenorial system, and to rely on the assumed inherent, strength of western culture and technology to ensure that this change would be carried through.

Another approach is to seek to unravel the "knot". For those who might prefer the latter course, I have sought to show where the strands run. The unravelling may take time; and will certainly necessitate much new thinking, the use of many skills and techniques other than those of the agriculturalist or economist, and a great deal of protracted hard work. I personally feel, however, that there is no real reason to believe that it could not be done.

APPENDIX A

Centralised and "stateless" societies

Since we have made a distinction between the "pre-state" era and later periods of Swazi history it is necessary to give some indication of the sense in which the word "state" is used in this study.

It is no easy matter to provide a simple, concise and comprehensive definition capable of universal application; and which can also be used to pinpoint the exact moment in time when an evolving political system first acquires the characteristics to justify it being described as a state. Anthropologists, by and large, have not been greatly concerned with the international statuses of the various types of political grouping that they have encountered. They have been more interested in their internal organizations, and have tended to base their classifications on these. One such classification is the generally accepted distinction between the so-called "stateless" or "acephalous" societies, and those others which have some form of centralized government analogous to that found in western countries.

Fortes and Evans-Pritchard describe the differences between those two types in the following terms, "One group, which we refer to as group A consists of those societies which have centralized authority, administrative machinery and judicial institutions - in which cleavages of wealth, privilege and status correspond to the distribution of power and authority. In the other group, which we refer to as group *B, consists of those societies which lack centralized authority, administrative machinery and constituted judicial institutions - in short, which lack a government."

Another definition, offered elsewhere, is couched in similar language. "Where there is a well developed central authority exercising final legal, administrative and military power over a group of people occupying a clearly defined territory, whether or not they are of uniform culture and of homogeneous ethnic origin, we may speak of a state and of the people as a nation."

Both these definitions make the possession of some form of centralized political organization, superior in political matters to any other types of organization that may exist within the group, an essential criterion of statehood. The second highlights some of the difficulties that may be encountered when we seek to apply this criterion in borderline cases, by the use of the phrase "a well-developed central authority. In a case like that, of the Swazi, we are immediately faced with the difficulty of deciding exactly when the central authority became sufficiently well developed to justify our calling their political grouping a state; a difficulty similar to that already mentioned of deciding exactly when the Dlamini leader' was first recognized as a "Native King".

In this study, therefore, I have adopted an operational definition of the term "state", one which appears valid for the Swazi, but is not necessarily capable of universal application. I use the term in the general sense of the two definitions given above; and also in a more specific sense, to refer to the period after the

Dlamini rulers had begun to incorporate large numbers of males belonging to other clans into the political group under their control, on a basis that both the rulers and those so incorporated considered relatively permanent. Exactly when this occurred is still arguable, but my own opinion is that this process first began to have a noticeable effect on the Swazi system of political organization after the reign of Somhlolo (Sobhuza I), for the reasons given in Chapter 2.

APPENDIX B.

The Swazi and the Ndwandwe

The Ndwandwe present the student of the proto-history of the south-eastern Bantu with the same type of problem that the ancestry of Cain's wife offers the fundamentalist reader of Genesis.

The generally accepted version of the history of those times credit Dingiswayo with being the first clan-leader in that part of the world to conceive the idea of any political grouping larger than the small patrilineal clan. However, no sooner had Dingiswayo started his nation-building activities than he came into conflict with the Ndwandwe, who appear to have controlled a far larger military force than one would have imagined could have been raised by a single clan. The Ndwandwe rulers were also renowned for their possession of strong ritual supports for their temporal power.

Zwide, the Ndwandwe ruler, captured Dingiswayo and executed him. Shaka, who had been Dingiswayo's protege, continued the struggle, and finally succeeded in defeating the Ndwandwe and driving them out of Zululand. A group under Shoshangana, Zwide's son, settled in Mozambique and established the Shangana (Gaza) empire; and further offshoots from these established the various "Ngoni" states north of the Zambesi. - It is noteworthy that the rulers of the Rhodesian Ndebele belonged to the Kumalo clan, which claims connections with the Nxumalos (the clan of the Ndwandwe rulers).

Those Ndwandwe rulers practised a solemn ritual of kingship known as the Inxwala. Similar rituals, with the same name, were practised by the Shangana and the Ndebele. The equivalent Zulu ritual was not known as the Inxwala, but as the Umkhosi ceremony.

Mswati's mother was a daughter of Zwide, and tradition has it that it was she who urged her son to adopt much (if not all) of this ritual practised by her own people. Dlamini informants insist that long before this time they had practised a ritual known by this name, and that only parts of the present ritual were borrowed from the Ndwandwe. Other clans in Swaziland claim to have had similar ceremonies of their own before the establishment of the Dlamini hegemony. Yet, it is most significant that the present-day Swazi Inxwala is largely controlled by ritual specialists of Ndwandwe origin; and that many of the most important ritual songs are still sung in the yeyeza dialect of Nguni, which was that used by the Ndwandwe.

This is a pretty problem, which would well repay further investigations by historians. However, it is hard to escape the conclusion that Mswati, by incorporating these Ndwandwe rites into his own ritual complex, was deliberately stressing the difference between his own role as the ruler of a nation containing many clans, and that of his ancestors who had merely been the genealogically senior members of their own agnatic groups.

APPENDIX C

The "Right hand side" and "left hand side" of Swazi Homesteads.

Swazi use the term ekunene for the right hand side of the Homestead, and ekohlwa for the left hand side. These divisions, and these same terms, are known among other Nguni-speaking peoples; notably the Zulu, where they are of considerable social significance, and govern the relative status of individuals belonging to one or the other of these sections.^ /

Among the Swazi, however, one has the curious situation that, while there is general agreement that anything "of the right hand side" is innately superior, there is no agreement as to which is actually the right hand side of the Homestead. Some argue that it is the side; that is to one's right when one is standing at the entrance to the Great Hut and facing the cattle byre; others that it is the side to one's right when one enters the Homestead (that is, when one is standing at the cattle byre, and facing the Great Hut).

The balance of informed traditionalist opinion is that the former view is correct, and in the ceremonially significant royal Homesteads a clear distinction is drawn between the "right" and "left" hand sides. For the purposes of this investigation, however, the significant fact is that most Swazi are completely unconcerned as to which are the "right" and "left" sides of their own Homesteads. The exact physical location of a man's mother's but on one or the other side of his father's homestead appears to have no social significance at all. The relative status of a man's sons are decided by other factors, such as the relative rank of the families of his various wives. The emotive significance of the term "you of the right hand" may date from an earlier stage of Swazi (or Dlamini) social organization; or it may be a later importation from the Zulu culture.

The evidence of informants is contradictory and since this particular historical issue has little direct relevance to this study there is no reason to pursue it any further here.

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ISBN O 86980 034 5

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