

TRADITIONAL PATTERN OF LAND OCCUPANCY IN BLACK AFRICA

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INTRODUCTION

THE PRINCIPAL OBJECTIVE of this article is to analyze various forms of land occupancy in Black Africa as observed after the end of World War II, focusing upon the traditional forms of it, as these forms are still universal of land occupancy in that region even to this day. The infinite variety of traditional forms of land occupancy actually practiced in this area appears hardly susceptible to generalization, but this seemingly insurmountable difficulty is overcome by the prospect that there nevertheless exist certain general and basic characteristics which may be applicable to all such practices.

The forms of land occupancy, or the ways in which the land is occupied, depend fundamentally on the ways in which the land is utilized, or the forms of land utilization. For man occupies the land, to begin with, in order to obtain the fruits of the land through utilizing that land, i.e., cultivating, planting trees, or exploiting its natural resources. It is true that as history progressed land occupancy became separated from land utilization and land ownership having no purpose of direct utilization of that came to exist. But even these cases of land ownership arise only when land utilization is in reality executed by the utilizer and the owner has the possibility to take a share in the fruits produced by the utilizer. Land occupancy or land ownership without land utilization is inconceivable. It then follows that the methods of land utilization naturally regulates the forms of land occupancy. It is in this sense that examples of Black Africa, where land occupancy is still directly related to land utilization, are meaningful by constituting the original pattern of land occupancy in other underdeveloped regions of the world, where the distinction between land ownership and land utilization has already appeared.

Land utilization, which has been shown above, is prescribed in advance by two factors. One is the technological factor, i.e., the level of technology possessed by men who are in charge of land utilization, and the other is the social factor, i.e., the social organization formed by such men. These two factors, interacting on each other, have influence on deciding the forms of land utilization. The overwhelmingly low level of technology, especially in Black Africa, coupled with the diversity of natural environment contributes much to the creation of an almost infinite variety of land utilization in actual practice. On the other hand, however, the social organization of those utilizing the land shows fairly clearly that certain definite principles are at work, serving as the main element in giving

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certain characteristics to the forms of land utilization—consequently to the forms of land occupancy. Precisely for this reason we deem it possible to extract basic characteristics of land utilization and occupancy in Black Africa, despite the diversity of the above in real individual practices.

I. FORMS OF LAND UTILIZATION

A. The forms of land utilization in Black Africa show a great variety, ranging from extremely modern plantation enterprises operated by white planters to aboriginal “subsistence farming” practiced by African natives, and it may safely be said that the latter type of land utilization is predominant to this day. A recent study carried out under the sponsorship of the World Bank reports that this form of land utilization takes up 70 per cent of the entire land under cultivation in Black Africa and 60 per cent of the labor force in that part of the continent [4, pp. 21–22].

What then is meant by “subsistence farming”? It, sometimes called “economy of subsistence,” in short is a form of farming whose principal objective is the maintenance of the family, basic unit of such operation, i.e., the acquisition of materials necessary for reproduction of that family. And such acquisition is as a rule practiced *within that family unit*. It is then an *autarky*. It involves no exchange of goods as a rule [4, p. 22]. In actuality, however, no family can exist as an economic unit completely separated from the outside world, i.e., in complete autarky, as Robinson Crusoe did. As will be mentioned later, peasants of Black Africa have in a way very close social relations among themselves, and a fairly clear form of social division of labor inside these relations. For example, artisans such as blacksmiths, weavers, woodworkers, and leather workers are found over a wide area, and especially in the textile industry we see it divided into spinning, weaving, dyeing, and finishing. There is hardly any place in Black Africa that lacks prophets or prayers, often playing the role of doctors ([12, p. 78] and cf. [10]). “Subsistence farming” therefore does not completely exclude exchange of goods.

Let us now examine a case study which investigated the level of subsistence in an area. It is a study of ninety families (a hundred tax payers) of the Hausa in northern Zaria, northern Nigeria [11, pp. 333–47]. In this area the social division of labor is relatively well developed compared with other parts of Black Africa, and exchange relations, i.e., money economy, are fairly prevalent. To avoid unnecessary misunderstanding it may be mentioned that the high level of money economy here is not due to monoculture. According to this study, cash income occupies 49 per cent of the total income, and 46 per cent of the total expenditure was used on self-produced goods. Upon further examination of the contents of the gross income we find that some items (amounting to 5 per cent of the gross income) which apparently resulted from exchange economy are counted as belonging to kind income. In this area, then, a little over a half (54 per cent) of the family income depends upon exchange economy. In other words, even in this area where the advancement of exchange economy is considered

relatively high *the subsistence ratio is as high as nearly one-half*. This statement is also verifiable by the fact that even in housekeeping accounts of handicraft workers, who are naturally most apt to become involved in exchange economy, less than a half of the gross family income is attained in cash. For example, mat-weavers and dyers, each constituting a unique industry in this area, receive only 38 per cent and 45 per cent respectively of their total income in cash. It may be mentioned here that 63 per cent of the total income and 48.5 per cent of the total cash expenditure is used on food, signifying the importance of securing food. In terms of consumption, therefore, it may be asserted that the household economy of this area shows little *structural* difference from that of other areas where "subsistence economy" assumes a higher proportion, albeit a richer variety of goods consumed.

Up to now we have taken only average figures in examining the case. When the families are individually surveyed, the subsistence ratio ranges from 5.7 per cent up to 75 per cent [11, p. 342]. As has been often mentioned, this is an area of relatively well developed exchange economy, leaving us convinced that the average subsistence ratio of all of Black Africa would easily surpass the average figure of 46 per cent in this area and may well reach the highest ratio of 75 per cent.

B. Among the main factors contributing to such survival of "subsistence farming" in Black Africa are the extremely low level of agricultural technology and the severe natural environment. We can, of course, speak of no uniform climate in Africa; it ranges from dry weather to one of high temperature and high humidity, or from savannas to deep forests. Nor can we speak of uniform agricultural technology; it is greatly different with respect to crops, tools, and fertilizers.

If, however, we are to find the direction in which Black African traditional agriculture is headed, it must be described as having the trend toward "extensive farming." This method of farming matches the low level of technology and the abundance of land relative to the population: it is to save much intermediate work such as fertilization and weeding, by bringing a wide area under cultivation and depending upon the natural fertility of land. Under this method the productivity in relation to the acreage under cultivation, i.e., the land productivity, is extremely low, but the productivity in relation to the labor expended, i.e., the labor productivity, does not show such a low figure. The bigger the land extensively cultivated, the less labor necessary in relative terms. If the land is relatively abundant, therefore, there is always the tendency toward "extensive farming." This tendency is shown to be in operation when, after being forced to work on a small amount of land in the labor-intensive manner for some reason (e.g., political unrest of some kind), peasants are observed to return to extensive agriculture with the disappearance of that reason. The Kabré in Central Togo is considered a representative example of such a case [9, p. 26].

After taking the above factor into consideration, however, the agricultural productivity in Black Africa is still judged peculiarly low, in comparison with

other underdeveloped regions. According to Yudelman the level of per capita output is estimated to be only one-third more than that of the densely populated Far East, and the average yield per acre for most crops is considerably below world averages [14, p. 561].

The typical form of such extensive farming in Black Africa is the "shifting cultivation," under which a particular patch of land is cultivated for a certain period of time and is then left uncultivated to have it recover its fertility. The length of cultivation period and fallow period depends upon many factors and is quite divergent. For example, the so-called "Sudan System" has such a long cycle that it is not easily measurable, because under that system the land is continually used so far as there is any visible compensation to the labor expended, making the length of cultivation period ten to fifteen years, or even longer, and the land then is laid fallow for an equally long period of time needed for natural recovery. On the other extreme we have the "Bantu System" adopted by Bantu speaking tribes of forest and savanna regions of the Congo, under which land is used only for two or three consecutive years and then is laid fallow even before symptoms of declining fertility are evident, thus rendering it productive again within four to five, or at the longest ten to fifteen, years [9, pp. 13-14].

The principal reason for the long fallow period is the primitive agricultural technology uniquely found in Black Africa. Traditional tools, although it is true that they are mostly made of iron, are of the hoe type to be worked by hand, unfit for deep ploughing [9, pp. 7-9]. Fertilizers for farming land consist merely of grass burned down or buried and cut-down trees at the time of bringing the land under cultivation, perpetual fertilizing being applied mainly to house yards [9, pp. 14-15]. Except in some fortunate spots where an annual flood from a swollen river is provided, leaving a layer of rich silt behind, it is impossible to retain the natural fertility of cultivated land, and it is quite a rational practice under the prevailing circumstances in Black Africa to secure the rest period for the land following a certain number of years in active utilization. It then follows, however, that if the recuperating period is longer than the working period for a particular patch of land, farmers are forced to go out in search of new fertile land. And farmers in Black Africa do shift the working place so long as they adopt this form of land utilization, thus justifying the name "shifting cultivation." The area within which this search may be carried out, however, is usually limited, and their place of living is generally fixed [9, pp. 60-61]. In this sense the name "land rotation" is also used [13, p. 11]. There naturally are some exceptional cases where land shifting results not in land rotation but in gradual movement of their living place, such as the Tabwa in the North-Eastern Zambia [9, p. 60].

At any rate, shifting cultivation is a rational method of farming only when a relative abundance of land can be assumed. If that assumption becomes irrelevant for some reason, we obtain a different picture of the matter. In fact a rapid growth of population in Black Africa especially after World War II has made the abundance of land less conspicuous and has created a reverse phenomenon of a relative abundance of population in certain parts. In these places the shifting cultivation is inevitably made to disappear, and the permanent cultivation of a

certain amount of land has been brought about, or if the change is not so drastic the period for enriching the soil has become shorter. Since this process is not necessarily accompanied by improvements in agricultural techniques, the soil is now excessively cropped, causing a rapid decline in yields, which in turn invites successive over-exploitation of land. We now see a vicious circle at work. Moreover, this brings an important change to the relations of the cultivator vis-à-vis the land which he cultivates—his right to the land. This phase has already come about in Kenya and other parts of Black Africa, but further discussion of this subject must be postponed.

To proceed with our present subject we now come to perceive that, as it is easily done, in the particular method of farming called "shifting cultivation" the process of preparing the land for cultivation is the most important task of farmers, or the *basic process of labor*, so to speak. Whether it be savanna or forest, the portion of land which is being laid unused until it completely regains its natural state must first be cleared if it is chosen to be put in use again. And this first task is the hardest part of agricultural labor not only when the land is deeply forested but also when it merely is densely bushy in a savanna. If the shift cycle is short, this hard labor is required every two or three years. In comparison with this laborious process such other types of work as further preparation of the land (including breaking ground and sometimes even ploughing ridges), seeding, weeding and harvesting require a relatively humble amount of labor except when special crops are planted. A study of the Congo-Kinshasa shows that the number of necessary working days for growing and harvesting maize in a hectare (approximately 2.5 acres) is 122, for rice 162, for manioc 310, and for bananas 80, while the same figures for only growing the crops are 79 for maize, 105 for rice, 120 for manioc, and 80 for bananas, indicating a sudden drop in the number of working days except for bananas [9, pp. 155-56]. The importance of a reclaiming process is thus made unmistakably clear in Black Africa's agriculture.

Burning field is often mentioned as a method of reclamation, but this form does not seem very common. In some areas with no tall trees the surface grass is uprooted and buried under ground [9, p. 11].

C. We are now going to discuss the people who provide labor in Black African agriculture. The most important task of reclamation is almost always done by men. In Black Africa generally, division of labor by sex is widely observed: women are mainly in charge of household work and of maintaining the house yard, and men in charge of reclamation of general farm land at some distance from the house and of maintaining that land, the distinction being due to the difference in physical abilities. Exceptions to this rule are also found, e.g., among Bantu-speaking tribes of the savanna and southern forest regions, where women in some cases accept the entire load of farming activities. These exceptional cases are interpreted, however, as remnants of their practices in earlier periods when tribes lived in isolation and men took a heavier load being occupied with defending their tribes from outside enemies. It can therefore be argued that in these cases also the general principle of division of labor by sex owing to physical differences

is still at work ([9, pp. 160-61] and cf. [12, pp. 90-91] [4, p. 85]). When wars with other tribes become less significant in terms of their importance to tribal living, men's responsibility is switched to straining manual labor of agriculture, as can be easily imagined. The Bemba in Zambia, for example, render *social and military honor* to such agricultural work as felling trees and cutting off branches before burning the field [8, p. 306].

Reclamation of land cannot be accomplished by individual male farmers alone despite their physical superiority to women, giving rise to collective labor by various groups. *In Black African traditional agriculture, therefore, collective labor plays an important role in the basic process of labor that is reclamation as well as in other labor processes.* It is on this basis that the idea of *collectivisme agraire* is born and it is after this that traces of primitive communism is sought [9, p. 157]. Principles upon which collective labor is organized are quite varied, including the kinship principle, neighborhood principle, and that based upon age groups [4, p. 85]. Collective labor organization may be temporary and incidental, or it may have developed into a social institution and made permanent. It may be formed among voluntary small groups within a village, or in other cases tribe groups may constitute its unit groups, or in still other cases even bigger political units may serve in such a category [9, p. 163].

The situation is not that there exists a single such collective labor organization in a village, but it mostly is that there exist more than one such formations of different natures. Let us now take up an example of the Minyanka in Eastern Mali to illustrate the above. As will be discussed soon, the basic unit of labor and land utilization here is the "patriarchal family," but we also find such other collectively laboring groups as: (1) an organization of all the male farmers in the village, which is set up in order to help any member of the group with certain special tasks, obliging him at the time to serve such assisting members food and beer, (2) voluntary youth organizations which go to work for wealthier families under contract, to be rewarded by livestock which will be offered at the groups' festivities, (3) organizations formed by farmers according to their age, which cultivate the land of the members in the order of seniority within each group, helping weaker members of the organization by giving the same amount of labor to all the members, and (4) youth organizations composed of all the young men in each section of the village, which help cultivate the land of the impoverished families or of the families lacking principal working members, with no reward [9, p. 162]. As can be easily observed, these organizations, except the second one, are founded for the purpose of mutual assistance and consequently require no compensation as a rule. This is true not only of the Minyanka but also of other tribes [13, p. 10]. The compulsory beer-party seen in the first category of organizations is not to be interpreted as compensation for the work done but rather as a type of ceremony performed in order to ascertain the sense of solidarity among its members, as it is also observed as such among the above-mentioned Bemba [8, p. 302] and in other parts of Black Africa generally [4, p. 86]. Mutual assistance in collective labor aims by no means at merely "helping each other's work" in general but more specifically at *equalizing in real terms*

the conditions of land utilization of the participating members of each collective organization or of village members in general, as seen most typically in type (3) and (4). This aspect of collective organizations forms the principle of *materiale Gleichheit* or actual equality as opposed to *formale Gleichheit* or formal equality (Max Weber). The former principle will be seen also in operation regarding the distribution of arable land among tribe members.

We are now ready to ask ourselves what constitutes the basic labor unit whose farming conditions are equalized in real terms through collective labor, i.e., the constituent element of farming unit, or even more precisely that of the unit which utilizes the land. This deals with the most important point of this article. Our final answer will be: it is first of all the family, not the nuclear family but the *patriarchal family* generally which is a cluster of families centered around the family head empowered with the patriarchal authority. Often used terms such as "extended family" and "joint family" are less proper in describing this particular type of family since it does not always live under one roof, i.e., it does not constitute a household [12, p. 93] [9, p. 158] while *its patriarchal authority is thoroughly exercised over every member of the group*.¹

In what sense is this patriarchal family the farming unit? It generally becomes one by serving as a basic unit in the receipt of a definite part of arable land from the upper-level organization [12, p. 92] to which this family belongs and which is the superior land-occupying unit—"tribe"-community.² In deciding the land to be allotted to each family *the ability and needs of the family* are taken into consideration as a criterion. If this criterion is met, the family's demand for land is usually satisfied in terms of both quality and quantity—supposing, of course, that there exists a relative abundance of land. As long as the family belongs to the upper-level "tribe"-community, such rights are completely guaranteed [6, p. 124] [13, p. 111]. The principle of actual equality is thus upheld. Once a plot of land is thus apportioned to a family, it is managed by the entire family, but this does not prevent that land to be further divided among the family members.

We are now to examine the farming practice of the Malinké living in the upper Niger Valley of Mali. Here the average number of persons in each patriarchal family is fourteen and its average amount of arable land apportioned is 8.53 hectare, the biggest patch of land out of which is under the control of the family head and is cultivated collectively by all the members of that patriarchal family. On this land various kinds of grain is grown and its produce is stored at the common granary as the staple food of the entire family and as taxes under the supervision of the family head. The remainder of the land appropriated to the patriarchal family is subdivided under the direction of the family head and distributed among individuals and married couples for the purpose of their private use. On this category of land they grow commercial crops, mostly peanuts, its

¹ This family involves such other questions whether it be the patrilineal or matrilineal system, and whether it truly be the "Family-Community" or it has already started to dissolve itself. The discussion here is limited to that of patriarchal family as a farming unit.

² Discussion fully later in this article.

revenues being used for private purposes. According to a survey conducted in 1960 the family land for common use constitutes 62 per cent of the entire arable land in this region. The same figure goes up to 75 among the Bambara in the Lower Niger Valley [9, p. 158]. Within the patriarchal family young men and women of marriageable age seem to obtain the right to demand the land for private use [6, pp. 129-30] [13, p. 108]. There are cases, like that of the Tiv in the Northern Cameroons, where only married women are given the private land by the family head [9, p. 159].

A legitimate question here is why it is that the patriarchal family remains the basic farming unit when the land is subdivided for individuals and married couples within that family. It is so because, as seen most typically among the Malinké, the patriarchal family is the land-receiving unit, the family land for common use plays an important role and that the collective cultivation by all the members of that family is still of the decisive importance. For example, land reclamation—the basic process of labor in Black African agriculture, having been shown to require collective labor—is basically a task to be accomplished by collective labor of the family, although some outside help is not inconceivable. In the case of the above-mentioned Tiv in the Northern Cameroons the land for private use is allotted to married women only after this basic collective work of reclamation is over, and this allotment of privately-used land means in no way the end of collective labor: women in groups of twos and threes supervise their land collectively, and men in larger groups work collectively on their wives' land within the family group [9, p. 159]. The same practice is observed among the Tiv in Northern Nigeria [6, pp. 147-48, 150]. The *basic labor unit* then is always the patriarchal family.

The patriarchal family is the *land utilizing unit* not only in the sense that it is the basic labor unit as has been shown thus far, but also in the sense that it is the *basic land occupying unit*.

II. FORMS OF LAND OCCUPANCY

A. In Black Africa forms of land occupancy are also quite varied depending upon tribes and areas under question and units of land occupancy are not easily determined. There are infinite number of individuals and groups who claim rights of one type or another on one patch of land. Meek, after studying the land system in Nigeria and the Cameroons, classifies various title-holders to the same piece of land into the following four categories: (1) tribes, (2) urban or village communities, (3) kinship groups such as clans, lineages, or their subdivisions, and (4) families or individuals [6, p. 115]. Various rights held by the above categories overlap each other as regard to a particular patch of land. This is true not only of Nigeria and the Cameroons but also of the entire Black Africa.

The present writer is of the opinion that land utilizing unit of the patriarchal family is also the *basic land occupying unit* at the lowest level, i.e., being directly connected to land utilization. In terms of Meek's classification it is in the third category ("families" in the fourth category seems to mean nuclear families within

a patriarchal family, or a compound in Meek's terms). Meek himself seems to be of the same opinion, but lacks clarity in his deliverances [6, p. 128]. The main reason for the assertion of the present writer is that the basic unit in the distribution of land is the patriarchal family and not individuals or married couples within such a family. It is true that individuals and married couples do have the right to demand a certain amount of land for their private use and such demands are fulfilled to a fairly good extent. But the demand is valid only when they completely discharge their duty of participating in collective labor as members of that patriarchal family [6, p. 147]. Moreover, utilization of the land for private purposes is not economically autonomous, economic units.³

In all parts of Black Africa interest of the natives in land is very strong. Meek claims that such interest is more than right of occupancy, more than life-interest [6, p. 129, N. 2],⁴ which in itself is agreed upon also by the present writer, but it should be noted that this interest is met *only through the family to which he belongs* and such interest does not necessarily mean acquiring the land for private use only but also the right to participate in the utilization of family's common land. In other words the patch of land apportioned to a patriarchal family is occupied and retained by such family unit as a whole, and members of the family have the right to a share of the family land, including the land subdivided to members of the family for private uses, *only in the capacity of constituent members* [6, p. 129]. Emphasis on this point should be well taken. Let us now give the name "Family-Community" to the patriarchal family whose functions have been described above.

The "Family-Community" is a kinship-community, and the kinship-community is a community of those who are related to each other and to a common ancestor through blood. Generally speaking, however, kinship organizations that are actually found in Black Africa are not necessarily ascertained to have blood relations in the biological sense. Kinship groups in Black Africa are groups formed by those who *on their part believe themselves to be related through blood and are so reckoned* [6, p. 128, N. 5]. The same applies to the "Family-Community." Even if, therefore, one is biologically blood-related to the family, once he is excluded from this kinship group for some reason he loses the right to the land and all other privileges. On the other hand if one is admitted into the family group as a family member even without blood relations, he is entitled to the same rights as other kinsmen. The Tiv in Northern Nigeria are organized into patriarchal families with the average number of members somewhere between fifteen and twenty-five, they include the family head, his brothers, his male cousins, their sons, their sons' wives and children, and even relatives in the female line, such as a sister's son, as well as friends and strangers who are *not* related

³ In some places the patriarchal family has been dissolved and individuals and married couples do exist as autonomous economic units. This situation is brought about by certain conditions in Black Africa which forced some changes in traditional farming practices, consequently in the system of patriarchal family. This subject will have to be dealt with separately.

⁴ Meek uses the term "individuals' interest," but it is to be noted that this interest is interest as a member of the family as is pointed out in this analysis.

through blood. The family head coordinates and controls activities of its members, finds a wife for each male member of marriageable age and furnishes the bride-price, manages all the external affairs, and coordinates and controls the apportionment and usages of the family land.

Being of the utmost importance, the family head is the only one who has the right to demand the family land in the upper-level organization to which his family belongs. It is for this reason that the family land appears to outsiders as the private property of the family head [6, pp. 145-47]. The family head in the patriarchal family is not a despotic master over all other members of his family; he may be described more properly as merely the representative of the family [6, p. 155] [12, pp. 101-102], but the patriarchal authority does exist as can be seen in performing his above-mentioned tasks, and it is this patriarchal authority at work that enables the patriarchal family to serve as the land utilizing unit as well as the basic land occupying unit.

What then is the nature of land occupancy exercised by the "Family-Community" as a basic land-occupying unit? It is nothing akin to modern land ownership: the "Family-Community" may *freely utilize its family land, but it is not entitled to dispose of the land*. Meek expresses the above thus: "the rights of a lineage [meaning the patriarchal family or the 'Family-Community' in the terminology of this article] hardly amount to more than an exclusive right of occupancy, without, or at most with restricted, rights of disposal" [6, p. 129]. The limitation to the right of disposal is no unique feature of the "Family-Community," but is applied to all categories of title-holders to the land, i.e., from tribes to individuals in terms of Meek's classification. The reasons for that limitation are, also according to Meek, (a) land is regarded by the natives as a God-given gift of a sacred nature, not to be made the object of commercial transactions, (b) the land which has been cultivated by ancestors even once belongs ultimately to the ancestors and cannot be disposed of lightly by descendants, (c) there was in former times no scarcity of land, which had in consequence no exchange value, and (d) there has been no element of money economy until fairly recently and land could not command a "price" [6, p. 216]. The first two reasons relate themselves to the value system of the Black African natives as regards to the land, and the latter two are concerned with the background conditions of such a value system.

There is, however, the more important reason for the limitation to the right of disposal of land: of Meek's classification of title-holders to the land, except the fourth (families or individuals), the first three categories are *communal organizations* and that their rights are overlapping each other. In other words the land is collectively occupied in a dual sense. When the properties are jointly occupied, all other properties as well as land are understandably not easily disposable. With the advancement of money economy, the disappearance of relative abundance of land due to growing population, and other circumstances, land has begun to be sold, loaned, and mortgaged throughout Black Africa, but the big obstacle to this development, aside from their concept of land, is above all the existence of numerous title-holders to one patch of land owing to the collec-

tive occupancy. We must therefore say that even on the advent of all four reasons listed by Meek having become invalid free disposal of land would still be very difficult so far as the land is collectively occupied [6, p. 218].

There is an opinion voiced to the effect that, since the "Family-Community" may freely utilize the family land but may not sell, loan, or mortgage their land, the right of the family be merely *usufructuary*. It does resemble usufruct at first sight. But if it actually were usufruct, we would have to suppose that there naturally be an owner somewhere to whom such usufruct be surrendered eventually. But this is contrary to the actual practice. The interest of the "Family-Community" to the family land is perpetual and is inherited by descendants, only collectively [6, p. 178].

Here arises a rather complicated problem: even if it were merely the usufruct (in effect it is more), perpetual succession of it would result, as long as the land upon which this right is exercised *is fixed at a place*, in the establishment of real right of control on that land, or *Gewere* to use the terminology of German law, which in time would serve as the basis to the birth of private ownership, but, since the land to be utilized by the "Family-Community" is not fixed at one place due to their method of farming, i.e., the "shifting cultivation," the interest of the "Family-Community" to the land has no possibility of turning into *Gewere* even when the interest itself is perpetually inherited. In other words the interest of the "Family-Community" is the general and abstract right to demand the land, and not the right to a particular plot of land [9, p. 142]. Here also lies an important reason for the non-existence of the right of free disposal.

But there is another quite important aspect to the above situations: if for some reason the "shifting cultivation" becomes not feasible or unnecessary and therefore the land under cultivation becomes fixed at one place for one "Family-Community," the interest of the "Family-Community" to this land easily becomes *Gewere* and something akin to *private ownership*. The growth of population, planting of perennial trees for commercialization—typically cocoa-trees—and other developments which are forcing the "shifting cultivation" out of sight result in these new phenomena of land occupancy especially after World War II in many parts of Black Africa. But even without contact with European money economy or emergence of new phenomena after World War II developments with the prospects of leading to the birth of private ownership can be observed within the traditional Black African framework. They are seen in relation with the site of the house lot and the house yard around it.

Let us briefly describe the structure of land utilized by the "Family-Community." It consists of *farm land* located at some distance away from the site of the house, and the *house lot* and *house land* (house yard). We see a typical case of it among the Ibo in Nigeria. There the occupied land is of circular shape, at the center of which lies the house with the house lot, and house land and farm land form two successive zones around the house lot in that order. Each member of the "Family-Community" has his own land for private use within this circular family land. The "shifting cultivation" is exercised in farm land which is collectively cultivated by members of the "Family-Community." The

house land is *continuously cultivated* by the same person, being enriched with household refuse. While therefore the farm land is under collective occupancy by the "Family-Community," the house land and the house lot are under the private control of each user or a group of users from within the "Family-Community," and this right to control this sector of the land is inherited by the male descendant, or in the case of a group, by the male descendant of its leader. Although the title to the farm land is vested in the "Family-Community" as a whole, individual members of the family have the right to use individually particular parts of the family farm land when the time for cultivation comes, and these rights, like those of the house land, are also inheritable and passed on to their male descendants. With the recent increase in population of Ibo rendering the "shifting cultivation" less easy, utilization of individual plots within the family farm land has tended to become more continuous, and the rights to such farm land plots have become of greater importance and assimilated to those of the house land in character. The right of the "Family-Community" to the farm land in Ibo seems to be changing its character to become merely the *reversionary right*—the right to demand the reversion of that portion of family land to the "Family-Community" when the one in charge fails to utilize it [6, pp. 132–33].

Generally it seems true in Black Africa that the land occupied by the "Family-Community" falls into two categories, the farm land and the house land with the house lot. As to the ratio of the two we cite only one example of the case of the Dissankwi in Bwa Village in Haute-Volta, where the house land reportedly occupies 25.8 per cent of the entire arable land [9, p. 114].

Summarizing the above, with respect to the farm land under the "shifting cultivation" generally the right of the "Family-Community" is not the interest in any particular part of the arable land but is the general and abstract right to demand a certain amount of land anywhere, but once the demand is met and a particular portion of land is given, the control of the "Family-Community" as a whole—with no right of disposal—is collectively exercised over that land as long as that land remains cultivated. Rights to the particular part of that land which is for private use are admitted only to the extent well within the control of the "Family-Community," and they are regarded as rights to the *improvements effected to that land by the labor expended upon it by the individuals* rather than to the land itself. It is so because in Black Africa generally rights to the fruits of such labor expended as reclamation, improvements to the land, and continuous cultivation are highly respected [6, pp. 114, 124]. Only they do not become permanent in nature under the "shifting cultivation."

But if the land so improved is the land perpetually occupied, such as the house land or the house lot, the situation is different. Perpetual occupancy produces *de facto private ownership*, and in this process continuous fertilizing plays a role [6, p. 222]. This private ownership to the house land and the house lot may be exercised by the "Family-Community" as a whole or an individual or a group of individuals in the "Family-Community," and this ownership right is inherited to the descendant of that individual or of the leader of that group. What is to be specifically noted in connection with private ownership of the house land

and the house lot is that it is accompanied by the right of free disposal. It is specifically for this reason that it can be private ownership [6, p. 222]. Private ownership in this conjunction, however, is limited in the sense that its right of disposal may be exercised only with the consent of the family or the group if the owner belongs to the patriarchal family or to a group within that family. Without such consent nothing can be done [6, p. 224].

B. So far we have discussed the nature of rights to the land exercised by the patriarchal family as a land-utilizing and land-occupying unit. As has been already mentioned, however, the patriarchal family has its rival organizations which claim various rights over the same patch of land. We are then to discuss these other title-holders and their relations to the patriarchal family in terms of their interest to the land. Meek has been already cited showing that there are more than one such competing organizations, and we start with the organization immediately above the patriarchal family being in direct contact with it.

Among the Mashona who constitute a great majority of the natives living in Rhodesia, East Africa, the patriarchal family as the basic land-utilizing and land-occupying unit, i.e., the "Family-Community," is called the "kraal." They too exercise the "shifting cultivation" and the land utilized by the "kraal" is not fixed at one place but is moving about, with no definite area under "kraal's" control. Can the "kraal" then freely move about? No, because the "kraal" belongs to an upper kinship group called the "dunhu," which has *its strictly marked area under its control* and "kraals" can move about only within that territory. All the Mashona then belong to their respective "dunhus," within which they have equal rights to the land, and the "kraal's" land occupancy may be materialized only within the kinship organization of the "dunhu." What is also of importance at this time is that the collective labor beyond the level of "kraal" is organized by the "dunhu," which means that land utilization is also exercised within the framework of the "dunhu." The "dunhu" thus forms an important economic and social unit along with the patriarchal family. And each Mashona feels he belongs to the "dunhu" rather than to the "kraal." According to a survey conducted by the Rhodesian Government "they [those living in a 'dunhu'] thought of themselves as one big, old family" and "the dunhu, *the land and its people*, and the invisible spiritual bonds with the ancestors who lived and died there for generations" (*italics added*) [7, p. 18]. This sense of belonging to the "dunhu" is not an abstract phantasy with no supporting reality: each Mashona, possessed with the right to defend and forbid the sale of the land as well as with the duty of collective labor, like other natives in Black Africa, can realize his rights *only as a member of the "dunhu"* and his rights are permanently guaranteed as long as he belongs to his "dunhu" [13, pp. 108-12].

Next we look at the Tiv of Nigeria in West Africa again. They are a tribe of some eight hundred thousand people. They are organized in various levels of kinship groups in such a way as to form a genealogical tree, near the bottom of which lies the kinship organization, termed the "minimal lineage" by Meek, which has the *exclusive demesne or estate of its own, called "ta'a."* Each minimal

lineage numbers approximately several hundreds of people and there are more than a thousand minimal lineages. The minimal lineage equipped with the "ta'a" is subdivided into smaller kinship groups, but it is to be emphasized that no such subdivisions have the exclusive estate under their control. The patriarchal family as the basic land-utilizing and land-occupying unit, i.e., the "Family-Community," chooses its own farm land freely within the "ta'a" of the minimal lineage to which it belongs. A particular plot of land chosen by a patriarchal family therefore is intermingled with plots of land chosen by other families in a "ta'a." We take the minimal lineage with "ta'a" here as the analogue of the "dunhu" among the Mashona. In the case of the Tiv the superior size of the kinship group on the same level renders it necessary to have the middle-level organizations between that and the patriarchal family, but this middle-level organization is confirmed by Meek himself to be of little significance in terms of land utilization and occupancy [6, pp. 143-46] [3, p. 105]. This conclusion may be endorsed by the example of the Shona in Zambia. Here there is the kinship organization called the "dunbu," possessed with the exclusive estate of its own, and the "dunbu" members have an equal right to the land among themselves [5, p. 369].

To summarize our discussion thus far we may confirm that there exists, one step above the patriarchal family as the basic land-utilizing and land-occupying unit, i.e., the "Family-Community," a kinship organization provided with the exclusive right of control, i.e., the actual title, over a certain area. Such kinship organization we call the "Tribe-Community."⁵ The territory under the control of the "Tribe-Community" is *collectively occupied* by the entire membership of it, and it is in the capacity as a participant in this collective occupancy that the "Family-Community" gains the right to demand its share of land. At the same time collective occupancy by the "Tribe-Community" also qualifies the land occupancy of the "Family-Community" through examining the latter's demand for land and judging as to the equitability of its demand in relation to its needs and abilities.

The function of autonomous "Tribe-Community" is not limited in its above-mentioned authority concerning land occupancy. Within the territory of the "Tribe-Community," except that part which is cultivated by patriarchal families, its members may freely hunt, collect, cut timber for house building, obtain fuel, reserve lands for building sites, and fish in swamp areas or rivers [6, p. 122]. The unused part of the territory belongs to the "Tribe-Community," and it has the power to demand the reversion of the arable land presently not cultivated, as well as to settle disputes over land. Moreover members of the "Tribe-Community" are charged with duties. They must participate in founding a village; opening roads, public meetings, festivals, and religious ceremonies, and must

⁵ What is called the "Tribe-Community" here may be closer to the Clan than to the Tribe in reality of Black Africa. But what is important is the fact that there exists such an organization with the social function described above, and it matters rather little at this time whether it be called the tribe, the clan, or the lineage. The version of this writer here is derived from his contention that this organization constitutes the actual basis of *tribalism*.

contribute to levies and other subscriptions [6, p. 124]. The "Tribe-Community" is thus properly the upper-level kinship organization which collectively occupies and utilizes the land, and this *collective activity* of the "Tribe-Community" is that which *guarantees and supplements* the land utilization and land occupancy of the "Family-Community" in concrete terms.

As can be easily supposed by the discussion so far, the "Tribe-Community" as a kinship organization has also a geographical aspect, because it has a definite geographically marked territory. It therefore may seem correct to call it the "Village-Community" free from all kinship factors [6, p. 121], but it is not necessarily so. For example, the Bakongo of the Congo-Kinshasa do not have their territory forming a single block: their territory is scattered over a wide area and intermingled with territories of other "Tribe-Communities," and the Bakongo have their interest in all parts of their territory thus scattered [9, p. 133]. On the other hand, there are cases where a village, apparently an assemblage of different kinship groups, occupies an area with no interruptions [6, p. 121]. The Songhay living along the Niger River offer such an example, in which the village as a unit of residence and of collective labor serves as the ultimate land-occupying unit. But only with difficulty one can interpret even this case to be a "Village-Community" based solely on geographical continuity, because the chief who is to represent the occupancy right to land of this "Village-Community" must be chosen from among the family whose ancestors founded the village [9, p. 134].

In Black Africa there is a general principle which stipulates that the one who occupied the land earlier gains superior rights over that land, the first occupant having the strongest rights. When the land was only sparsely populated, the first occupants offered a part of their rights to late-comers, and it was not uncommon that partial transfer of such rights occurred twice or three times. In such cases of multifold transfer of occupancy rights, the one charged with the actual exercise of the rights and actual utilization of that land is he who was passed the occupancy right at the very last occasion. But even in such a situation the first occupant holds the nominal superiority as the title-holder, although this superiority is usually expressed in the form of an abstract gift to the first title-holder [9, pp. 129-30] [1, pp. 21-23]. The superior rights of the first occupant therefore are not guaranteed in terms of *material benefits*, but the head of the first settled kinship group as chief of the entire community covering the original area including the sections which have been transferred to late-comers must manage the whole of his territory and deal with land disputes anywhere within that area. This is seen clearly among the Songhay. Merely pointing out the existence of the "Village-Community" made up of seemingly numerous different kinship groups does not mean that the kinship principle has been taken over completely by geographical principle. Among different kinship groups there is a contract or pledge honoring the superiority of the first land-occupying group and subjugating all other groups (cf. [12, p. 109]). Such "Village-Communities," therefore, should be included in the "Tribe-Community" in a broader sense of the term.

It is in the nature of kinship groups that they are bound by the belief (subjec-

tive) of having the same ancestor, and no proof of objective existence of biological blood relations is necessary. And this imagined common ancestor plays a decisive role in the background to the *social act* of land occupancy by native Black Africans. According to their way of conception, land occupancy is effected above all by the contract between the first occupant ancestor and the spirits of the occupied land, and descendants, as long as they intend to retain the land thus occupied by their ancestor, must always respect that contract and should never do such things that they conceive to be against the will of the ancestor. Here lies the ideal basis for the absence of free disposal and transfer of land. Such belief in land spirits and ancestor worship are practiced fairly widely in Black Africa, albeit in various forms, and in consequence the land occupancy has a certain kind of religious character. It goes without saying that this ancestor worship and worship of land spirits contribute much to the maintenance of the community as a kinship group and of its land occupancy.

It then is only natural that late-comers intend to respect the contract between their seniors and the land spirits, and that they, because of such concept on their part, admit the superior rights of the descendants of the original occupant to the land [1, pp. 35-36] [9, pp. 125-27]. The often-mentioned subjective nature of the common ancestor worship among natives of Black Africa gives rise to a possibility that along the long history of land occupancy the ancestor of late-comers is in their mind equated to the real original land occupants; especially when religious rites honoring the land spirits are held collectively with many different kinship groups, they surely serve well in strengthening the solidarity and assimilation among the participating kinship groups [1, p. 40]. We again confirm that a seemingly purely geographical "Village-Community" reveals after a close scrutiny the kinship principle at work at its base and therefore should be regarded as a form of the "Tribe-Community."

C. Up to this point we have examined the two kinds of land-occupying units which are directly related to the utilization of land—the "Family-Community" and the "Tribe-Community." In Black Africa, however, there are other still higher levels of organizations which claim certain rights over land. One of them is what is usually called the tribe. The tribe, according to Meek, is a kinship group of those who speak the same language, share the same culture, are conscious of forming a distinct social and political entity, and claim a certain territory to be under their control [6, p. 118]. But the rights of this organization are not such that are related directly to the elements of subsistence of the natives and to its material basis, which are the meaning of land utilization.

The head of this organization may serve as merely the representative figure of it or he may be something close to a king empowered with much authority, but his functions are limited, in external affairs, mainly to the negotiations of territorial matters with other tribes—disputes over territory often leading to tribal wars—and, in internal affairs, to the settlements of land disputes within the territory. The chief is not necessarily rewarded materially for these duties. In Black Africa generally the chief of the tribe as well as the chief of the "Tribe-

Community" and of the "Family-Community" receives certain kind of gifts from his members, but this apparently is not to be interpreted as *rent* payable to the land "owner" but rather is a token of members' fealty to the chief, i.e., to respective organizations themselves [6, pp. 155-59, 307]. The "skin" in Northern Ghana and the "stool" in other parts of Ghana both symbolize the positions of the heads of tribes, which form the organization holding right to land above the "Tribe-Community," and the examination of their duties shows that the holders of the "skin" or the "stool" are clearly not owners of their tribal lands. The pecuniary fund collected from members of tribes are solely used for settling land disputes within the territory and for other activities of tribal benefits. The holders of the "skin" or the "stool" have nothing to do with the land occupancy of individual members; land matters concerning land utilization are treated within the framework of the "Family-Community" and the "Tribe-Community." Nor are they even the administrator in the proper sense of the word [6, p. 159] [2, pp. 252-53].

In Black Africa there is another organization claiming a certain right to land placed higher than the "Tribe-Community" which may be said to have taken a long step toward the primeval state. The organization of this stage asks for what essentially is a *tribute* from people under its authority, but is not clearly distinguishable from the afore-mentioned tribe in its social characteristics. The king is the chief of tribal heads, but his authority is often limited through members of his nobility ([12, pp. 106-108] and cf. [6, pp. 160-62]). Primeval states in Black Africa, *being of the upper-level organization which are not directly involved in African farmers' land utilization*, constitutes an independent issue, along with that of the tribe, to be fully and separately discussed in both empirical and theoretical terms.

CONCLUSION

We have now examined the traditional agriculture in Black Africa in terms of forms of land utilization and of forms of land occupancy so far as *directly related* to the former, because land occupancy in its nature is directly or indirectly connected with land utilization, and even the type of land occupancy aimed only at collecting rents is eventually related to land utilization as long as those rents come out of the produce of that land. Land utilization, however, does not always produce land occupancy which is aimed only at collecting rents, for there is no conceiving of rents when the agricultural productivity is so low as to create no surplus products. There are then two types of land occupancy: the one directly aiming at land utilization, or the *primary land occupancy*, and the other aiming solely at collecting rents, or the *secondary land occupancy*. In Black African agriculture the secondary land occupancy seems only partially observable and in an embryo stage. It is for this reason that some difficulties arise in stipulating the characteristics of the organizations higher than the "Tribe-Community," such as the tribe and the primeval state. But it also gives us the advantage of being able to observe visibly the state of the primary land occupancy with no disrupting

and obscuring elements brought about by advancement of the secondary land occupancy.

How should we now summarize the basic characteristics of primary land occupancy in Black Africa? We start by saying that there are more than one occupying units for each portion of land, and that they are all *kinship groups*. The basic characteristics of land occupancy are stipulated above all by *man-to-man relations* within each of those groups and by *interrelations* among those groups. One of the best students of Black African matters, P. Bohannan, correctly points out that land occupancy in Black Africa should be considered not as "man-thing (land) unit" but as "man-man unit." He claims that the space area of native Black African society should be rigorously distinguished from the geographical groupings of natives. The Tiv, for example, have been shown to be changing their territory, albeit slowly. In terms of geographical position, therefore, their territory is now different from that of the past. But neither the principles which constitute the Tiv society nor the *relations of land occupancy* within that social unit have changed. This is an eloquent proof that land occupancy is not man-to-land relationship but man-to-man relationship. Bohannan, however, does not deny that the man-to-man relationship becomes social institution in man-to-land terms. The essence of his contention is that what regulates land occupancy at the base is *man-to-man relationship, i.e., the social factors* [3, p. 106]. And the principle which prescribes the man-to-man relationship, i.e., the principle of social organization in Black Africa, is the "Kinship-Community Principle" which *formulates the constitution of human beings' social group based upon kinship principles*. The "Family-Community," the "Tribe-Community," and the tribe are all cooperative groups based on the kinship-community principle. And the land occupancy is the realization of this principle to varying degrees, and individuals' relation to land is possible to be materialized only through these kinship cooperative groups.

The kinship cooperative group is not prescribed by land occupancy but exists naturally, preceding land occupancy. The existence of this group is a *natural condition* before land occupancy is born, and constitutes the decisive *given condition of nature* for land occupancy. But the kinship cooperative group as the natural condition does not, of course, exist in the Black Africa of today in its natural, pre-historic form, like in the form of wild gregarious animals. The kinship group as land occupying unit has already split itself into the dual structure of the patriarchal "Family-Community" and the "Tribe-Community," which presents the forms of man's organization in realizing the *collective land occupancy* of kinship groups at a particular stage of historical development. Moreover, in depicting the basic characteristics of the "Family-Community" the existence of private occupancy of land within this organization should be especially noted as the decisive element. The reason for this emphasis is that private occupancy created in its process of a natural kinship cooperative group to settle down at a place and become a social group based upon agricultural production means a step toward its *disintegration*, which definitely is a process of historical development. The human being group in Black Africa is, therefore, no more of the

archaic period.

But the human being group in Black Africa is persistently accompanied with the kinship-community principle, which constitutes the basic obstacle to further development of Black African society and then of Black African agriculture. For the kinship-community principle which gives the unchanged natural and pre-historic characteristics to human beings' organizations retards the disintegration of the collective land occupancies of "Family-Community" and of "Tribe-Community." And also it retards the advancement of private occupancy which guarantees further development of man's society. Our conclusion is, in a word, that traditional Black African agriculture is strongly characterized even at the present time by the kinship-community principle.

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