

BD 18508

**THE SOCIO-ECONOMIC IMPLICATIONS OF
LAND REGISTRATION IN TONGAREN DIVISION,
BUNGOMA DISTRICT**

BY

GEORGE NATEMBEYA

HIS THESIS HAS BEEN ACCEPTED FOR
THE DEGREE OF...M.A... 1999
AND A COPY MAY BE PLACED IN THE
UNIVERSITY LIBRARY.

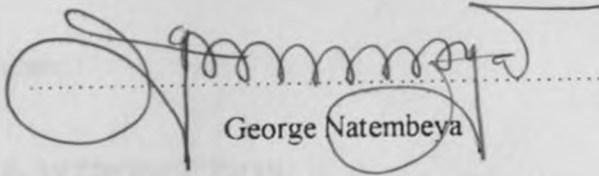
**A thesis submitted to the Institute of African Studies in partial
fulfillment of the requirements for the degree of Master of Arts in
Anthropology of the University of Nairobi**

1999



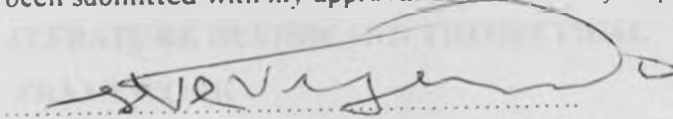
DECLARATION

This thesis is my original work and has not been presented for a degree in any other university



George Natembeya

This thesis has been submitted with my approval as a University Supervisor



Dr Stevie M Nangendo

17/6/99

Table of contents

	Page
Dedication	i
Acknowledgments	ii
Abstract	iii
List of Abbreviations	v
CHAPTER ONE: INTRODUCTION	1
1.1 Statement of the problem	2
1.2 Objectives of the study	4
1.3 Justification of the study	4
1.4 Scope and limitations of the study	5
CHAPTER TWO: LITERATURE REVIEW AND THEORETICAL FRAMEWORK	7
2.1 Traditional land tenure	7
2.2 Land rights and security of tenure	9
2.3 Women and land	9
2.4 Land, food security and wealth	11
2.5 Land tenure and social solidarity	11
2.6 Colonialism and land alienation	12
2.7 The Swynnerton Plan and land tenure reform in Kenya	13
2.8 Theoretical framework	16
2.9 Hypotheses	19
2.10 Operational definition of terms	20
2.11 Independent variable	21
2.12 Dependent variables	21
CHAPTER THREE: METHODOLOGY	22
3.1 Research site description	22
3.2 Sampling frame	27

3.3 Random and purposive sampling	27
3.4 Methods of data collection	28
3.5 Methods of data analysis	30
3.6 Problems encountered and their solutions	31
CHAPTER FOUR: DATA PRESENTATION	32
4.1 Introduction	32
4.2 Sample characteristics	32
4.3 Crops grown	33
4.4 Land size	40
4.5 Land registration and gender	45
4.6 Kinship ties and social relations	47
CHAPTER FIVE: DISCUSSION OF FINDINGS	51
5.1 Food security	51
5.2 Income	59
5.3 Land registration and gender	70
5.4 Kinship ties and social relations	81
CHAPTER SIX: CONCLUSION AND RECOMMENDATIONS	94
6.1 Introduction	94
6.2 Recommendations	98
BIBLIOGRAPHY	101
APPENDICES	111

List of Tables

	Page
Table 4 1: Distribution of informants according to marital status	33
Table 4 2: Crops grown and Acreage	34
Table 4 3: Crop diversity according to land size, 1997	35
Table 4 4: Land under food crops and cash crops	36
Table 4 5: Reasons for land inheritance	37
Table 4 6: Distribution of labour according to source	39
Table 4 7: Reasons for low loan utilisation	40
Table 4 8: Land size	41
Table 4 9: Reasons for land sales	42
Table 4 10: Distribution of respondents according to their children's education	43
Table 4 11: Registration of women	46
Table 4 12: Source of assistance	48
Table 4 13: How disputes are won and lost	49
Table 4 14: Disputes and costs before the disputes tribunal, 1997	92

List of Maps

Map I: Location of Bungoma District in the Republic	25
Map II: Position of Tongaren Division in the District	26

DEDICATION

**To my lovely wife Lillian. Mother
Terry and all those who cherish parenthood,
friendship and, especially so, scholarship.**

George Natembeya, 1999

ACKNOWLEDGEMENTS

I wish to extend my sincere gratitude to my Thesis supervisor, Dr. S. M. Nangendo, for his inspiration and encouragement. I am greatly indebted to him for his consistent, insightful and often critical comments and suggestions in all consultation sessions I had with him. It was indeed his intellectual depth and opinions which provided the necessary impetus for the successful and timely completion of this work. Similarly, I wish to thank my other lecturers at the Institute of African Studies whose invaluable comments from time to time helped shape this work. I am particularly indebted to Prof. S. Wandibba for his candid comments that awakened me to the realities of purposeful intellectual pursuits. I owe him one.

My appreciation is also extended to the University of Nairobi, through the Institute of African Studies, for offering me a scholarship to pursue my Graduate Studies. To the Board of Post-Graduate Studies, I acknowledge your immense assistance. I am also indebted to the Office of the President for granting me a study leave and other benefits that made my study a sheer bliss. And to the Provincial Administration in Tongaren Division, I say THANK YOU for your worthwhile support during my data collection. To my research assistant Denis Makokha, I say "Orio muno".

My colleagues at the University of Nairobi, a lot of thanks to you for your encouragement, support and criticisms. You proved that you are such a big reservoir of knowledge.

Finally, I wish to thank my father Justus and mother Terry for their unfailing love, beloved sister Catherine for her financial and moral support, brothers Dan, Mark, Gilbert, Ben, Lawrence and John for always being a source of encouragement, dear wife Lillian for always being there for me despite many odds and son Marvin and nephew Richard for being a constant reminder that posterity deserves a positive and lasting legacy.

ABSTRACT

This study examined the socio-economic consequences of land registration in Tongaren Division, Bungoma District. It was designed to assess how land registration has impacted on food security, income, gender parity in the ownership of land and, on kinship ties and social relations. The study was hinged on the premise that land tenure reform program in Tongaren division has not lived up to its promises. It was justified to carry out this study on the grounds that land is the matrix of life of many people in this division; about 80% of whom depend on it directly for a livelihood. Therefore, any policy that affects land tenure represents fundamental changes for a considerable portion of the population in this area. In addition, land issues have become very sensitive political matters, making it prudent to have an objective examination of the land tenure reform program and gauge its results in almost over four decades since its inception.

By means of random survey, key informants, observation and life histories, both qualitative and quantitative data were collected. These were then subjected to descriptive analysis using such analytical techniques as simple frequencies, percentages, means, and modes.

To help in explaining the performance of land registration, the theory of political economy was applied. The theory informed this study's contention that although land tenure in the whole of Kenya was couched in economic rhetoric, it was inherently political. The reform has not affected all people equally because of the skewed power relations which has shaped and legitimized economic relations. It is because of these skewed power relations that some people have managed to have access to more productive resources such as land, capital and labour at the expense of others. They are also the privileged few who enjoy food security and high incomes. Similarly, it is generally because of the skewed gender power relations that land ownership in Tongaren Division has tended to be the preserve of men.

Generally, the results showed that land registration has failed to bolster food security and income levels in Tongaren Division. It has, also, led to a decline in the otherwise close-knit kinship ties and social relations, as well as exacerbating the problem of gender disparity in the ownership of land.

This study, therefore, recommended that since capital is vital for agricultural development in Tongaren Division, credit should be made available to farmers under conditions that are not deterrent. This is to say that a title deed should be a sufficient condition since it is the only form of security that most farmers in this division have. In addition, the government should consider waiving the S. F. T loan arrears and ensure that all farmers are granted title deeds. It was further recommended that measures should be put in place to ensure a smooth operation of the land market to curb illegal dealings in land. Finally, joint ownership of land between a man and his wife should be made as a policy to assure women of security of tenure.

LIST OF ABBREVIATIONS

A. F. C.	...	Agricultural Finance Corporation
D. A. E. O.	...	Divisional Agricultural and Extension Officer
D. C.	...	District Commissioner
D. L. D. T.	...	District Land Disputes Tribunal
D. L. R.	...	District Land Registry
D. L. R.	...	District Land Registrar
D. O.	...	District Officer
GOK	...	Government of Kenya
HELB	..	Higher Education Loans Board
L. C. B.	...	Land Control Board
S. F. T.	...	Settlement Fund Trustees

Meaning of terms

Omubukusu/Mubukusu - A member of the Bukusu ethnic group

Lubukusu - The language spoken by Babukusu

CHAPTER 1

INTRODUCTION

The presentation and adoption of the Swynnerton Plan in 1954 marked the beginning of land tenure reform in Kenya. The plan, aptly entitled "A Plan to intensify the Development of African Agriculture in Kenya" was an official response to the falling agricultural productivity in the mainly African areas, the then so called 'reserves'. It proposed to replace communal ownership of land with individual ownership in order to induce farmers to use their parcels more productively (Swynnerton, 1955). This was based on the popular thinking then that traditional structures were barriers to change and had to be replaced by the modern and/or Western ones (Okoth-Ogendo, 1978a). However, the assumption that modernization was the panacea to all problems faced by Africans has been, in most cases, proved wrong. For instance, as Okoth-Ogendo (1978a) has noted, most efforts to Westernize traditional structures have been counter-productive.

It was hoped that land registration would bolster the security of tenure and, thus, provide the necessary impetus for investment. Farmers would then use their title deeds as collateral to acquire credit for the purchase of certified seeds, fertilizer, fencing and other requisite farm inputs. Privatization of land ownership would also ensure the greatest possible beneficial use of land through prevention of fragmentation and uneconomic subdivision of holdings. In addition, it would create equity in the distribution of land and enable a shift from subsistence to cash crop production based on individual choice in production and not group interests.

The work of converting customary land tenure system into a modern legal one with registered title deeds was first undertaken in Central Province in 1956 (GOK 1970, Sorrenson, 1967). In this region, land holdings were severely fragmented and agricultural productivity heavily impaired. Land reform in Central Province, therefore, became known as land consolidation because the main feature of the program was the consolidation of every farmer's scattered pieces of land into one parcel. In addition the adjudication of the rights of individuals on pieces of land that he or she had was also an essential component of the consolidation program. From the 1960s, the reform program was extended to other parts of the country (GOK, 1970). However, in most of the new

areas, land consolidation was not necessary as fragmentation was not a prevalent phenomenon, thus, the main thrust of land reform in such areas became land adjudication and registration of rights

In the first ten years of the reform, approximately 700,000 hectares of land were registered in Kenya. Indeed, by 1973, all land in Tongaren Division, for instance, had been registered in individual names (GOK, 1973)

1.1 Statement of the problem

Tongaren Division is a high potential agricultural area, falling in "A Million Acre Settlement Scheme" (Mbithi and Barnes 1975). Agriculture accounts for over 75% of the income earning activities in the division, which is a major producer of maize in Bungoma District (GOK, 1996a). The surplus of maize produced in the division is exported to other areas within and without the district.

This great potential is, however, threatened by unprecedented land subdivision and fragmentation, lack of capital and poor land use patterns. For instance, agricultural land per head has declined from 0.46 hectares in 1979 to 0.33 hectares in 1996 (GOK, 1996). The available land is, thus, being increasingly fragmented into sub-economic units (GOK, 1997: 15). The number of landless people is also on the increase and most of these people are also dependants who have become a drain on the income of the landed, thus, perpetuating the vicious cycle of poverty.

This study is based on the premise that land policies formulated by the government, prior to and after independence, have served to meet political objectives to the detriment of the socio-economic ones. For instance, the transfer of land from European settlers to Africans at the dawn of independence was motivated more by political than economic considerations. It was a token of independence and also served to assuage political tensions occasioned by land hunger. By doing so, the government demonstrated its commitment to the needs and welfare of its citizens and proved that the struggle for independence had not been in vain. Conversely, the socio-economic objectives of high income levels, food security and equity in the distribution of land have remained a pipe-dream.

Right from the inception of land reform in Kenya, it was assumed that the rate of population growth would be at par with the rate of agricultural development. It was then envisaged that the income to be realized from agriculture "... should be able to support a farmer's family to a level comparable with other professions" (Smith, 1976: 126). In addition, individuals incapable of purchasing their own pieces of land would be employed by those with the capability to do so as farm labourers. Since this anticipated scenario has failed to come true, excessive land subdivision, through sale and the cultural practice of inheritance, has continued unabated.

Low incomes, occasioned by low agricultural productivity and dwindling returns from land, have compelled some people to dispose of some parts of their pieces of land and, in some cases, whole pieces of land have been sold. This is in order to secure money to meet such requirements as payment of school fees, medical expenses, subsistence, shelter, clothing as well as to off-set loans, agricultural or otherwise, which have taken too long to service. Paradoxically, this disposal of land has reduced the credit-worthiness of most farmers, thus, impairing further their disposition to borrow money from lending institutions.

Similarly, land registration in individual male names has served to undermine women's economic rights. This is mainly because women lack the necessary financial resources to purchase their own pieces of land, while the practice of inheritance represents a cultural constraint "... as related to gender discrimination in ownership, transfer and usage of land" (GOK, 1997: 51). The implication of this skewed land distribution is that women have a lesser say, not only in deciding what crops to be grown and where, but also in the allocation of the produce. Changes in land use and allocation patterns have, therefore, led to a decline in overall food production, availability and security in most households (Robinson, 1993).

Finally, family feuds over land and the erosion of African communal living is also threatening the traditional social fabric, that is, the family, which holds society together. This study, therefore, attempts to address the following salient questions:

- i) Has land registration enhanced food security?
- ii) What factors deny women access to land?
- iii) How has land registration impacted on people's level of income?

- iv) What impact has land registration had on social relations and kinship ties?

1.2 Objectives of the study

1.2.1 General objective

The main objective of this study is to assess the socio-economic implications of land registration in Tongaren Division

1.2.2 Specific objectives

- i) To investigate the impact of land registration on food security
- ii) To analyze the factors which deny women access to land
- iii) To find out how land registration has affected people's income levels
- iv) To describe the changing patterns of social and kinship relations in the context of land registration

1.3 Justification of the study

Bassett (1993) has observed that the question of whether or not there is a relationship between the current agrarian crisis in Africa and access to and control of rural land has been raised, but not thoroughly explored. Tongaren Division, in spite of its great agricultural potential, has been experiencing persistent food scarcity and pervasive poverty. This study, therefore, takes up Bassett's observation as a challenge and looks at the poor state of agriculture in Tongaren Division in the context of access to and control of land

Land forms the matrix of human existence and, in Tongaren Division, it is the main, if not the only, source of income and subsistence. The agricultural sector has provided employment to the majority of the local people and, despite incessant shortages, a relatively stable food base. Thus, the perpetuation, protection and beneficial use of land is very essential (Munro, 1960) in order to ensure a sustainable availability of both food and cash crops. This study is, thus, a contribution towards the enhancement of sustainable agricultural productivity as it aims at coming up with concrete measures for land use.

There seems to be a proliferation of dealings in land, particularly sales. The cultural practice of inheritance has also assumed monumental proportions. These phenomena have contributed generously to the subdivision of land into sub-economic units. In this scenario, it is difficult to engage in any meaningful, let alone, progressive farming. Land Control Boards (L. C. Bs), bodies set up by the government to oversee dealings in land, have become ineffective. It is, therefore, the onus of this study to come up with recommendations on how to improve small-holder agriculture, on one hand, and to identify ways of either revitalizing L. C. Bs or finding alternative ways of controlling dealings in land, on the other.

Scholars such as Boserup (1970), Nasimiyu (1991) and Suda (1986) have argued that despite the fact that women are the main providers of agricultural labour, they have been excluded from land ownership. Accordingly, that it is this exclusion that is responsible for the food crises in Africa since the quality and quantity of land allocated to food production is wanting. The investigation of this apparent gender discrimination in land distribution and the advanced implications on food security in Tongaren Division, is another rationale for this study.

Finally, since the commencement of land registration, the time that has elapsed is sufficient enough to determine whether or not the program has succeeded in achieving its objectives.

1.4 Scope and limitations of the study

This study is limited to only those individuals with registered parcels of land and whose main occupation is farming. This is to say that those without registered parcels of land and /or eke a living outside farming are beyond the scope of this study. This is because the study endeavours to find out how land registration per se has affected the socio-economic status of the people of Tongaren Division. The study is also biased in favour of the original settlers as opposed to those who have bought land in the area in recent years. In addition, the study gives a historical perspective to land ownership, specifically among Babukusu, from pre-colonial to post-independence times. This is in order to provide a comparison between the traditional and individual modes of land

ownership and, therefore, the changes wrought by land registration. Finally only one aspect of land tenure reform, that is, registration is addressed in the study. The other components of land adjudication and consolidation are of peripheral interest because they were not applicable in Tongaren Division.

CHAPTER 2

LITERATURE REVIEW AND THEORETICAL FRAMEWORK

2.1 Traditional land tenure

Despite a concerted and determined effort by the Government of Kenya to undertake land tenure reform, especially at its nascent stages of independence, over four decades now it can be legitimately asserted that indigenous land tenure systems are still pervasive. This is because the cultural practice of land inheritance predominates over land purchase, very few farmers have title deeds, farming is yet to be fully mechanized and most of the produce is consumed at the household level (Okoth – Ogendo, 1978a)

African traditional land tenure has been described as “communal” (Nangendo, 1994; Nasimiyu, 1991; Okoth-Ogendo, 1976; Wagner, 1970; Wandibba, 1972). Under traditional tenure,

The rights to use or dispose of use rights over land rest neither on the exercise of brute force nor on evidence of rights guaranteed by government statute but on the fact that they are recognised as legitimate by the community, the rules governing the acquisition and transmission of these rights being usually explicit and generally known though not normally recorded in writing (UN, 1966, cited in Noronha and Latham, 1983: 7).

Communal ownership may refer to ownership by a tribe, lineage or extended family. This means that an individual acquired the right to use land by belonging to the group in which the right of ownership was vested. However, this ownership may be merely nominal and the real decision-making power and possession lie with an individual or family.

Among Babukusu, land belonged to the community which controlled its allocation and disposal. The clan was the land owing unit (Nangendo, 1994), and so, although individuals had exclusive rights of access to and use of land, they did not own it. Indeed, whimsical disposal of land was met with overt disapproval. In addition, it was recognised that certain sections of land, although allocated to individuals, were open to

use by the entire community. They included salt licks (bilongo), grazing fields (chikewa) and water points for livestock and other uncultivated sections (Nangendo, 1994; Nasimiyu, 1985 b)

Communal ownership, thus, does not mean that all land is used in common by the community nor that the rights of individuals are rendered insecure (Holleman, 1969; quoted in Bassett and Crommery, 1993: 359). Among Babukusu, an individual had access to as many plots as he could till them (Nangendo, 1994). Indeed these people believed that land was owned by the ancestors and, thus, they devised a system of land gift giving that ensured that every Omubukusu had a piece of land (Nangendo, 1994)

The point of conflict in the traditional land tenure discourse pertains to who had the authority over acquisition and disposal of land. Okoth-Ogendo (1976) notes that opinion over how land was politically administered is divided. Nasimiyu (1991) posits that land use administration was vested in elders who were usually men. Their control over land extended to uncultivated and fallow fields which were considered areas for possible settlement by the clan. Indeed, the basic unit of social and political organisation was the fort (lukoba) which was a geographical entity that demarcated areas belonging to specific groups of clans. These forts were large and walled (Wandibba, 1972) and the leader of a fort, who was also its founder, was called omukasa (Nasimiyu, 1985a). Below him in rank was omwami we lichabe who was the head of either a clan or a lineage. Each omwami we lichabe was in charge of a particular gate and the people who used that gate. Indeed, he was the direct administrator of land and was assisted in this endeavour by omwami we pokoto (Nangendo, 1994; Nasimiyu, 1985a)

These elders had the responsibility of selecting the most suitable land for the site of the fort, cultivation and pasture. The suitable sites were selected on the basis of the availability of clean water for people and livestock, proximity to salt licks and associated salt water (kumusole) and the land had to be free of any previous occupation by other people to prevent possible future competing claims (Nangendo, 1994; Nasimiyu, 1991; Wandibba, 1972). All land and associated disputes were also arbitrated by the elders

After allocating land, the elders did not interfere with its utilisation. They did not hold it as trustees of the community as colonial authorities tended to portray them

Neither did they possess sweeping powers in the administration of land (Bassett, 1993, Kabwegyire, 1974, Nasimiyu, 1985a, Ranger, 1993).

2.2 Land rights and security of tenure

Wagner (1970) asserts that rights in land to use, inherit and dispose of it were very complex since pre-colonial land tenure provided for both individual and communal holding. However, as Kisambwa-Mugerwa (1991) has pointed out, the rights of the community sometimes superseded those of the individual.

A *Mubukusu* individual had adequate rights in land. For instance, once land had been allocated to him he was at liberty to do anything with it, including leaving it to lie fallow for sometime. His rights were only temporarily ceded if he migrated to another fort (Nangendo, 1994).

Within the family, individual rights to land were recognised and respected. For instance, two brothers could not cultivate the same piece of land simultaneously. Each had absolute use-possession of the land apportioned to him (Nangendo, 1994). In the event of his death, his male heirs inherited it and other members of the clan could not infringe on this right. In addition, a piece of land could not be given away without the permission of immediate family members, otherwise, the said transfer became null and void (Nangendo, 1994). In fact, land disposal by sale was conspicuously absent.

Security of tenure among Babukusu was, therefore, deeply rooted even prior to land registration. An individual exercised wide-ranging rights on his strip of land and his rights could not be impaired by absence. No individual was evicted from his land except on the basis of misconduct, for example, if he practised witchcraft (Wagner, 1970). The growing of permanent crops such as bananas (*kamatore*) demonstrates these people high sense of security on their land.

2.3 Women and land

Women had inalienable rights to land which were acquired through descent and marriage (Nasimiyu, 1985a). After each adult man had been allocated land, he in turn

sub-divided it into strips according to the number of wives he had. In a monogamous setting, the wife had automatic rights to her husband's land. On the other hand, each wife in a polygynous setting was allocated sufficient land which varied from wife to wife depending on their respective levels of industry. The import of this arrangement is that women were not allocated land directly by the head of the clan, but through their husbands (Nangendo, 1994, Nasimiyu, 1985a, Wandibba, 1972)

Unmarried daughters were also allocated land by their fathers. However, since the Bukusu society is patrilineal and exogamous, property inheritance was defined along the male line. Therefore, land was inherited by sons only (Wagner, 1970; Nangendo, 1994). Since widows were also subjected to inheritance (Nasimiyu, 1985b), the Bukusu rites of inheritance and ownership of land made it impossible for women to inherit and, thus, own land.

Pala *et al.* (1978) state that the Luo traditional system of tenure provided life-long usufructory rights on land. The security of women on land was assured by traditions which prevented any form of discrimination, wanton appropriation and unchecked disposal of land based upon whim and will.

Women had virtual control and monopoly over food production. Although they did not have the power of land allocation, they also controlled the disposal of their produce. The fact that allocation powers were conferred on men rather than on women merely restates the patrilocal and patriarchal character of this society (Nasimiyu, 1991).

However, access to land enjoyed by women prior to colonisation and their control and monopoly over food production were effectively eliminated by land tenure reform. The power of allocation conferred upon men by tradition was interpreted as a registrable interest at the expense of the right of access enjoyed by women (Okoth-Ogendo, 1978b). Furthermore, the introduction of cash crop production eroded the position of women as food producers (Nasimiyu, 1985a, 1991).

Today, the Government of Kenya advocates for an improvement in women's access to, and control of, land. It notes that property inheritance has tended to discriminate against women because husbands are the legally recognised title-holders. With reform, women should be able to buy and own land in their own names (GOK, 1996b). However, land registration has still not translated into gender equity since land

ownership is heavily skewed in favour of men (Suda, 1991) as, in addition to inheritance discrimination, women lack monetary resources to purchase their own land.

2.4 Land, food security and wealth

Animal husbandry and farming were the main economic pursuits of the Bukusu (Wagner, 1970, Wandibba, 1972). The main livestock kept were cattle, goats, sheep and poultry while, the main crops grown included millet bulo, cassava kimioko, sorghum kamaemba, simsim chikhanu, sweet potatoes kamapwondi and a wide variety of vegetables chinvenyi (Nasimiyu, 1985a). Millet was the staple diet (Wandibba, 1972), while cattle and the other livestock provided milk, meat and blood. Cassava, a drought resistant crop that also does well in poor soils, was introduced in Western Kenya from Uganda (Nasimiyu, 1985a). It was grown, basically, as a measure against drought. This meant that even during severe droughts, Babukusu were not entirely helpless (Ogutu, 1985a, Nasimiyu, 1985b). Furthermore, the food grown on each wife's plot was harvested and stored away in her own granary. This ensured that each family had an adequate supply of food throughout the year (Nangendo, 1994).

The availability of land determined the economic pursuits that were undertaken. Traditionally, Babukusu were very wealthy because they owned large tracts of land and herds of cattle (Ogutu, 1985a:13). Indeed, in terms of wealth, the size of land a man cultivated and the number of cattle he owned were a measure of his stature in the community (Nangendo, 1994; Nasimiyu, 1985a; Ogutu, 1985a; Wandibba, 1972). A person with many cattle also married many wives who brought forth many children, thus, assuring him of an adequate supply of labour to cultivate expansive portions of land (Ogutu, 1985a).

2.5 Land tenure and social solidarity

Communal living among Babukusu was highly valued and the family was stronger than it is today (Wandibba, 1997). The living conditions that prevailed in the forts made community participation in production possible. From the family to the entire

community, people worked together in large or small groups to attain social, political and economic objectives. The concept of co-operation among the people was founded on the realm of organised labour. Felling trees, planting, weeding and harvesting of crops were some of the jobs that called for co-operation (Nangendo, 1994). At the family level, and especially within the context of the extended family, collective labour was pronounced (Wandibba, 1972, 1997).

At the community level, cattle herding was done by a team of mature men who were well armed to protect the animals as well as human life from wild animals as well as human adversaries (Wandibba, 1972). Women in a neighbourhood teamed up and worked together on individual plots (Nasimiyu, 1985a, Ogutu, 1985a).

Land disputes, which were potentially disruptive, were solved by a panel of elders in the most impartial ways possible (Nangendo, 1994; Nasimiyu, 1985a; Wilson, 1971). Generally, there were no losers in such disputes as no individual became landless as a result of them. More often than not, the warring parties were required to share amongst themselves the land under dispute or one of the parties was relocated somewhere else (Nasimiyu, 1991; Nangendo, 1994). However, since land was abundantly available, such disputes were rare, but with an increase in population, boundary and other disputes upsurged. Such disputes were expected to relent with land registration (Shipton, 1989), because any uncertainty over the boundaries of a holding can easily be cleared up by reference to the land registry where maps for all plots and the records on the current status of each registered parcel of land are kept (Wilson, 1971: 141). Consequently, the monies previously spent on court cases would be saved and re-invested into agriculture for enhanced productivity (Swynnerton, 1955).

2.6 Colonialism and Land Alienation

The traditional land tenure system was altered in fundamental ways during colonialism (Hunja, 1984; Smith, 1976; Sorrenson, 1967). Hunja (1984) asserts that the advent of colonialism dealt a deathblow to African administration and control of land. Four decades later, it is still naive to discuss Kenya's land policies without reference to colonialism. As far as land administration is concerned, independence was not a victory

for change, but for the maintenance of the status quo (Smith, 1976, Wasserman, 1976). The conquest and colonisation of Kenya by Britain in the 19th Century was driven by economic motives. The main aim of colonialism was to open up Kenya as a source of cheap raw materials for British and other European industries and a market for the surplus of their finished products. In this scenario, land acquisition was a paramount objective (Alila, 1977, Ghai et al., 1983, Hunja, 1984; Kabwegyire, 1974; Sorrenson, 1967).

European settlement in Kenya was largely a product of the construction and completion of the Kenya-Uganda railway in 1901 (Alila, 1977; Sorrenson, 1967). The railway was built using funds obtained from the British treasury and it appeared that settler agriculture was the only way the colony could be made to repay. This is because large stretches of land along the railway line appeared unoccupied and unclaimed. African inhabitants were either shifting cultivators or semi-nomadic pastoralists who produced little worthy exporting. The alternative was, therefore, to encourage European settlers to develop a viable agricultural export economy (Sorrenson, 1967).

To facilitate white settlement, colonial authorities agreed to set aside land in Kenya highlands for the exclusive use of Europeans (Sorrenson, 1967). This is how Tongaren Division, being a high potential agricultural area, came to fall under exclusive occupation of Europeans during colonialism. On the other hand, Africans were confined in designated areas that saw a stagnation in agricultural production (Alila, 1977; Hever, 1975), occasioned by population pressure, poor technology and soil exhaustion that led to overwhelming discontent. This unrest presented the colonial authority with a crisis whose magnitude it could not ignore and, thus, the drafting of the Swynnerton Plan.

2.7 The Swynnerton Plan and Land Tenure Reform in Kenya

The Swynnerton Plan presented the concern of the colonial government about the stagnation of agriculture in the "reserves". According to Swynnerton (1955), the traditional land tenure that fostered land sub-division and fragmentation was responsible for the stagnation.

Swynnerton argued that a land market is an invaluable component of land tenure reform. Land sales, it was hoped, would lead to an upsurge in agricultural productivity as only the best farmers would have access to land. The process of land registration should, thus, be credited with the proliferation of a land market since transactions receive immediate legal recognition (Wilson, 1971).

However, the process of land transactions has not been smooth. There has been a proliferation of double or even more deals and confusion about sales, especially where land has been used as security against some loan. Prospective buyers are not informed about these charges. Individuals also have a tendency of selling land with the expectation that Land Control Boards would nullify them (Shipton, 1988). This has led to incessant disputes between buyers and sellers and while these disputes last, the land is not put to use or the crops are destroyed by rival parties in the dispute.

Shipton (1988) also notes that land dealings in Kenya remain largely unregistered because the government does not have the resources to monitor and control the many kinds of land exchanges that occur every day. This has created a potential for conflict, misappropriation and poor utilisation of land.

2.7.1 Access to credit and investment

Hever (1976) and Shipton (1988) argue that despite the emphasis placed on the importance of agricultural credit in the land reform programme, it appears that credit is not the best way of achieving agricultural development. They contend that agricultural credit was meant to benefit the small-scale farmer yet conditions required for securing it tend to favour those with already developed resources. Thus, land secured credit is hard for a small holder farmer to get. The inevitability of this discrimination can be seen in the fact that the main criteria for the selection of borrowers is the capacity to repay and not the security offered (Wilson, 1971). Interestingly, too, even farmers who are able to obtain credit rarely invest it in agricultural development. Some use it to pay school fees for their children, others repay loans while still others start businesses outside the agricultural sector (Okoth-Ogendo, 1976).

Security of tenure was portrayed as the required miracle for investment. According to Bruce (1993), it is vital for the enhancement of agricultural productivity

since it gives farmers incentives to invest in their holdings. Without titles, individuals do not feel secure enough to use fertiliser, dig wells and plant permanent cash crops (Heyer, 1976, Shipton, 1988, Smith, 1976). However, Kisambwa-Mugerwa (1991) argues that higher levels of security are not necessarily associated with higher levels of investment in land. Bruce (1993) further argues that registration does not lead to investment, but protects it. He states that investment in land may lead to claims as jealousy develops and that if the investor is an 'outsider', malicious accusations of witchcraft may be levelled against him or her in order to have him or her evicted. Registration is, therefore, important in such a situation because a registered title is inviolable and protects the rights of the holder.

Land registration has been hailed for according individuals freedom in the management and utilisation of land. It has been argued that in the traditional tenure, poor land utilisation was the inevitable outcome of a tenure system that gave farmers no long term interest in land (Bruce, 1993) and, therefore, little incentive for land conservation.

According to Bromley (1984), land registration is vital for socio-economic development because it alters people's attitudes towards land and its utilisation. The urge for self-advancement induces more and better utilisation of land, thus, leading to food sufficiency and higher incomes.

2.7.2 Land control

Land dealings in Kenya are managed by Land Control Boards. These boards are set up in each administrative division and are chaired by District Officers. Their work is to veto or approve such dealings in land as sales, leases and mortgages (GOK, 1970). Land control implies that the individual's rights over his or her land are modified and cease to be absolute both in his own interests and the interests of the wider community (Wilson, 1971:2). This control, thus, aims at achieving both social and economic objectives. For instance, the boards are not supposed to approve a land sale if it would lead to a holding below a certain size which then becomes unviable for economic activities or if the intended sale would lead to landlessness.

The government, in Sessional Paper Number One of 1986, promises to respect the sanctity of private ownership of land. It, however, states that despite growing population

pressure on land, there must be limits to the subdivision of small farms. Further, the government states that the country cannot feed itself and produce enough crops for export if land is allowed to lie idle or underutilized in large holdings. It then proposes that landowners should be induced to put underutilized land to more productive use.

The practice of inheritance has, however, hampered government control of land sub-division. The abolition of the practice without available alternative is politically unpopular (Wilson, 1971). Wilson (1971) further argues that the problem of land subdivision has been exacerbated by scarcity of land, in relation to population increase and a lack of alternative employment outside the agricultural sector.

On the whole, this is the first study of its kind in this area and it is, therefore, hoped that it will bridge the existing gaps in literature. In addition, it is hoped that the findings of this study would be replicated in other places where similar circumstances obtain.

2.8 Theoretical framework

2.8.1 Political economy

In order to put land registration in its proper politico-economic context, the theory of political economy is applied to depict the program as part of the wider framework of mechanisms that aimed at maintaining and/or sustaining the status quo. This is the reason why land tenure reform has had little impact on the creation of equity, food security and income. According to Sorj (1980, quoted in De Janvry, 1984:271), any attempt at agrarian reform, however limited it may be, is accompanied by the action of a repressive apparatus intended to keep the reform within the limits of the present structure of accumulation and domination. Similarly, De Janvry (1984) argues that land reform is fundamentally a political issue that seeks to either achieve or prevent social change. He states that a reform is an institutional innovation promoted by the ruling order in an attempt to overcome economic or political contradictions without changing dominant social relations.

The theory of political economy espouses Marxian tenets in dealing with the laws that govern the production and distribution of the means of satisfying human needs. The

means include land, labour and capital while the needs include food, shelter, clothing, education, security and entertainment. According to Langer (1963), these means and needs are a result of people living together in a social setting. In addition, the theory emphasizes the interplay between politics and the economy, positing that economic relations govern the distribution of power in any society and power is actually the basic legitimating force which shapes productive arrangements and labour relationships. Power brings the society (people), resources (economy) and social control (politics) into a dynamic relationship (Giddens, 1979).

Power relations, on the other hand, are brought to the fore through the medium of scarce resources. In any society, for instance, groups of people differ in their relationship to the means of production, that is, land, labour and capital. Those with power have more access to the means of production and, more so, harness and appropriate the labour of others and exert dominance over them (Nwabuzor and Mueller, 1985: 43). In Africa, the peasantry represents a substantial portion of the population. Peasants own relatively small parcels of land and employ family labour to produce their own subsistence as well as a small surplus, if at all, for exchange. However, because of their disadvantaged position in the power structure, they are the most exploited (Leys, 1975).

Generally, the heavy burden of taxes imposed on the export of agricultural products and on imported and locally made basic consumer goods is borne by the peasants. Sometimes, too, marketing boards and bodies set a ceiling on the prices on which the peasants can charge for their produce sold on the market and, often, food prices in urban areas may be kept low by the middle class at the expense of producers. Lastly, and most importantly, many of the advantages of new technology in agriculture tend to go to those in a better position to obtain loans, fertilizer and land than are the peasantry (Leys, 1975).

The political economy of gender is also germane to this study. According to Downs *et al.* (1991: 8), "socially appropriate expectations and opportunities in a given society rationalize the moral economy of gender so that a socially constituted difference is construed as having a natural biological basis". This, then, provides grounds for the acquisition of different skills, knowledge and power by male and female actors, creating a gender-based power structure with male domination. Indeed, women have been

systematically isolated and alienated from the ownership and control of the means of production

2.8.2 Relevance of the theory to the study

The process of land registration in Kenya was inherently political, although couched in economic rhetoric. The allocation of land to Africans, with the departure of Europeans, was only meant to assuage land hunger which had become a rallying call for the masses. At the same time, the dominant social relations were retained because a small clique of politicians, civil servants, soldiers and traders aspired to take the place of European settlers as large-scale capitalist farmers. The large-scale farm sector was preserved under the pretext that resettlement was expensive and transferring these farms intact to individual African elites was defended as necessary for national economic interest. Thus, these individuals consolidated a position of permanent economic and political dominance while other people were relegated to permanent pauperization and proletarianization.

Similarly, the exploitation of political power by the wealthier individuals and groups has led to unequal access to land, farm credit, extension services, marketing facilities and new crops. For instance, access to large tracts of land believed to be of development potential depended on an individual's ability to mobilize political and economic resources and not a disposition to invest in it. Thus, acquisition of land, to some people, was a political and not an economic process. Wealthier and more influential people have had undue advantages over others in access to better holdings and their expansion. In addition, the majority of households produce very little surplus owing to their lack of capital, know-how and land. The lending institutions have an overt preference to large-holder farmers, preferably those with other sources of income, at the expense of the peasantry.

The exclusion of women from the ownership of the means of production is based on their class position created by erstwhile and current cultural, political and economic structures that obtain within a system of male domination. For instance, the gender-based system of property inheritance is largely responsible for this state of affairs. Denial of the

right to the means of production, inevitably, leads to the dwindling of the power in the decision-making on how the produce is distributed.

Finally, landlessness was anticipated in the land tenure reform program and regarded as the only way of commercializing labour in order to incorporate the peasant mode of production into the capitalist one. However, commercialization and, therefore, exploitation of labour has also had far-reaching implications on kinship and social relations as investing in social relations is no longer economically sound.

Thus, the theory of political economy has been applied in this study to help answer the following questions:

- i) How did political expediency affect the process of land tenure reform and do political processes affect economic relationships at the household level?
- ii) How does the gender-power relations affect land distribution and ownership?
- iii) Who exerts control of the means of production and the produce at the household level?
- iv) How does status influence access to productive resources, that is, who is likely to have access to productive resources, a better farmer or a wealthier one?

The answers to these salient questions are pertinent to answering the research questions stated in this study.

2.9 Hypotheses

The following are the hypotheses of this study:

- i) Land registration has enhanced food security.
- ii) There is gender inequality in access to and control of land.
- iii) Income levels have been boosted by land registration.
- iv) Individualization of land ownership has transformed kinship ties and social relations.

2.10 Operational definition of terms

i) *Land Registration*

This is the epitome of land privatization. It entails the provision of parcel numbers to individual males and females who, after settling all charges on land, are issued with title deeds. Thus, both parcel numbers and title deeds represent registration of land.

ii) *Food Security*

This means the availability and sustainability of food within a household to withstand seasonal food variations. The components of food security are the diversity or otherwise of food crops; the various uses of designated food crops, food storage and/or usage, availability of capital and labour and, utilization or otherwise of extension services.

iii) *Gender Inequality*

Gender refers to the social construction of biological differences between men and women to the extent that a purely social trait is construed to have a natural biological basis. On gender inequality in land ownership, therefore, this study looks at how land is distributed and/or allocated on the basis of the perceived differences between men and women. It was measured by finding out about who controls land in the community generally, in whose name the land is registered and, where available, whether or not the title deeds bear the name of the woman, how the produce is allocated to alternative ends and opinions on the registration of women as the land owners and whether or not they should inherit land.

iv) *Income levels*

This is the ability of the individual to afford and/or attract certain necessities and benefits. Income is the basic indicator of socio-economic status that is exemplified by the size of land owned, size of land sold and/or purchased since after the completion of registration, the ability to access working capital and farm labour, cash crop production, the ability or otherwise to meet the cost of children's education, annual income from

agriculture: the mode of land cultivation, type and quality of seeds and fertilizer used and possession of valuable assets.

v) *Social Relations and Kinship Ties*

This is defined as the closeness or otherwise of kinship relations and social ties. The various components of this variable are visits to relatives and how often; stay with relatives and the kind of relatives an individual stays with, involvement or otherwise in disputes and the nature of the disputes; how the disputes are solved; availability or otherwise of assistance when needed and from who, the rating of individual as opposed to group ownership of land and, finally, whether or not reliance on relatives promotes economic development.

2.11 Independent variable

Land registration

2.12 Dependent variables

Food security, gender differential, income levels and social and kinship relations.

CHAPTER 3

METHODOLOGY

3.1 Research site description

3.1.1 Location and size

Bungoma is one of the eight districts which today constitute Western Province. It borders Mt. Elgon District to the north-west, Trans-Nzoia District to the north, Lugari District to the east, Kakamega District to the south-east and Busia and Teso Districts to the west and south-west, respectively. The district also borders the Republic of Uganda at the north-western border-point of Lwakhakha (GOK, 1997, see Map I).

The district lies between latitude 0°28' and 1°30' north of the equator and longitudes 34°20' and 35°15' east of Greenwich. The total area covered by the district is 2,063 square kilometres, which is about 25% of the total area of Western Province (GOK, 1997:4). Administratively, Bungoma District is today divided into five divisions, thus, Kimilili, Kanduyi, Webuye, Sirisia and Tongaren.

Tongaren is the second largest division in the district. It is situated on the eastern part of the district and covers an area of 375 square kilometers (GOK, 1996a). The division is bordered by Kakamega District to the south, Lugari district to the east, Trans-Nzoia District to the north, and Kimilili and Webuye Divisions to the west and south-west, respectively (Map II).

3.1.2 Topography and climate

The division experiences two rain seasons. The long rains start in March and continue into July while the short rains commence in August and continue into October. December and January are the months with the least amount of rainfall. Therefore, rainfall with an annual mean of between 1,250 and 1,800mm is reliable. Further, like the rest of the district, the mean annual temperatures vary between 21°C and 25°C (GOK 1997:5). It is during the long rains, especially in April when rain is heaviest that most farming activities are carried out.

In addition to adequate and reliable bi-modal rainfall, the soils are well drained and are mainly dark brown acrisols which vary from deep to very deep (GOK, 1997). With the gently sloping terrain, the division is very suitable for agricultural production. Therefore, in looking at the socio-economic consequences of land registration in the Division, topography and climate will not be seen as intervening variables

3.1.3 Economic activities

The economy is characterized by small-scale mixed farming, which incorporates both subsistence and cash crop production. Animal husbandry is also practiced. The main subsistence crops grown are maize, millet, cassava, beans, sorghum, sweet potatoes and bananas, while the main cash crops are maize, coffee and sunflower. Maize is, therefore, grown as both a cash and food crop. On the other hand, livestock kept include cattle, sheep, goats, poultry and rabbits (GOK, 1996a)

Other economic activities carried out in the division include fisheries and business. By 1996, for instance, there were approximately 70 fish farmers operating 200 ponds. The growth of business is attributed to either an increase in agricultural production, thus, prompting investment in business or to a failure to meet needs from agricultural production, thereby, necessitating the search for alternative incomes to supplement farming (GOK, 1996a). This scenario is pertinent to the study's objective of finding out how land registration has affected people's income levels. However, business as a source of alternative income is still very minimal.

3.1.4 Demographic characteristics

The division has a population of 89,581 people with a population density of 239 persons per square kilometre. In addition, the population is projected at 100,599 people, with a population density of 256 persons per square kilometre by the year 2001 (GOK, 1997:15-16). It is the least densely populated division in the district because a large area of the division is a settlement scheme with fairly developed agricultural activities. However, the division has the largest number of landless people in the district squatting on private land (GOK, 1996a). In fact, there is a rural slum called Shauri Yako (translated: every one on his own) at Mbakalu Market, with over 1,000 families of

landless people. According to GOK (1996a), most of these people failed to get land during the creation of settlement schemes after independence. These demographic indices point to a situation of extreme food insufficiency and pervasive poverty contrary to the objectives of land registration.

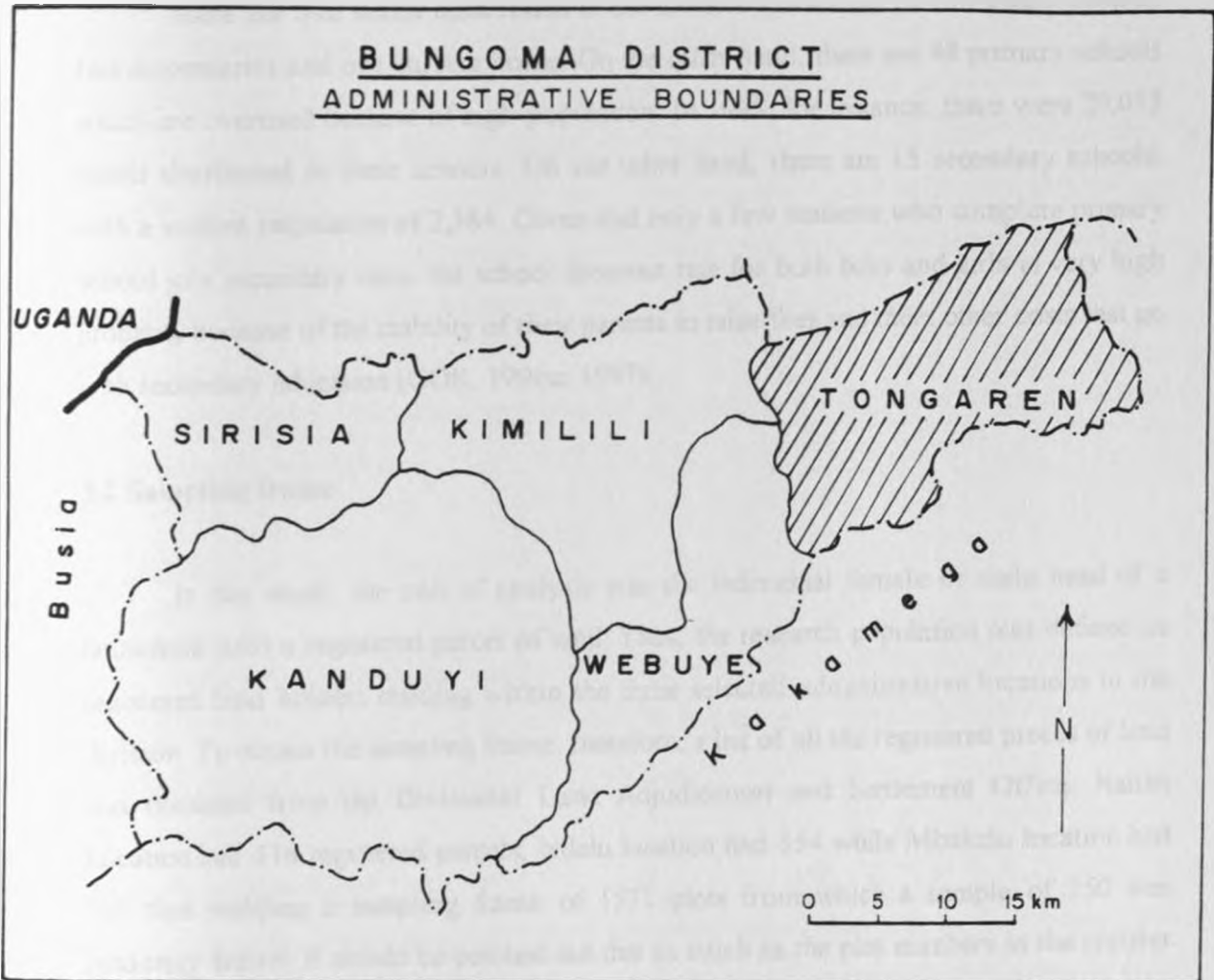
Finally, the division is cosmopolitan in ethnic composition, but with a predominance of Babukusu. Other Luvia sub-groups found in the division include the Abatachoni and Avalogooli. In addition, there are also a few members of the Agikuyu community. Given the numerical strength of Babukusu, the main dialect in the area is *Lubukusu* and, similarly, the other settlers have adopted most aspects of the Bukusu culture.

LOCATION OF THE DISTRICT




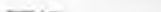

Source: GoK, 1997 a page 3

Map II: Position of Tongaren Division in the District



Source: Field Research, 1997

KEY

-  International boundary
-  District boundary
-  Divisional boundary

3.1.5 Health and education facilities

There are five health institutions in the division consisting of two health centres, two dispensaries and one nursing home. On the other hand, there are 48 primary schools which are overused because of high population. In 1995, for instance, there were 29,052 pupils distributed in these schools. On the other hand, there are 15 secondary schools, with a student population of 2,384. Given that only a few students who complete primary school join secondary ones, the school drop-out rate for both boys and girls is very high probably because of the inability of their parents to raise fees and meet other costs that go with secondary education (GOK, 1996a, 1997)

3.2 Sampling frame

In this study, the unit of analysis was the individual female or male head of a household with a registered parcel of land. Thus, the research population was defined as registered land holders residing within the three selected administrative locations in the division. To obtain the sampling frame, therefore, a list of all the registered pieces of land was obtained from the Divisional Land Adjudication and Settlement Office. Naitiri Location had 316 registered parcels, Ndalul location had 554 while Mbakalu location had 701 thus yielding a sampling frame of 1571 plots from which a sample of 150 was randomly drawn. It should be pointed out that as much as the plot numbers in the register are serially ranked from one to the last for each settlement scheme, their actual arrangement on the ground does not reflect this order. For instance, plot 213 in Naitiri Scheme is sandwiched between plots 170 and 171 and not plots 212 and 214 as they appear in the register. This factor simplified sampling a great deal since there was no obvious order that was followed in the allocation of the plots.

3.3 Random and purposive sampling

Two sampling methods, namely, random and purposive, were employed in this study. Simple random sampling was used to select the three locations and more importantly, the respondents who were studied. This method afforded every individual

location and respondent an equal and non-zero chance of being included in the sample. On the one hand, the six locations, that constitute Tongaren Division, were listed and assigned numbers from 1 – 6 to avoid the possibility of bias that would have been occasioned were the names used. The numbers were then picked at random, without replacing, thus, yielding Naitiri, Mbakalu and Ndalul locations for the study. Conversely, after the preparation of the sampling frame from a listed record of registered plots in Naitiri, Mbakalu and Ndalul locations, a list of random numbers, which represented actual plot numbers, was obtained. From this list, a random sample of 150 respondents was drawn.

Lastly, purposive sampling was used to select key informants and respondents who provided life histories.

3.4 Methods of data collection

Data which inform this study were obtained from both primary and secondary sources. These two sources were used concurrently because each of them has its own limitations and could not, therefore, be used alone.

3.4.1 Secondary data

The nature of this study made the use of secondary data not only necessary, but also inevitable. Secondary data involved the analysis of documents and other written materials which contain information pertinent to the subject of study. These ranged from primary documents which contain eye-witness accounts to secondary documents written by people who were not actually present. The latter category received the information necessary to compile the documents either by interviewing eye-witnesses or by reading eye-witness accounts themselves.

Secondary data were used especially because of the need for specific references to the study. Thus, the validity and reliability of the study findings were checked against the already existing literature on the topic. Also, secondary data played a pivotal role in delineating areas that required further research, therefore, defining the scope of the study.

Government publications, particularly National and District Development Plans, Sessional Papers, Economic Surveys, Hand books and reports, formed an invaluable component of secondary data. The University of Nairobi Jomo Kenyatta Memorial Library and its departmental library at the Institute of African Studies as well as the Bungoma District Development Office were extensively consulted. Other vital documents were provided by the Tongaren Divisional Land Adjudication and Settlement Office, Divisional Agricultural Office and the Bungoma District Land Registry.

However, secondary sources of data had limits associated with bias, incompleteness and the apparent selective survival of documents. Some of the information was also out of date, thus, necessitating the use of primary sources of data.

3.4.2 Primary sources of data

Both qualitative and quantitative methods of data collection were employed in the collection of primary data. These were structured interviews, unstructured interviews, direct observation and semi-structured interviews.

3.4.2.1 Structured interviews

The basic tools for primary data collection were structured interviews. A standard questionnaire, using a combination of both open-and closed-ended questions, was used. The questionnaire was designed in a way appropriate to elicit pertinent information.

Questionnaires were administered by way of interview to minimize any errors that would arise out of misunderstandings and/or misinterpretation of questions. On the whole, a total of 150 questionnaires were administered to an equal number of informants (Appendix 1).

3.4.2.2 Unstructured interviews

This involved in-depth discussions with selected informants. The interviewer only specified the topic in advance, but not particular questions or fixed-answer categories. Life history interviews were completely unstructured and involved the compilation of life histories of specific individuals. These individuals were mainly part of the initial sample selected although some of them were selected on the basis of the researcher's discretion.

and on their willingness to participate in detailing their personal biographies. Similarly, some informants were selected from those who had been articulate in their responses during questionnaire administration. In-depth studying of each of the selected informants through systematic but more relaxed interviews was used to obtain complete descriptions that has been used to clarify and/ or illustrate data obtained through the survey method.

Accompanied by a lot of probing, certain questions elicited the necessary information from informants about the subject of study, and especially how land registration has affected them.

3.4.2.3 Semi-structured interviews

This type of interview was used because the questions are open-ended in order to provide flexibility and allow for unanticipated responses. It also allows flexibility in terms of questions asked, thus, providing for in-depth probing.

This technique was used in interviewing individuals selected because of the specific information which they have. It, therefore, guided key informant interviews (Appendix II).

3.4.2.4 Direct observation

This method was used alongside the structured interviews. However, it had the following shortcomings: it was costly because the researcher had to do all the observations himself and there was always the danger of making errors of misperception.

3.5 Methods of data analysis

Both the qualitative and descriptive methods of data analysis were used. Qualitative analysis entailed a description of responses and how they relate to the variables as hypothesized, on the one hand, while descriptive analysis involved the handling of numerically coded data and computation of statistical measures such as means, modes, frequencies, and percentages, on the other.

3.6 Problems encountered and their solutions

This study was undertaken amidst a myriad of bottlenecks. First, administrative areas have been changing quite frequently without immediate survey and establishment of new and clear boundaries. Indeed, three new locations and nine sub-locations were created just a week prior to this study. Many respondents were, therefore, not very sure which locations they belonged to. The researcher's personal knowledge of the study area and the total co-operation accorded to him by the chiefs and their assistants helped in some ways in the alleviation of this problem.

Second, the study was carried out in the months of October and November which is the time when most farmers harvest their crops. This caused a lot of inconveniences to both the researcher and the informants since some interviews had to be rescheduled to very late in the evenings or to Sundays. This extended the field research to three months, although initially planned for six weeks. The electioneering exercise for the 1997 General Elections also stalled the research exercise since some vital key informants, such as the District Land Registrar, had been appointed as election officials. Interviews with these informants were, thus, rescheduled until after the elections.

Third, some of the selected respondents have alternative employment away from their homes. This meant that prior appointments with such respondents had to be made well in advance and, sometimes, purposeful replacements were inevitable in cases where access to selected informants was not possible. However, getting all the necessary replacements was not possible, yielding 11 non-responses.

Finally, the random sampling procedure used ensured that the sample was adequate and representative. However, this presented the researcher with the problem of having to travel to far-flung places in the division. In most instances, the distance between two respondents was considerable. This, coupled with the *El-Nino* rains, made the exercise of data gathering daunting indeed. To alleviate this problem research assistants from the respective sampled locations were hired.

CHAPTER 4

PRESENTATION OF DATA ON FOOD SECURITY, INCOME, GENDER AND, KINSHIP TIES AND SOCIAL RELATIONS

4.1 Introduction

In this chapter, data are presented using various non-parametric statistical methods. These methods include measures of central tendency such as means and modes, frequencies, percentages and tabulations. The adoption of these measures was dictated by the fact that the data collected were descriptive in nature

4.2 Sample characteristics

There were more male than female informants in the sample at the ratio of 3:8:1. Indeed, one of the working assumptions of the study was that land registration has been biased against women. It was, thus, difficult to strike a gender balance and, so, the study proceeded with the sample as drawn. However, female representation was equal to male in the key informants and personal biographies categories in an attempt to redress the disparity in the survey sample.

The marital status of the informants varied but with an equal representation of 46.8% for both polygynous and monogamous marriages. Almost 4% and 2.9% were widows and single, respectively. None of the male informants was a widower perhaps because of the prevalence of polygyny and the apparent high propensity of men to remarry other spouses soon after the demise of their wives. Interestingly, there were neither divorced nor separated men and women (Table 4.1). Indeed, the concept of divorce is considered as alien in Bukusu culture and even women who could legally be divorced are still considered to be bona fide wives of their estranged husbands until the bride price paid is refunded which, in all cases, is not

Table 4.1. Distribution of informants according to marital status

RESPONSE	FREQUENCY	PERCENTAGE
Single	4	2.9
Monogamous	65	46.8
Polygynous	65	46.8
Widows	5	3.6
Separated	0	0.0
Divorced	0	0.0
TOTAL	139	100.0

Source: Field survey, 1997

The ages of informants ranged from 25 to 71 years. Most of them fell in the 61-70 age category (30.2%) while only 6.5% were in the 20-30 age category. The 31-40 and 41-50 age categories had 17.3% and 14.4% of the informants, respectively, while the 51-60 age category had 23%. In addition, twelve informants, representing 8.6% of the sample, were above 71 years. The mean age for the sample was 54 years.

In terms of education, 70% of the informants indicated having attained primary education, although only 6% of them actually went beyond standard three. In addition 0.7% and 4% had university and post-secondary education, respectively, while 13% indicated that they had obtained secondary school education. The remaining 12.3% did not attain any form of formal education.

Finally, the family size varied from household to household, but generally ranged between 1 to 16 individuals with a mean of 7.2. This excluded married sons and daughters.

4.3 Crops grown

All the 139 informants cited farming as their main occupation, with only 2.2% mentioning salaried employment as a source of supplementary income to farming. Employment outside agriculture is, generally, minimal with only 5.6% of the sample engaged in either livestock trade, shop-keeping, vegetable and sugarcane vending as well

as the hawking of second-hand clothes from one market to another, especially on market days. Mixed farming is practised with most informants keeping at least some sheep, goats, poultry, rabbits and cattle

Maize is the main food crop for 97.8% of the informants, while the remaining 2.2% mentioned either millet, sorghum and/or cassava. To determine the extent of food crop diversity, informants were asked to identify the other kinds of crops which they grow and the size of land allocated to each one of them. They mentioned beans, bananas, kales, pineapples, cabbages, tomatoes, groundnuts, onions, sweet potatoes and avocados. Most of these crops are grown on very minute portions of land and most informants were unable to give the exact acreage allocated to them. Conversely, 36% of the informants indicated that sunflower is their main cash crop, 30% mentioned maize while 7% mentioned coffee. The remaining 27% stated that they did not have a crop that they could classify as a main cash crop (Table 4.2)

Table 4.2: Crops grown and land size, 1997

Crop	Size of land (Ha)
Maize	474.3
Beans	245.4
Sunflower	153.9
Millet	9.6
Cassava	9.6
Coffee	3.9
Sweet potatoes	-
Sorghum	9.6
Bananas	-
Cabbages	-
Pineapples	-
Kales	-
Onions	-
Tomatoes	-

Source: Field research, 1997

These findings tend to tally with records at the Divisional Agricultural Office which show that maize is the main food crop followed by beans, millet, sweet potatoes, cassava and sorghum while sunflower is the main pure cash crop in the division (Table 4.3).

Table 4.3 Crop diversity according to land size, 1997

CROP	SIZE OF LAND (Ha.)	TARGET AREA (Ha.)
Maize	23,400	24,000
Beans	10,000	12,000
Sunflower	500	2,000
Millet	410	410
Sweet potatoes	330	430
Cassava	200	300
Sorghum	80	-
Bananas	50	-
Kales	45	-
Pineapples	40	-
Cabbages	25	-
Tomatoes	25	-

Source: Divisional Agricultural Office, Tongaren, 1997

According to Table 4.3 above, 23,400 hectares of land in the entire division were allocated to the maize crop alone in 1997, while the other food crops such as beans, millet, sweet potatoes, cassava, sorghum, kales, tomatoes and others occupied a combined total of 11,254 hectares, of which 10,000 were taken up by beans which is grown with maize as a mixed crop.

On average, however, data show that the land allocated to food crops per informant was 3.4 hectares. This mean is a deceptive measure of the true size of land allocated to food crops. Indeed, the mode was 1.2 hectares, with 46% of the informants allocating less than two hectares of land to food crops (Table 4.4). Conversely, the

average size of land allocated to cash crop production per respondent was 1.5 hectares, with 82% of the informants allocating less than two hectares to them. In fact, most farmers allocate only 0.4 to 0.8 hectares of land to cash crops (Table 4.4).

Table 4.4: Land under food crops and cash crops

FOOD CROPS (HECTARES)	FREQUENCY	%	CASH CROPS (HECTARES)	FREQUENCY	%
0 - 2	64	46.0	0 - 2	114	82
2.4 - 4	38	27.3	2.4 - 4	13	9.4
4.4 - 6	14	10.1	4.4 and above	12	8.6
6.4 - 8	14	10.1			
8.4 - 10	5	3.6			
10.4 and above	4	2.9			
TOTAL	139	100.0		139	100

Source: Field Research, 1997

From Table 4.4 above, 27.3% of the informants allocated between 2.4 and 4 hectares of land to food crops, while 20.2% of the informants allocated between 4.4 and 8 hectares. In addition 3.6% allocated between 8.4 and 10 hectares of their land to food crops. On the other hand, 9.4% of the informants allocated between 2.4 and 4 hectares of their land to cash crops while 8.6% allocated more than 4.4 hectares.

4.3.1 Land inheritance and sales

To find out how entrenched the practice of land inheritance is, informants were asked whether or not they felt the practice should be proscribed. About 62% of them felt the practice is appropriate while 36% claimed that the practice is retrogressive. The rest were non-committal. Table 4.5 presents the reasons given by informants as to why the practice of inheritance should not be proscribed. Almost 21% claimed that the practice is a cultural requirement, 9.4% stated that it minimises landlessness and 13.7% felt that buying land is too expensive. Other reasons advanced included appropriate care of land when parents die (5.8%), provision of development opportunity for children (6.5%),

ensures that children become independent from their parents (2.0%) and a right for children (3.6%)

Almost 24% of the informants stated that they obtained their pieces of land through inheritance while 76.3% did so by purchase. This is not surprising since the study area being a settlement scheme, all the original settlers obtained land by purchase from the government. In the space of less than forty years, however, 23.7% of the informants are already beneficiaries of the cultural practice of inheritance. This is quite high especially when compared to only 4% who have bought extra land within the same period. However, only 9.4% of the informants attributed land sub-division solely to inheritance while 33.8% to both inheritance and sale with 42.4% attributing it to a combination of sale, inheritance and population pressure. Incidentally, 8.6% of the informants concurred that land sub-division leads to famine. The area District officer posited that the practice of land inheritance is not pervasive ostensibly because culture demands that land be shared among the off-springs only when their father dies and not before. Instead, he attributed land sub-division to wanton land sales.

Table 4.5 Reasons for land inheritance

REASON	FREQUENCY	PERCENTAGE
Opposed to land inheritance	51	36.7
It's a cultural requirement	29	20.9
It's a right for children	5	3.6
Land is very expensive	19	13.7
Minimises landlessness	13	9.4
Ensures care when parents die	8	5.8
Guarantees children's independence	3	2.0
Provides opportunity for development	9	6.5
No specific reason	2	1.4
TOTAL	139	100.0

Source: Field research, 1997

4.3.2 Food security

Informants were asked whether the food they produced every year was sufficient to cater for their subsistence needs. Fifty informants, representing 36% of the sample, replied affirmatively while 89 (64%) did not. When asked why the food they produce is insufficient, 30 (33.8%) of the 89 (64%) of the informants who face food insecurity

attributed it to inadequate land. The other reasons advanced included lack of capital (34.8%), food disposal (24.8%), while poor weather, poor farming methods, crop thefts and lack of alternative income were each given by 1.1% of the informants. Conversely, 26 (52%) of the 50 respondents who indicated that they enjoy food security, claimed that they have adequate land for food crops. The other reasons advanced for food security included proper food storage (26%), surplus production (10%), adequate capital (2%) and fertile soils (4%).

Given that food storage is a key component of food security, informants were asked about how they store their food produce and how it is allocated to alternative ends. In a significant number of cases, the manner of food storage was ascertained through observation. All the informants claimed that their maize produce is stored in granaries for some time before it is shelled and stored in sacks in their houses for fear of thefts and destruction by pests. It was observed that in most households, food storage is centralised. Some informants have grass-thatched four corner granaries with dry maize stalks forming the walls while others have iron-roofed granaries with wire-meshes or timber splits forming the walls. Besides these granaries, there are also other smaller ones made of lantana twigs and either grass- or reed-thatched. These smaller granaries are used, specifically, for the storage of maize, millet and sorghum which have been set aside solely for subsistence purposes.

4.3.3 Capital and labour availability

Labour is available from several sources (Table 4.6). However, the main source in this area is the family. Indeed, 32.4% of the informants rely solely on family labour while 28% on a combination of family and hired labour. Hired labour, which is solely used by 11.5% of the informants, is deemed necessary in supplementing family labour only during periods of intensive farm activities such as weeding and harvesting. Most of the hired labour is channelled into the production of maize as none of the informants uses hired labour in the production of millet, cassava, and sweet potatoes. Other sources of labour include friends and relatives (8.7%), family, friends and relatives (10.8%) and hire, family, friends and relatives (8.6%). Interestingly, organised communal labour which was prevalent under traditional tenure was completely absent in this area. In

addition, recipients of labour from friends and relatives are expected to reciprocate in some way as a gesture of gratitude. In all such cases, a token, such as money, or in case of harvest of maize, part of the yield was given.

Table 4.6: Distribution of labour according to source

SOURCE	FREQUENCY	PERCENTAGE
Hire	16	11.5
Family	45	32.4
Friends and relatives	12	8.7
Family, friends and relatives	15	10.8
Family and hire	19	28.0
Hire, family, friends and relatives	12	8.6
Communal	0	0.0
TOTAL	139	100.0

Source: Field research, 1997.

The data show that 96% of the informants find it difficult to raise working capital for farming while 83.5% of them rely solely on the sale of agricultural produce to generate some of this capital. On the other hand, 49.7% of the informants are unable to purchase hybrid maize seeds while only 57.6% admitted that they are able to purchase chemical fertiliser. The price of a 50-kg bag of chemical fertilizer such as Diammonium Phosphate (D A P) in 1997 was KShs. 1,300 while a 10-kg packet of hybrid maize was KShs. 900. Given that about four bags of fertilizer and one 10 kg packet of hybrid seeds are required to grow one acre of maize, most people cannot afford the cost. Indeed, 31 informants, representing 34.8% of those who do not enjoy food security, attribute it to lack of adequate capital to purchase farm inputs.

When asked if they go for loans to invest in farming, only 21.6% of the informants responded affirmatively and yet 69.8% of all the informants were positive that the grant of agricultural credit would boost their agricultural output. Indeed, 66.1% of the informant, whose output has been decreasing over the years, attributed the decline to lack of capital, while 33.9% attributed it to poor weather, poor soils, inadequate land as

well as poor quality hybrid seeds and fertilizer. Conversely, 33.3% of those whose output is on the upsurge attributed it to adequate capital while other reasons advanced, including modern farming methods (18.5%), quality seeds and fertilizer (3.7%), are direct derivatives of adequate capital.

From Table 4.7 below, many respondents do not use credit facilities because of high interest rates charged by lending institutions (33%), lack of collateral (19.3%), cannot afford the consequences of defaulting on repayment (3.7%) and the feeling that only rich farmers can acquire credit (2.8%). In addition, 18.2% are hampered by different combinations of all these factors, while 10.1% are not aware of the existence of credit facilities for farmers. However, 11.9% stated that they had no problems raising capital for farming and found loans unnecessary.

Table 4.7: Reasons for low loan utilisation

REASON	FREQUENCY	PERCENTAGE
High interest rates	36	33
Lack of title deeds	21	19.3
Fear of dispossession in case of default	4	3.7
Only rich farmers are given loans	3	2.8
Loans are not necessary	13	11.9
High interest rates and fear of dispossession	5	4.6
High interest rates, lack of collateral, fear of dispossession	14	12.8
High interest rates and lack of collateral	2	1.8
Not aware	11	10.1
TOTAL	109	100.0

Source: Field research, 1997

4.4 Land size

In this study, the size of an individual's land, among other criteria, was taken as one of the indices of his or her level of income. According to the local Lands Officer, some twenty individuals were allocated large tracts of land of former European mixed farms. These farms are called special or Z - plots and are demarcated into forty hectares

each or more. This size is considerably more than the recommended mean for the area which, at the dawn of registration, was 10.7 hectares per person. Individuals who were allocated special plots were those who could marshal the necessary resources and could also prove that they had what it takes to use the large tracts of land productively.

The data show that forty-four of the informants have two or less hectares of land while only five have more than twelve hectares. Another thirty-five of the informants have between 2.4 and 4 hectares while twenty-five own between 4.4 and 6 hectares of land. In addition, thirteen possess between 8.4 and 10 hectares. Interestingly, only seven still hold the size of land as originally allocated. From Table 4.8, it can be clearly discerned that large holdings are the preserve of only a few people. Indeed, only twenty-five of the informants have 8.4 hectares and above, compared to one hundred and four who own less than six hectares (Table 4.8)

Table 4.8 Land size

SIZE (HECTARES)	FREQUENCY	PERCENTAGE
0 - 2	44	31.7
2.4 - 4	35	25.2
4.4 - 6	25	18.0
6.4 - 8	10	7.2
8.4 - 10	13	9.4
10.4 - 12	7	4.9
12.4 and above	5	3.6
TOTAL	139	100.0

Source: Field research, 1997.

Similarly, the processes of land accumulation and subdivision in this study were taken to be functions of land purchases and sales, respectively. However, land purchases among the original land allottees in Tongaren Division are not common as only 4% of the informants have bought extra land. The main mode of land transfer amongst the original settlers is inheritance since most of them find land too expensive to purchase. Conversely, 49.6% of the informants stated that they have sold land ranging between 0.12 to 10.4 hectares for reasons tabulated below. The data show that 53.6% of these informants sold less than two hectares, 27.5% sold between 2.4 and 4 hectares while 10.1% sold between 4.4 and 6 hectares. Only 8.7%, sold more than 6.4 hectares. In most

cases, however, people sell less land than what they retain. The mean size of land sold per respondent was 2.5 hectares with a mode of 1.3 hectares. However, since they sell numerously to many people, the combined acreage of the land sold is more than the one retained. Thus, it seems that while the phenomenon of land accumulation and/or concentration is absent, that of subdivision is very rampant.

Table 4.9: Reasons for land sales

REASON	FREQUENCY	PERCENTAGE
To pay S. F. T. loan	17	24.3
To pay A. F. C. loan	9	12.9
To pay A. F. C. & S. F. T. loans	18	25.7
To pay school fees	3	4.3
To meet medical expenses	3	4.3
To settle disputes	2	2.8
To meet basic needs	4	5.7
To pay S. F. T. loan and fees	14	20.0
TOTAL	70	100.0

Source: Field research, 1997.

From Table 4.9 above, 24.3% and 12.9% of the informants sold their land to pay S. F. T. and A. F. C. loan arrears, respectively. Similarly, 25.7% of the informants sold their parcels to repay both of the loans above that they had defaulted on. This means that 62.9% of the informants who sold land did so for the sole purpose of servicing, collectively and separately, the two loans. Besides loan arrears, other reasons that were advanced for the disposal of land also point to the declining financial power of the people in the division. For instance, a similar number of informants, 4.3%, sold land to meet medical expenses and pay school fees for their children, respectively, while 2.8% did so to settle domestic disputes. In addition, 5.7% sold land in order to meet basic needs of food, shelter and clothing.

4.4.3 Children's education

Informants were asked whether they have children at school, the classes in which the children are and how their education is financed. Over 90% of the informants affirmed that they have school-going children while 9.3% claimed that they did not have children in school. Various reasons were given why children are not at school and these included lack of school fees (1.4%), they do not have children as yet (0.7%), the children have completed schooling (3.6%) and the children are not yet old enough to go to school (3.6%)

In addition, 36% of the informants have children in nursery, primary and secondary schools, while 24.5% have only primary school-going children. Those informants with children in college and university are represented by 0.7% and 1.4%, respectively. There was no informant with only secondary school children (Table 4.10). When asked how they finance their children's education, 86.3% of the informants stated that they do so independently, while the rest rely on either the bursary fund (0.7%), *harambee* spirit (2.2%), assistance from relatives (1.4%) or from other sources such as the local money lenders (8.7%). Most of the secondary school children are in the local day schools or district schools which are not as costly as provincial and national schools. School fees represent a major burden for parents and, in fact, 4.3% of the informants have sold land to pay school fees for their children.

Table 4.10: Distribution of informants according to their children's education

INSTITUTION	FREQUENCY	PERCENTAGE
Nursery	4	2.9
Primary	34	24.5
Secondary	0	0
College	1	0.7
University	2	1.4
Nursery, primary, secondary	50	36.0
Primary, secondary,	15	10.8
Nursery, Primary, secondary, university	11	7.9
Primary, secondary, university	9	6.5
Children out of school	13	9.3
TOTAL	139	100.0

Source: Field research, 1997

4.4.4 Valuable assets

Almost all informants claimed to possess at least one form of valuable asset or another. Five percent said they own bicycles, while 13.7% stated that they own radios. In addition, 48.2% claimed of being in ownership of bicycles and radios while 16.5% stated that they own bicycles, radios and television sets. However, only 2.9% of the informants said they own valuable assets which are really coveted such as motor vehicles and tractors. Indeed, these are the only other assets besides, or in addition to, land which one can use to secure credit.

In terms of residence, 26.6% of the informants claimed that they stay in grass-thatched houses while 48.2% and 25.2% live in semi-permanent and permanent houses, respectively. In this regard, too, there are fewer respondents with the more costly permanent houses than the other two types of residence.

4.4.5 Agricultural investment

Informants were asked about how they cultivate their farms, the kinds of maize seeds they use and the types of fertilizer they apply in the production of their crops. The data show that 14.4% of the informants hire tractors, 57.6% use steers, while 14.4% use hoes. The remaining 13.6% use these methods either in combination or separately at different times.

Similarly, 50.3% of the informants claimed that they use hybrid maize seeds exclusively as compared to 21.6% who stated that they use local varieties only. The remaining 28.1% said that they use a combination of hybrid seeds and local varieties. The local varieties consisted mainly of grains from the previous year's harvest. Thus, it emerged that 49.7% of them seem to have problems in the acquisition and exclusive use of hybrid maize seeds. On the other hand, 57.6% of the informants reported the utilization of chemical fertilizers in farming. In addition, animal and composite manure was found to be used by 14.4% of the informants, respectively. Since most informants keep livestock, animal manure is readily and freely available. The remaining 13.6% of the informants said that they use all the three varieties concurrently. The data, therefore, show that 42.4% of the informants are not able to use chemical fertilizers exclusively.

4.5 Land registration and gender

Almost 80% males and 21.9% females in the sample had land registered in their names, respectively. However, only 41.7% of the informants were in possession of title deeds, out of which only 8.6% were women. These percentages tend to show that land ownership is still almost an exclusive preserve of men. Indeed, at the community level, 84.2% of the informants agreed that land is controlled by individual male owners as opposed to 2.2% who suggested that it was controlled by individual female owners. Interestingly, 2.9% and 0.7% of the informants, irrespective of their gender, are of the view that land is controlled by clan elders and families, respectively.

Despite the apparent unequal distribution of land ownership between men and women, 64.7% of the informants felt that women should be registered as land owners while 35.3% were opposed to the registration of women. Ironically, 17 of the 29 registered female owners in the sample were opposed to the registration of married women as land owners just as were most of the female key informants, claiming that it would break up families.

Asked why they support the registration of women, 33.8% of all the informants said that women are good farmers, 31.3% claimed that land registration in women's names empowers them while 12.5% saw it as a pre-emptive measure against disputes when the man dies. In addition, 8.7% of these informants claimed that land registration in women's names would boost agricultural output, while 5% saw it as a way of catering for single mothers. Given the rampant practise of land sale, 8.7% claimed that women should be registered because they are more responsible and are able to resist disposing of the family's source of livelihood. Conversely, 28.6% of those opposed to the registration of women argued that it is against their culture for women to own land, while 40.8% stated that such a development would create domestic conflicts, especially, in polygynous settings. Other reasons advanced included women are irresponsible (16.3%), they are poor managers (8.2%), land is inadequate (4.1%) and that it will encourage promiscuity (2%). Another 7.2% of the respondents had no objection to the registration of women as land owners as long as the women purchased land themselves (Table 4.11)

Table 4.11: Registration of women

WHY THEY SHOULD BE REGISTERED	FREQ.	%	WHY THEY SHOULD NOT BE REGISTERED	FREQ.	%
Are good farmers	27	33.8	It is against culture	14	28.6
Empowers them	25	31.3	Women are irresponsible	08	16.3
Improves output	07	8.7	Are poor managers	04	8.2
Caters for single mothers	04	5.0	Creates domestic conflicts	20	40.8
Protects land	10	12.5	Land is inadequate	02	4.1
Are more responsible	07	8.7	Encourages promiscuity	01	2.0
TOTAL	80	100.0		49	100.0

Source: Field research, 1997.

4.5.1 Gender, land inheritance and allocation of produce

The practice of land inheritance appears to be patriarchal and gender based. For instance, only 9% of the male informants indicated their willingness to allocate their land to both their sons and daughters, although not necessarily equally and subject to the availability of adequate land. In practice, however, only 2% of them admitted having actually allocated some land to their daughters while 5 of the 29 female informants inherited land from their deceased husbands and not from their parents. Indeed, 27% of all the informants felt that widows should inherit their deceased husband's land, but only as long as they do not remarry, while 53% were of the view that widows should not inherit land, but instead their sons should do so and then take care of their mothers. The remaining 20% of the informants were non-committal.

Similarly, the control of the produce at the end of the harvest season appeared similar to the way land is controlled. For instance, when respondents were asked who decided how the produce is used, 46% said it is men, while 16.6% mentioned women. On the other hand, 37.4% claimed that both men and women decided by consensus how the produce is used. Even the 29 female land owners stated that they consult their sons before disposing off the produce. According to the information obtained from key informants, the decision by consensus applies mainly to maize because it is both a food- and cash crop. They pointed out that in most households, the man is solely responsible for the

disposal of pure cash crops such as sunflower and coffee, where available, while the woman enjoys a lot of independence in the use and disposal of crops such as millet, sorghum, cassava, sweet potatoes and bananas which are basically food crops. The key informants concurred that this division of crop control means that men are charged with the responsibility of providing for the cash needs of their families while women with the subsistence ones.

4.6 Kinship ties and social relations

When asked whether or not they visit their relatives, 95.7% of the informants answered affirmatively. In addition, 77% of them visit their relatives occasionally, 16.5% do so frequently while 2.2% visit their relatives very frequently. Asked why they visit their relatives, only 7.9% do so on account of friendship alone, while 71.2% are motivated by such reasons as clan meetings (4.3%), funerals (7.2%), initiation ceremonies (5.1%) and a combination of these factors (54.6%). Conversely, 60% of those who do not visit their relatives claimed that they are too busy to find time to do so while 20% attributed it to the long distances between their relatives and them which makes travelling very expensive. The other 20% claimed that they are independent and, therefore, need not visit their relatives.

Similarly, informants were asked whether or not they stay with relatives. Fifty eight percent as opposed to 41.7% replied affirmatively. Regarding the kind of relatives they stay with, 51.2% stay with their siblings while others stay with their parents (3.8%), grandchildren (7.5%), nephews and nieces (17.5%) and aunts, in-laws and cousins (20%). On the other hand, 71.2% of those who do not stay with their relatives claimed that their relatives live independently on their own farms, while 8.5% said that they quarrelled with their relatives and severed ties with them. In addition, 10.2% stated that land is too small to accommodate their own families as well as their relatives.

Informants were asked to state whom they go to for assistance during such ceremonies as marriages, births and initiations and when they are in financial needs. Some twelve percent claimed that they do not have any other source of assistance except their families, while 36.7% mentioned the family and relatives. According to Table 4.12,

the other sources of assistance mentioned included neighbours (4.3%), friends (2.2%), relatives (2.2%), friends and neighbours (7.2%), relatives and friends (17.3%), relatives and neighbours (12.2%) and family and friends (5.8%).

Table 4.12: Source of assistance

SOURCE	FREQUENCY	PERCENTAGE
Family	17	12.1
Relatives	03	2.2
Friends	03	2.2
Neighbours	06	4.3
Family and relatives	51	36.7
Friends and neighbours	10	7.2
Relatives and friends	24	17.3
Relatives and neighbours	17	12.2
Family and friends	08	5.8
TOTAL	139	100.0

Source: Field research, 1997.

Similarly, informants were asked if a reliance on relatives promotes economic development. Seventy-two percent of the informants strongly disagreed with this statement, 17.3% disagreed, 7.2% agreed while 2.9% strongly disagreed. This suggests that most people are opposed to relying on relatives in their development endeavours.

4.6.1 Land disputes

When informants were asked to state what they consider to be the consequences of land individualisation, 43% cited land disputes. The nature of disputes varied, but informants mentioned disputes caused by dishonesty in land dealings (28.7%), succession (28.7%), boundary (40.2%) and sell of another person's land through false pretences (2.1%). Given that disputes are solved by the land disputes tribunal, informants were then asked about the factors which affect dispute outcomes. Bribery and the presentation of false witnesses seem to contribute significantly in the determination of how land disputes are won and/or lost, with 43.2% and 28.8% of the informants citing them, respectively. The other factors cited include sorcery (6.5%), violence (14.4%) and witchcraft (7.1%) (Table 4.13)

Table 4.13: How disputes are won and lost

REASON	FREQUENCY	PERCENTAGE
Witchcraft	10	7.1
Sorcery	09	6.5
Violence	20	14.4
Bribery	60	43.2
False witnesses	40	28.8
TOTAL	139	100.0

Source: Field research, 1997.

Asked how they rate land disputes tribunal, most (59.1%) informants felt that it could not be depended on to deliver just and fair decisions. They claimed that this is so because the panelists are very corrupt. However, some (7%) of the informants who had actually sought the assistance of the tribunal claimed that where evidence is available, the tribunal delivers fair judgements. The area District Officer stated that the performance of the land tribunal can be rated as being 60% effective.

In conclusion, this chapter has presented the main findings of the study on food security, income, gender and kinship ties and social relations. The data has shown that maize is grown as both a food and a cash crop. There is little crop diversification because of declining land sizes. In addition, labour and capital constraints have hampered agricultural production. Similarly, the per capita land size has declined mainly because of the twin practices of land sales and the cultural practices of land inheritance. Conversely, only an insignificant number of informants have been able to increase their land sizes since the completion of land registration as most land purchasers are from outside the area. The reasons advanced for land disposal have also been outlined and the level of agricultural investment in terms of the quality of fertilizer and seeds and the mode of land cultivation have been presented and all point to the declining incomes in Tongaren Division. The chapter has also presented gender dimension in land ownership and the reasons for the current state of affairs. Informants opined that women should be registered as land owners and, indeed, data has shown that the rights of widows on their deceased husbands' land are secure. Similarly, land inheritance by daughters is no longer a strange phenomenon. It has also been shown that although informants visit each other, the visits are only occasional while most stay with their siblings and members of their

immediate families. Finally, data has also shown that land disputes have upsurged and thus, strained social relation.

CHAPTER 5

DISCUSSION OF FINDINGS

In this chapter, research findings are discussed. The discourse is arranged in four sections according to the main themes inherent in each of the four formulated hypotheses, thus, food security, income, gender, kinship ties and social relations and how these have been affected by land registration in Tongaren Division.

5.1 Food security

This study hypothesised that land registration has enhanced food security. This is to say that the expected salient increases in agricultural productivity which land registration aimed to achieve should have resulted in a sustainable improvement in people's entitlement to adequate food and appropriate food supplies. It should be pointed out in earnest that the Swynnerton Plan (Swynnerton, 1955) was very particular that cash crop production be developed as part of a balanced mixed farming economy to assure people of adequate food supply. Therefore, this study examines how land registration *per se* has affected the size of land available for food crop production and crop diversity; labour and capital and, how extension services have impacted on the sustainability of food supplies.

5.1.1 Land size and food diversity

Agricultural output, other factors being constant, is a function of land size. However, land size in Tongaren Division has continued to decline over the years as a result of rapid population growth, the customary practise of inheritance and a poorly managed land market. Consequently, most people in Tongaren Division have tended to now allocate less than five acres of land to food crops. Therefore, the size of land allocated to food crops per household is not adequate and, consequently, food security is a privilege enjoyed by only a few people. According to the Divisional Agricultural and Extension Officer (D. A. E. O.), there is an acute competition for the already scarce land

between food- and cash crops. Maize, which is increasingly becoming the sole cash crop, takes most of the land, while the other crops are allocated only minute sizes.

Competition for land between food- and cash crops is, however, hard to measure because most of the food crops are grown for both subsistence and cash requirements. Indeed, the land allocated to such pure cash crops as sunflower and coffee, is too negligible to pose any serious competition to food production. The problem is, therefore, not competition for land between food- and cash crops, but a failure by the people to venture into pure cash crop production. Thus, maize as the main food, is also being sold to generate cash. The failure to venture into cash crop production has been occasioned by, among other factors, scarce land which has hampered crop diversification.

In the pre-colonial social formation of Babukusu, land was abundantly available and any individual who could mobilise the necessary resources, such as labour, cultivated large fields without denying other people access to land. In fact, a husband allocated any size of land to his wife or wives as long as they were industrious enough to till it. A key informant, aged 76 years, asserted that in the pre-colonial days, land was not a scarce resource and people almost always produced adequate food crops to supplement animal food products such as meat and milk.

Any individual who had the motivation to till large portions of land did so without any hindrance. Since land was abundant, no person could deny another the opportunity to grow food crops. In fact, large tracts of land were tilled by groups of people, each with his own strip. Consequently, Babukusu did not face wanton food shortages which dodged their neighbours. Indeed, during severe food shortages occasioned by droughts and/or disease, their neighbours made sojourns to Bukusuland for food. Thus, soliciting for food assistance (khusakha or khurunda) is not a new concept.

The practice of shifting cultivation (khuyuva) ensured that individuals had both adequate and productive land. As a result of land privatisation and restriction of people to specific portions of land, it has become difficult to grow adequate food crops. Indeed, food scarcity and incessant famines can be traced back to colonialism when land was alienated by Europeans, setting the stage for land hunger (cf. Alila 1977, Sorrenson, 1967). Thus, instead of growing both cash- and food crops as the reform program

recommended, the people of Tongaren Division have concentrated on maize production because it serves both purposes without necessarily requiring extra land to be set aside separately for the two purposes. This implies that the gradual shift to perennial cash crop production has failed to materialise and given that land size is declining rapidly, provisions for perennial cash crop production to alleviate food insecurity appears to be far fetched.

However, records at the Divisional Agricultural and Extension Office show that the production of other food crops is also very high. The production of such crops as beans, millet, sweet potatoes and cassava in 1997 was more than half the targeted production for the division. At the household level, the production of these crops is, however, very minimal. Apparently, a small fraction of farmers with access to large tracts of land, adequate capital and labour-force are able to diversify their crop production, yielding enough of these crops to approximate the target for the division. These individuals seem to grow these crops on such a large-scale in order to fill the void created by the inability of other farmers to grow them. Therefore, the production of food crops other than maize is heavily skewed in favour of the more economically advantaged members of the community.

According to a female key informant, aged 71, the pre-colonial Bukusu people had enough food because they grew a diversity of crops:

The diversity of food crops grown ensured that the amount of labour needed was equitably spread throughout the year and, hence, Babukusu had food every time of the calendar. Cassava, a drought resistant crop, was harvested in the months of February and March. During May, June, August and between December and January, sweet potatoes were harvested. Millet and sorghum were harvested between June and July. The timing of the harvest of millet and sorghum was particularly appropriate as the two were and still are vital ingredients in the brewing of traditional beer as well as the provision of adequate supplies of food during the circumcision ceremonies.

Thus, the diversity of the food crops and the proper timing of harvests ensured that Babukusu had adequate food throughout the year. Also, the mode of land tenure allowed the growing of such crops since individuals who did not have suitable land for

the growing of certain crops, especially millet and sweet potatoes, would seek the permission of neighbours with better suited soils to plant these crops on their portions of land. In conclusion, the decline in land size has reduced productivity, hampered the production of cash crops and restricted people to the monoculture of maize cultivation.

5.1.2 Labour availability

Labour is a vital ingredient in agricultural productivity. Indeed, small holder agriculture has been recommended for developing countries (cf. Binswagger and McIntire, 1987) because it is labour intensive and, since developing countries have high population densities, it is more appropriate to them than the labour extensive large-scale farming. However, labour is not as readily available as was hoped because population density seems to be a deceptive measure of labour availability. Other prerequisites, especially capital, must be in place to make the available labour useful.

It should be noted that European settler agriculture in Kenya was successful because it depended on, among other things, the abundant availability of cheap African labour (cf. Leys, 1975; Sorrenson 1967, van Zwanenberg, 1975). Land registration aimed at perpetuating the principal of labour exploitation, only that this time, the exploiters of labour would be the African land owners. It was presumed that through a process akin to natural selection, land registration would ensure that land ownership was in the hands of the "progressive" individuals only, creating a landed and landless class (Swynnerton, 1955). The landless class would then eke a living by providing farm labour for the landed. Thus, the scarcity of labour, in the face of high population density and resultant landlessness, was not anticipated in the land tenure reform program. The reform was based on a rather myopic and simplistic premise that individuals who were rendered landless by land registration would readily avail their labour to the landed for hire. Equally, security of tenure was supposed to provide the necessary impetus for people to invest labour in their holdings. However, in Tongaren Division, this has not materialised as hired labour today accounts for only 11.5% of the total labour force of the sampled households. The main source of labour, therefore, remains the family and other unpaid for sources such as friends and relatives.

In the traditional Bukusu society, ties of kinship and friendship formed the basis of agricultural labour. This form of communal labour went beyond the realm of agriculture into such areas as house-construction, well-digging, cattle-herding, hunting and other tasks which called for collective undertakings (cf. Haugerud 1984, Nangendo, 1994, Nasimiyu, 1985a, 1991). The communal life which prevailed in the forts point to the importance Babukusu vested in co-operative undertakings. Each individual participated and shared fully in all chores by virtue of his or her membership of a given fort. This labour did not require strict payment by the beneficiary because it was based on general reciprocity. Indeed, interpersonal reciprocity was so paramount that members of one fort could be called upon to assist those of another (cf. Wandibba, 1972).

For instance, finger millet, which was a staple food crop, required a lot of labour input in weeding and especially harvesting. Members of one family could not adequately provide this labour. A female key informant, aged about 69 years, stated that.

Weeding and harvesting of millet was not a family affair. It was a communal one. It involved men and women from the neighbourhood. For example, when the crop was ready for harvest in July, the man would ask his wives to prepare beer, planned to be ready on the arranged day of the harvest. On the material day, men and their wives from the neighbourhood would assemble at the homestead of the beneficiary from where they would proceed to the millet fields. The harvesting itself was fun as people would engage in games (khukhupa bichaki) as the harvesting proceeded. Later in the evening, everybody would retire to the host's homestead where they ate and drunk beer with songs and dance. This went on merry-go-round-like until everyone's crop was harvested.

As a result of an upsurge in individualism, organised communal labour is conspicuously absent. The man, his wife/wives and children cultivate their farm together, yet data show that the family size stands at an average of 7.2 individuals. This has really constrained labour availability. Given the pervasive financial constraints and a growing reluctance by people to invest in social relations through communal labour, the available labour is not adequately utilised. Land tenure reform has, consequently, helped in the break up of traditional structures of production while the alternatives it has provided, such as hired labour, are not tenable.

Therefore, labour remains an important, but scarce resource, despite its apparent abundance. Family labour is not adequate for the production of maize as well as the other food crops. Consequently, maize consumes a large share of the family labour, thus, making it impossible to grow the other crops. In the process, food security is compromised.

5.1.3 Capital availability

The lack of capital has played a pivotal role in the chronic food deficiencies in Tongaren Division. Capital is essential for land cultivation, purchase of farm inputs particularly chemical fertiliser, certified seeds and pesticides and, hire of labour. It is also vital for the expansion of the holdings whenever it is deemed necessary. However, it appears to be the most lacking of all the factors of production in this division.

Most farmers obtain their working capital from the sale of agricultural produce. The money so generated is not sufficient to provide for the necessary inputs which are very expensive to acquire. This lack of capital has, thus, curtailed the efforts of many farmers to venture into "progressive farming" (cf. GOK, 1986:62). However, according to the area D. A. E. O. most large-scale farmers in this division tend to overuse inputs and, thus, they do not reap maximumly.

In studies carried out among the Abanyore of Western Kenya, Paterson (1980, 1984) observes that those people who manage to accumulate capital through savings, or by securing a loan, have made their farming profitable by using hybrid maize seeds and fertiliser for better food crop yields. Further, those with sufficient capital can purchase more land and, thus, increase the size of land under food crop production.

Due to lack of adequate capital, only a few people in Tongaren Division have been able to hire labour. It should be pointed out that since there are many landless people as a result of land privatisation, the supply of labour far exceeds the demand for it. It is, therefore, not costly. For instance, weeding a 70-metre row of maize in 1997 was only four shillings. Since one acre of maize has approximately seventy of such rows, it means that the cost of weeding one acre of maize is only 280 shillings. Harvesting is even cheaper as one bag of unshelled maize is seven shillings only. Given that a well-prepared field of maize can produce upto sixty of such bags per acre, it only costs 420 shillings to

harvest it. This cost is less than half the selling price of one 90-kilogram bag of shelled maize. Despite this low cost of labour inputs, very few can afford it. Thus, the inability to hire labour is strongly correlated with lack of capital. This is because all the informants in the highest income bracket hire labour while only some in the lowest income bracket do so according to the findings of this study.

The type, quality and quantity of farm inputs which a farmer invests in his or her land is often a reflection of his/her capital base. In the study area, the use of hybrid seeds is still low, with only half of the informants reporting that they use it exclusively. Indeed, it emerged that most people, although they prefer hybrid maize seeds to local varieties, would not mind using local varieties if they were unable to purchase hybrid seeds. The government acknowledges that increased production of hybrid maize since 1960 has made a major contribution to the growth of Kenya's agriculture (GOK 1986:80), yet the high cost of these seeds is apparently responsible for lack of their exclusive use by all informants. Similarly, the use of chemical fertiliser is supplemented by animal and composite manure. The cost of chemical fertiliser is prohibitive and, in fact, overrides the proceeds from the yield at the end of the harvesting season.

On the other hand, agricultural mechanisation has not been widely embraced. Not surprisingly, most large-scale land holders prefer the use of tractors in ploughing, while the very small-scale holders often opt for the hoe. Generally, however, the use of steers appears to be the most preferred and predominant mode of ploughing. This is, seemingly, because the hiring of tractors is very expensive since ploughing of one acre of land with a tractor costs two thousand shillings compared to steers which cost only five hundred shillings for the same size of land.

Thus, the strategy of crop intensification is doomed to fail as long as farmers do not have adequate capital to purchase farm inputs. Agricultural produce which many sell to generate money to buy farm inputs and cultivate their farms is not sufficient and, indeed, contributes to food insecurity.

5.1.4 Extension services

The sole purpose of extension services is to offer technical advice to the farmer to enable him or her to develop his or her land on sound economic lines based on local ecological conditions.

In the provision of extension services, however, the department of extension and agricultural services in Tongaren Division has been hampered in its operations by a host of factors. The staff establishment is very scanty, with a staff to farmer ratio of 1: 600. This disparity means that it is not possible for every farmer to be visited on his or her holding. The problem of staff is compounded by a lack of the means of transport and the poor state of the road infrastructure. The services are, therefore, selective in nature as only 'progressive' individuals are selected as contact farmers who, whenever they are visited, other farmers in the neighbourhood are expected to attend for general advice and demonstrations. According to the D. A. E. O., the attendance has been very poor because, understandably, many farmers have what they term as unique problems that require personal attention.

Thus, the department has failed in the delivery of the objectives for which it was established. Many farmers are groping in the dark, stuck as they are, with traditional methods of farming. For instance, the use of farm inputs is contrary to the recommended levels, with affluent farmers overusing while the poor ones under-utilising them. Furthermore, the diversification of crop production has not been embraced despite the fact that the area is of very high potential for the successful production of any crop and, finally, the storage of the produce is so poor that pests destroy most of it.

The reduction in land size, inadequate labour and capital and poor extension services have, therefore, translated into food insecurity. Thus, the hypothesis that land registration has enhanced food security in Tongaren Division is untenable and, so, it is rejected.

5.2 Income

The generation of sufficient incomes was one of the basic tenets of land tenure reform in Kenya. It was hoped that land registration would boost agricultural productivity so that the income generated from agriculture would be fairly comparable to other professions.

The measurement of peasant incomes presents some problems because peasants do not operate on strict market economics which make individual's purchasing power easier to discern. However, as Wanja (1979) has observed, there has developed certain generally accepted standards of living in the rural area to which the mass of the peasantry aspire. These standards include ownership of an adequate size of land, ability to purchase and accumulate land, provision of quality education for children, possession of valuable assets and good shelter preferably of a permanent nature, ability to attract and service credit and, a disposition to invest in land. Thus, the ability to meet the cost of these prerequisites and requirements defines sufficient income and, in fact, an individual's level of income enables or otherwise constraints him or her in affording and attracting certain necessities and benefits, respectively.

5.2.1 *The land market*

The size of an individual's land in Tongaren Division is generally regarded by the residents as a measure of his or her level of income. In fact, large-scale landowners are, almost invariably, labelled as affluent. Indeed, special plot allottees were both the politically well connected and financially endowed (cf. Sorrenson, 1967). While most people obtained an average of 26.7 acres of land as prescribed for the area (GOK, 1973: 44), the rich individuals managed to secure 37 acres and above. For instance, one Asian businessman was allocated one thousand acres of land. Most of the special plot owners were the beneficiaries of colonialism who served it as policemen, administrators, officials of the African courts, teachers and a host of other colonial cadres. They, therefore, had the necessary resources which they mobilised to acquire these plots.

Land tenure reform succeeded in placing a monetary value on land and, thus, occasioning alienability of rights in land, a phenomenon which was absent in many pre-

colonial communities in Kenya. Granted that most of these communities had such dealings as swaps, loans, gifts, inheritance and pledges in land, but these dealings were not of a permanent nature. They were always regarded as temporary and custom allowed land loaned or pledged to be redeemed (cf. Nangendo, 1994). According to one key informant, the soil belonged to the ancestors and a living person did not have a right to sell it. However, if an individual was in dire need, he would temporarily cede his land rights to another person in exchange for that person's assistance.

The land reform program saw unchallenged individual ownership of, and the ability to buy and sell, land as the most vital incentive to propel agricultural development (Swynnerton, 1955). It was argued that the land market would provide an opportunity for individuals with the necessary expertise in farming to own land at the expense of those who were not adequately skilled. Indeed, it was envisaged that a land market would enable able, rich and energetic individuals to acquire more land while the bad or poor farmers less (cf. Swynnerton, 1955). Implicit in this arrangement is the contention that the ability to buy land is an indicant of wealth and, conversely, the disposal or sale of land a reflection of poverty.

If, then, land purchases are for the wealthy individuals and sales for the poor, it follows that most people in this area are poor. This is because only a few have bought extra land since the completion of the settlement program in 1966, while most of them have sold portions of their land in the same period. Those who have not sold or bought extra land have subdivided it to their children. Interestingly, while sellers are the local people, most of the purchasers are from outside the area. Land is very expensive and, thus, beyond the reach of many people and, it is argued here that were the people's income high, they would probably not sell their land. This is because the reasons advanced for the sale of land confirms the people's precarious financial status. The low agricultural output of most people has translated into financial desperation, thereby, compelling most of them to sell their pieces of land, as the case below illustrates:

I was allocated 15 acres of land in 1965 by the government. I paid a deposit of KShs. 1,200 and was told to be paying money to S. F. T until all the money that the government supposedly paid for this land on my behalf was recovered. In addition, I was given some farm inputs valued

at KShs. 3,390 by the A. F. C. on credit. However, due to poor returns from farming, I could not repay the two loans as agreed. In 1986, I received a letter from S. F. T., that if I do not repay the loan regularly, then the government would repossess my land. At almost the same time, A. F. C. also sent me a strongly worded letter to the effect that my loan was in arrears and that the corporation would sell my land anytime to recover its money. I was not singled out as all the other farmers in this area received similar letters. Since I was heavily burdened by school fees and could not even raise adequate capital for farming, the only recourse was to sell the land. Since then, I have progressively sold my land to meet my financial needs as even my employed children have completely 'forgotten' me.

It is, therefore not uncommon to find cases of people who have sold their land parcels to meet competing purchases, payments and settling loan arrears.

However, given that land sale is a very sensitive issue, most people tend to disguise it as either gifts or pledges. Indeed, the term used for land sale in the Land Control Board parlance is "transfer". Also in most cases, land sale is perceived as a betrayal of the family by the seller, because land sales threaten the very livelihood of the entire family. Land sales are, therefore, justified in more acceptable ways such as payment of school fees, settlement of medical expenses and servicing loans. These are valid and more excusable reasons which, though, may reflect ideal rather than real reasons. Many individuals have sold land in order to pay bride price, build permanent houses or even for entertainment, but since these are unacceptable reasons, they are rarely cited. Thus, while the reasons given for the disposal of land may point to the decline in people's financial resources, they should be treated with care as they may represent the seller's desperate attempt to portray himself or herself as poor.

On the other hand, individual land purchasers are not necessarily the wealthy neither are they energetic nor able farmers. Indeed, most of the land purchasers are individuals who failed to obtain land during the settlement program, while others are the displaced victims of the so called land clashes of 1992. In the main, they cannot afford to buy bigger parcels of land. Further, some of them are greedy people who sell more land in one place and buy less at another. This finding is at variance with other findings which show that land purchasers tend to be either wealthier individuals or families with substantial off-farm incomes (cf. Haugerud, 1984; Hunt, 1984; Okoth-Ogendo, 1978a;

Shipton, 1989 115 - 8, 129) Indeed, it was observed that land subdivision through sale is more widespread because land sellers are unable to find purchasers with the capacity to buy whatever size of land on offer. Even when one able purchaser is found, he normally represents other landless people who may have pooled their resources together for the purchase of land. The manner of operation is similar to land buying 'companies' which are ad hoc in nature and break up as soon as everybody gets a share of the purchased land. The land seller cannot do anything to stop these other people from erecting houses on the land as he has already transferred his rights to the buyer.

The land market has developed and prospered, but so has the peasantry. The implication here is that the market has not led to land distribution along the lines envisaged by Swynnerton. It is foolhardy to argue that the landed class is composed of progressive farmers and the landless of less progressive ones. In addition, the reasons for buying land, like those for disposal, are often not economic. For instance, there are individuals who have purchased land and left it fallow only to show up later and put it on sale. However, according to the area D. O., such cases are rare. Similarly, Okoth-Ogendo (1978a) has observed that the land market in Nyanza is responding to non-agricultural cash demands and perceived landlessness.

According to Bruce (1993), all markets are imperfect and new land markets in Africa are more imperfect than most. Although land reform has stimulated land sales and purchases, it has not led to the emergence of a class of large capitalist farmers who buy out subsistence farmers, hire them as labourers and, so, transform small holder agriculture along the lines of capitalism. What has happened is that land has remained an important social and economic asset for the rich and the poor, alike (cf. Haugerud, 1984 372).

5.2.2.1 The Land Control Board

Registration of land in the name of an individual gives him or her the right to deal in land in any way he or she deems appropriate. However, the possibility of misusing these powers to the detriment of others dependent on the land necessitated the establishment of a body to regulate dealings in land. Therefore, the operations of this body alters the powers of the land owner by making the exercise of his/her rights relative

to the interests of other stakeholders. The Land Control Board (L. C. B.) protects the unsophisticated land holder against himself/herself. However, the board is effective only as long as individuals are willing to register their dealings in land.

I attended the L. C. B. meeting on the 21st October 1997, basically to have a first hand experience of how the Tongaren Division board operates. I was particularly interested in knowing the reasons advanced for land transfer and how the board authenticated them. Some of the reasons advanced on this occasion for land disposal and subdivision included:

- i) To allocate each son his share of the land to preempt any disputes in the event of their father's death. A boy of two years was allocated land in this way.
- ii) To generate money for development purposes. However, most individuals did not seem to have any idea in what projects to invest the money.
- iii) To purchase a plot for another wife.
- iv) To transfer some of the off springs to other areas to prevent intra-family feuds.
- v) To repay A. F. C. loans.
- vi) To migrate from one place to another for personal reasons which were not stated.

Generally, therefore, the reasons advanced before the board for the disposal of land portray land sellers as people with limited financial resources. Indeed, the purposes to which the proceeds from land sales are channelled seem to be the solving of social problems without any tangible economic returns.

In a nutshell, going by land purchases and sales, the income of the people has dwindled. The reasons for land disposal affirm the people's low financial status. In addition, the size of land purchased indicates that the purchasers are not any better financially. Thus, contrary to Kisambwa-Mugerwa's (1991) findings, land purchasers are not any more progressive than land sellers.

5.2.3 Children's education

Most people in Tongaren Division consider education as the best heritage a parent can bequeath to his or her children. As one key informant, aged 56, put it, it is the only legacy which cannot be stolen. Generally, therefore, education is highly valued and a person whose children are well educated is held in very high esteem. Parents sacrifice a

lot to ensure that their children receive a good education, hoping that at the end of schooling, they would find employment and assist in uplifting the family's living standards. It is, therefore, a family which is completely pauperised that does not send any of its children to school

Today, the cost of educating a child from primary to secondary school is very prohibitive. Given that most people have school-going children, the financial obligations in terms of fees and other requirements represent a burden which many people cannot handle. Furthermore, over reliance on agriculture, in the absence of alternative employment opportunities, have helped to compound the problem. In the current state of increased individualism and the break-up of the traditional structures of responsibility sharing, most parents meet the fees obligations solely

It may appear that all parents send all their school-going age children to school. Indeed, most parents have children at all phases of education, thus, nursery, primary, secondary, but only some have children at the college and university levels. However, there are many other children who drop out of school because the parents cannot meet the fees obligations. In fact, some parents force some children to repeat classes or quit school altogether to enable them educate brighter and more promising children as the case below shows:

Last year (1996) three of my children sat for their Kenya Certificate of Primary Education (K. C. P. E.) I had hoped that two of them would perform poorly and repeat class eight to enable me take only one to Form One. However, they all passed very well and were offered places in provincial secondary schools. Since I do not have adequate resources, I had to force the youngest boy to repeat while the eldest had to quit schooling. I am now paying school fees for the second born, a daughter, who performed better than the boys.

Similarly, many children are sent to local mixed day schools which are relatively cheaper than district and provincial boarding schools. However, these schools are poorly equipped and perform equally poor at national examinations. Furthermore, most of the children spent most of the school terms at home because of lack of fees. As a result, only a few parents have children at college and public universities, respectively. The fees for the university students is partially paid for by the government through the Higher Education Loans Board (H. E. L. B) and the harambee spirit.

Generally, children perform well at the K. C. P. E., but their parents cannot raise fees to take them to their first choice secondary schools. Indeed, two girls who qualified for admission to a national school in 1997 failed to take the offers because of the high fees demanded. Parents who are well off can afford to take their children to high cost private schools, provincial schools as well as the national ones. However, no informant had children in private institutions.

In terms of education, therefore, land registration does not appear to have enabled farmers to earn adequate incomes to take their children to good schools.

5.2.4 Valuable assets

For an individual to be categorised as wealthy in this area, he or she must possess certain items which are usually associated with affluence. These include radios, bicycles, television sets, tractors and motor vehicles. The last two items are the most coveted and, although their monetary value may not be known precisely, is thought to be very high. Radios and bicycles, being so common, are not very highly valued.

Interestingly, owners of motor vehicles and tractors had certain attributes in common: they own relatively large parcels of land, are serving or retired civil servants, are businessmen and women of repute, if only locally and, most of their children are in paid employment. The implication is that these informants have alternative sources of income, although some were not willing to divulge this information given that many people treat income as a very personal matter.

In terms of housing, most informants stay in semi-permanent houses which are mud-walled and iron-roofed, some in grass-thatched houses while others in permanent houses. Individuals who own semi-permanent houses tended to have grass-thatched kitchens, cottages for their teen-aged children and also grass-thatched granaries. On the other hand, individuals who live in permanent houses tended to have either permanent or semi-permanent cottages for their teen-aged children and definitely iron-roofed, mesh-wired or timber-walled granaries. Similarly, informants whose houses were grass-thatched tended to have everything in similar fashion and style.

The construction of a permanent house is very expensive because most of the materials required for its construction must be bought. However, a few individuals have

resorted to making bricks by themselves to reduce the cost, but even then, they must pay for the tools, labour force and provide food for the workers. On the contrary, the construction of a grass-thatched house is cheaper as most of the required materials are locally available. Thus, given the high cost of construction, permanent houses remain the preserve of only a few people. Similarly, since valuable assets are acquired only with sufficient income and given that only some people have them, it means that income has not increased in the proportions envisioned in the land tenure reform program.

5.2.5 Access to credit

The ability to mobilise working capital to invest in farming is also an indicant of an individual's economic prowess. Most people obtain capital from the sale of agricultural output, others from salaried employment while some rely on credit. Generally, mobilisation of capital was not easy for most of the informants.

The land tenure reform program appreciated the importance of agricultural credit in the development of a viable and vibrant agricultural sector. It targeted able and energetic farmers for credit facilities (Swynnerton, 1955), which would only be accessed if farmers had private rights to land. It is important to note that any system of credit must of necessity, be based on adequate security. Therefore, the traditional system of tenure, which vested disposal rights of land in the community, hampered the operations of any credit system as land could not be mortgaged. Individualisation of land ownership made possible the use of land as collateral because an individual borrower who defaulted on loan repayment stands to lose rights in his or her land to the lender.

It was, therefore, hoped that individuals would use their land titles to acquire credit. This credit would be used for permanent improvements on land such as farm building, terracing, dwelling places, fencing and other requisites that are considered vital for the proper utilisation of land. This optimism was based on the assumption, valid under the circumstances then, that title deeds are sufficient securities and any holder of title would get credit when he or she applied for it. Today, however, the use of credit is very low as not a single respondent reported having charged his or her land for credit in 1997, with only 21% saying that they go for loans to invest in farming.

5.2.5.1 Qualification for credit

The impression created in the land registration program that a title deed is sufficient to serve as collateral against loans has given way to several other requirements which gauge the credit worthiness of prospective credit applicants. Today, apart from a title deed, the Kimilili A. F. C. Branch Manager, under whose jurisdiction Tongaren Division falls, stated that other securities include log books and insurance certificates. Similarly, an applicant must show the ability to repay the loan. In this regard, the corporation supposedly takes stringent vetting of all loan applicants to ascertain their ability to repay the loans applied for. The applicant has to be a serious and progressive farmer, honest and one whose assets are more than his liabilities. Thus, the other security for a loan is personal character. The implication is that these extra requirements have significantly reduced the number of people who can qualify for credit in Tongaren Division.

These findings tally with Okoth-Ogendo's (1978a), who has observed that a title deed is a mere prerequisite for a loan application but not a sufficient condition for obtaining one. On the contrary, Wilson (1971) states that in Kisii District, individuals are able to use their title deeds to acquire credit and even those who default are not harassed by the lending institutions. This, however, was at the tentative stages of land registration when the government was determined to ensure that the policy of land registration succeeded. Therefore, the easier grant of loans was an incentive for land registration while harassment of loan defaulters would have been a major disincentive to the process.

Despite the importance attached to the personal character of the loan applicant, his or her physical assets must also be pledged against the loan. Thus, a title deed remains the principal security because the value of land rarely diminishes. However, A. F. C. holds that small holder farmers are bad risks and, in fact, they can only be advanced a maximum of one hundred thousand shillings. Since the land size in this area has declined substantially over the years, it has rendered many people uncredit worthy.

5.2.5.2 Loan utilisation, misappropriation and arrears

Despite the strong assertion that it strictly vets all the loan applicants, A. F. C. is apparently a very poor judge of character. This is because even the rural elites to whom it

advances loans have poor repayment records. The institution seems not to command enough manpower to supervise and ensure proper utilisation of the loans. It is argued here that if supervision was carried out adequately, the rate of loan defaults would be reduced considerably.

The reasons advanced for the low utilisation of credit include high interest rates and lack of collateral security. It must be pointed out that the bureaucracy and red tape involved in the acquisition of a title deed has made the procedure too costly to many people. This explains why only 41.7% of the informants stated that they have title deeds when the thirty-year repayment period for the S. F. T. loans has elapsed. Furthermore, the substantial security demanded by the lending institutions have given wealthy individuals an advantage over the poor in the acquisition of credit. According to Okoth-Ogendo (1978a), 2% of registered land holders in Kisii District and South Nyanza Districts obtained credit between 1970 and 1973 while Haugerud (1984) avers that only 15% of the people in Embu District have secured credit using their title deeds in 25 years and, lastly Shipton (1989) says that only 3% of the people in South Nyanza District had secured credit by 1982. Therefore, individual land tenure does not seem to have benefited small holder farmers in many parts of Kenya as was planned.

Most people in Tongaren Division are in loan arrears. At the start of the settlement schemes, every individual land allottee was provided with a thirty-year land loan payable at an annual interest of 6.5% to cover for the value of the land. Most people in this division obtained 100 percent of the farms' purchase price as a loan just as was the case in most other high density settlement schemes (cf. Clough, 1968: 52). Conversely, those who obtained special plots were each required to pay a deposit of Kenya Pounds 60 (KShs 1,200) which represented 10% of the purchase price of the farm (cf. GOK, 1966: 151). A further development loan also payable at an annual interest rate of 6.5% was advanced to the allottees to pay for the various development inputs such as fencing and purchase of dairy cattle. This loan was payable in fifteen years. Finally, farmers were also provided with a short-term loan payable within five years for the purchase of seeds and fertilizer. Indeed, most settlers were too indebted to the Department of Settlement to be suitable candidates for credit from commercial sources (cf. Clough, 1968: 52).

According to the A. F. C. local branch manager, the loan granted to farmers then was on the basis of trust since most farmers did not have title deeds. The loan was based on the understanding that farmers once they are given title deeds upon dispensing with the S. F. T. obligations, would deposit them with the corporation as security against the credit that had already been advanced. To date, although actual figures were not available, only a few farmers have done so either because they have not secured title deeds or they do not feel any sense of obligation to do so. A few others have, however, repaid the loans.

Many informants attributed their indebtedness to poor yields occasioned by poor weather. This reason is more ideal than real. This is because getting details on how the A.F.C. loan was spent was difficult seemingly because many people actually misappropriated it. Generally, the way people perceive credit has affected the extent to which it is used. Often, credit is believed to be an indication of one's inability to make ends meet. It is this perception that has widely led people to misuse loans. This is because some use it in the provision of basic unproductive necessities which do not generate any income to service the loan. In addition, the fact that being in debt is stigmatised makes it difficult for people to disclose their indebtedness. Ideally, however, the financial characteristics of a loan include the provision of reasonable security by the borrower and a system of repayment over a period of time. The enterprise in which the loan is invested should, on the other hand, reap a surplus which will allow the loan to be serviced. This is to say that credit should result in increased production and better living standards. In Tongaren Division, the opposite has happened and generated a general apathy towards credit. In fact, informants were candid that they could only accept credit if everybody else did.

Therefore, credit correlates weakly with income at two levels: on the one hand, the grant of credit requires substantial security which many people are unable to raise. The inability to raise the required security points to the pervasive poverty of the people in this area which land registration has failed to alleviate. On the other hand, the fact that only a few people are able to acquire credit means that the majority are faced with the problem of raising working capital for farming. Lack of capital translates into low inputs

and, consequently, low output. The end result is either stagnant, or declining, income levels.

In a nutshell, the findings do not support the hypothesis that income levels have been boosted by land registration and, therefore, the hypothesis is rejected.

5.3 Land registration and gender

It was hypothesised that there is a gender differential in access to and control of land in Tongaren Division. Inherent in this hypothesis is the contention that land registration has excluded women from the ownership of the means of production. Indeed, literature on women and property ownership (cf. Boserup 1970; Nasimiyu 1985a, b; 1991; Pala 1978; Suda 1996) is replete with the notion that land registration has discriminated against women, plunging them into a state of subservience and economic dependency by concentrating ownership rights exclusively in men. This discussion, therefore, centres on registration of women as land owners; the factors which hamper the registration of women as land owners; the operation of the land market and how it has affected land distribution along gender lines; the gender-based cultural practise of inheritance and the possible consequences of the skewed distribution of land ownership. The discourse presents the status of women on land in the context of land registration and how this compares with the situation prior to land tenure reform. In the final analysis, the discussion will show whether land registration has indeed discriminated against women.

5.3.1 Registration of women as land owners

In Tongaren Division women have fared badly under the tenure reform as only a small number have acquired title deeds in their own names. This finding tallies with researches from elsewhere (cf. Coldham, 1978b: 100, Mackenzie, 1993, Nasimiyu, 1985a, b; Okoth-Ogendo, 1976, 1978b; Suda, 1996, 1997). Also, Davison (1987) observes that the percentage of women owners of land in Mutira location, Kirinyaga District, remains very small. In fact, none of her sample of 101 women indicated owning land. In her study in Kisumu and South Nyanza Districts, Okeyo (1980) concludes that

women have been reduced to a state of dependency. This is because only 5.9% of women in her sample had land registered in their names. Similarly, Shipton's (1989) study in South Nyanza District found that only 7% of the registered parcels are in the names of women and, therefore, concluded that women's partial rights in land control and disposal have diminished. Finally, in a study conducted in Ndhiwa Division, Nyanza Province, Suda (1996) avers that 91% of land is registered in the names of husbands, 7% in the sons' name and only 2% in the wife's name.

While it is true that land ownership has tended to be the preserve of men, women have never owned land among Babukusu. The term ownership itself, is indeed, disputable. As Shipton (1989) has observed, the application of foreign concepts to local situations seems to have created a lot of confusion. Individual ownership of land, as is defined in the Western conception of property ownership, ignores the overlapping and interlocking rights of the family and other interested groups such as kinsmen in ways which land registers do not reflect. For instance, the fact that land is registered in the name of the man does not necessarily preclude the exercise of women's rights in land and jeopardise their security. This is precisely because the man and the woman, once married, are not competing rivals, but, rather, companions and partners in the productive process in their home. In any case, property control, registered or not, has always been at the man's discretion and, in fact, most of the females and key informants in this study said that they do not mind the status quo. However, some female informants felt that women who wished to be registered as land owners and had the ability to do so should be registered because they are just as good farmers as men, if not better.

According to a female key informant, aged 63, women did not own land in the pre-colonial Bukusu economy but every woman had absolute rights of access to and use of land allocated to her by her husband. A woman was allocated land whose size was commensurate with her level of industry, which, in turn, was often a function of her household's size. These two factors were intertwined and they reveal that among Babukusu, a woman was married for both productive and reproductive purposes. Once allocated land by her husband, a woman had the liberty to give part of it to any of her female friends who felt that a specific portion of her land was suitable for certain crops which they could not grow on their own portions. In this endeavour, she did not require

the permission of her husband. Furthermore, the man could not misappropriate the land allocated to him by the clan and expect her to remain oblivious to this misdeed. The wife's consent was always sought before any transaction on the family land was effected. If she felt that the intended transactions would affect the amount of land available for her family's subsistence, she declined to give consent and often sought the assistance of elders as the case of the 73-year old informant illustrates below

I am the first wife of W (deceased) who had four wives. Being the first wife, I had certain privileges over my three co-wives, one of which was that I was allocated more land by our husband. However, my husband wanted to marry a fifth wife but, unlike the previous three instances, he did not inform me of his intentions. Furthermore, he did not have cattle to pay the requisite bride price. He, therefore, made an arrangement with his peer, K, who promised to give him cattle in exchange for part of his land, which, as custom dictated, he would till until my husband refunded him the cattle. So my husband decided to excise part of my land for this purpose. I refused him consent because he had not consulted me and also because I felt that by doing so, he was reducing the size of land available for my family's subsistence. He was adamant and actually proceeded to allocate my land to K as agreed between them. I took the case before the elders and duly won it.

This case tallies with Nangendo's (1994) assertion that a woman among Babukusu could prevent the misappropriation of her marital land by her husband or any member of her marital clan, for that matter. In spite of these powers and privileges, and may be because of them, only men possessed, claimed, dispossessed and disposed of land. It has been argued (cf. Okoth-Ogendo, 1978b, Nasimiyu 1985 a, b, 1991; Pala 1978 *et al*) that land in traditional African societies was communally owed and that even men could only claim the right of control and not of ownership. This argument is only valid as long as we elect not delve into the intricacies of pre-colonial land ownership and instead choose to be guided by the Western conception of private ownership of property. Any closer scrutiny reveals that land ownership was actually the preserve of men, be they elders, ancestors or individuals. Indeed, all my elderly key informants, who are opinion leaders in the area of study, found it absurd to allude to land ownership by women. In fact, one of

them exclaimed, (*khuno omukhasi nekalinda kamaloba?*) meaning that "since when has a woman owned land?"

The mode of property inheritance among Babukusu discriminated against women as only men could inherit property. Rites of inheritance, which widows were also subjected to, compromised women's claim to property inheritance (cf Nasimiyu, 1985a). So, despite the fact that land was communally used, only men owned and inherited it. It is, therefore, argued here that had the practice of land registration prevailed in the traditional Bukusu society, the gender imbalance in the ownership of land would not have been any different from the way it is today. Thus, land registration has not caused, but rather, has perpetuated the gender imbalance in the ownership of land.

5.3.2 Women and the land market

If custom prevented women from owning ancestral land, as it were, then the operations of the land market should have provided a respite. According to the reform program, the only role of a land market is to distribute land according to energy and ability (Swynnerton, 1955) and not gender, ethnicity or race. However, only a few people in Tongaren Division have purchased land since the completion of land registration. Because land is no longer abundant and cheap, it is not an option open to every Omubukusu. As Nangendo (1994: 369) has noted, it is only the older rural and modern educated elites with formal employment who can afford to purchase land, yet in this area, these people have not done so. Indeed, none of the salaried female informants had land registered in their names, nor were they joint owners with their husbands as one would expect. Conversely, Suda (1997) observes that some women in Laikipia District have bought land either individually or jointly with their husbands. Similarly, Mackenzie (1993) posits that since 1969 only 12% of land purchases in Muranga District have been made by women.

Changes in the land tenure system has, therefore, provided an opportunity for some women to purchase and own land in their own right. At the start of the settlement, however, due to financial constraints, only a limited number of women managed to buy land. It is, therefore, a bit too early to postulate, as Kibiti (1996) has done, that land purchases by women would lead to a major cultural revolution, paving the way for the

emergence of patriarchy. The low rate of land purchases, especially among women, makes the possibility of this eventuality far-fetched. In fact, it was an emphatic 'No' from most women when asked whether they would own land independent of their husbands. They saw it as a certain prelude to an inevitable separation or divorce. The implication is that it is hard for a married woman to own her own land except when she purchases one prior to marriage. Maybe, therefore, as predicted by Kibiti (1996), the cultural revolution would be spearheaded by single women.

In a nutshell, the land market has provided an opportunity, which was clearly lacking, for women to own land. However, this opportunity has not been adequately exploited because of the prohibitive cost of land. In addition, the notion that some property are only supposed to be owned by a particular gender is still pervasive in this division and has denied even capable women of acquiring their own land.

5.3.3 The practice of land inheritance

The Bukusu people are patrilineal, therefore, the inheritance of property follows the male line. In the pre-colonial days, if a man did not have a male child, then his property, upon his death, went to his brother's sons (cf. Nangendo, 1994). If at his death his sons were still too young and unmarried, then the widow was vested with the responsibility of holding land as a trustee of the children until they were old enough to found their own households. Similarly, one key informant, aged 78, argued that land was plentiful and sons did not have to depend on inheritance to acquire it. Normally, the youngest son inherited the father's land and homestead as the older ones would have already established their own homesteads (cf. Migot-Adhola et al 1993, Wagner, 1970). However, as land became scarce, who received what size of land was determined by the father before he died and it often reflected the respective levels of affection he had for his sons. If a man died before apportioning his property, his male relatives, especially the eldest brother alive, oversaw the succession and, often, he also inherited the widow.

Unlike their unmarried brothers, daughters were allocated land by their father on which they grew food crops (cf. Nangendo, 1994, Nasimiyu, 1985a, Wagner, 1970). They cultivated these strips often with the assistance of their prospective suitors. The yields from these fields were stored away in their own granaries. The most industrious

daughter had more than one granary and predictably, attracted more suitors than the less industrious ones. The purpose of allocating parcels of land to daughters was clearly selfish and tailored to serve the interests of men. A woman was married on account of her productivity and the only way of knowing a productive woman from the unproductive one was by allocating them parcels of land and observing how they tilled them. Young girls always struggled to earn the 'industrious' tag. This was not only exploitative and demeaning, but chauvinistic as well. Indeed, to crown it all, daughters did not inherit land, not even the strips they cultivated before marriage. Since they were always expected to get married, daughters were assumed to be only temporary members of their respective families of socialisation.

A considerable number of informants felt that land inheritance by women is against the Bukusu culture. Apart from culture, some thought it would encourage daughters to have children carelessly while others claimed that it would be difficult to compromise between patrilocal and matrilineal residences if women inherited their father's land. However, a few respondents favoured the inheritance of land by daughters and, in fact, some of them have already allocated land to their daughters. For instance:

CASE A

I am a devout Protestant Christian and a retired civil servant. At the start of the settlement, I obtained a special plot. I married my wife soon after and we are blessed with six children, one girl and five boys. All my boys are employed and I am yet to allocate land to any of them as they appear not ready to settle down on the farm. I, however, allocated five acres to my daughter who, unfortunately, died last year (1996). I have registered her share of land in her son's (my grandson) name.

CASE B

I was allocated 37 acres by the S. F. T. This land is just too big for me given that I am old and I have not been blessed with a son. I intend to sell part of it and allocate the remaining portion to my three daughters equally. I will also allocate my homestead to my eldest daughter's son whom she gave birth to out of wedlock.

These two cases are similar in the sense that both informants have relatively large portions of land. Also they are not only prepared to allocate land to their daughters, but

also to their grand children. The implication here is that if people had larger parcels of land, they perhaps would consider allocating some of it to their daughters, other reasons notwithstanding.

The softening of the male stand and the apparent cordial gender relations are possible foundations for a gender-sensitive allocation of land. Land inheritance by women is today not strange as it may be undertaken without any fuss as the two cases above attest. Furthermore, a person with daughters only does not have to bequeath his land to his nephews at their expense. This change is attributable to land individualisation since individual action, even when it goes against tradition, can be tolerated because land is no longer a corporate property.

5.3.3.1 Widows' access to land

Most informants felt that widows should have automatic access to their deceased husband's land. Even those who were opposed to land inheritance by women considered widows' access to land as an exceptional case. The usual practice today is that a widow is assigned her own land or land is shared among her sons so that they can collectively take care of their mother. There were no cases of dispossession of widows of the means of production reported when this study was conducted. However, key informants opined that widows should be allocated their own pieces of land because experience has shown that many widows are neglected by their children. Some widows, however, prefer to stay with their favourite children, working with their wives if and when they can and getting a share of the produce when it is harvested.

According to Nangendo (1994), a widow among Babukusu had parochial rights to land and, as long as she did not get married outside the clan, she remained the owner of her late husband's land. She had, however, to have male children to be absolutely secure. Today, the process of land registration has enhanced the rights of widows as their land may not be misappropriated at the whim of kinsmen. The case below shows how this is the case

When M died, he left behind four widows. Each of these widows had children, but only the eldest had sons, four in number. Before he died, M had not paid S. F. T. and A. F. C. loans and, thus, he did not have a title deed to the land. His eldest daughter, the first born of the second

wife and the only employed child, paid these loans. The title deed, in the name of her late father was released to her (she works with an agricultural parastatal and has, therefore, the necessary linkages at the lands department). When the process of land sharing began, clan elders agreed that land would be shared equally among the four sons, with each being allocated one of the four widows to cater for her. It, therefore, emerged that only one widow, that is, the mother of the four sons had actually inherited the husband's land. So the daughter who had paid for the land took measures that eventually ensured that each of the widows was legally registered on her own portion of land, with rights to do as she pleases with the land. In fact, one of them has already transferred her share to her daughter's son.

Therefore, today, courtesy of land registration, the authority of kinsmen in succession matters has been weakened and the rights of widows are no longer parochial. Widows have a leeway to control and command property in the same way as men as long as they register land in their own names. It then matters precious little whether or not they remarry and whom they marry. Indeed, widows have higher levels of economic security in terms of land ownership compared to other women. Some of them have even sold their land without undue interference from the clan as the case of M below illustrates:

M is the second wife of the late W when she married him in 1960, he already had three sons, one with the first wife and two out of wedlock. M also came with a son of her own. W later divorced his first wife. However, he had registered his land in the name of the first wife's son, D. when he died, W had eight sons. M was inherited by another man who moved in and, together, they had two sons. When succession was done in 1995, 23 years after the death of W, all his sons including the two he had out of wedlock and were staying with their mothers, were allocated land by the clan elders. M was also allocated land. She, however, demanded that since all W's sons had been allocated land, her other three sons had also to be allocated W's land. Her wishes were duly granted. However, she has already sold all her shares of land and is currently tilling her last-born's land. Interestingly, all W's daughters are divorced but none of them was allocated a share of their father's land.

5.3.4 Factors affecting registration of land by women

Most informants opposed to the registration of women as land owners argued that it would lead to domestic disputes especially in polygynous settings. It must be pointed out that the rate of polygynous marriages in Tongaren Division is the same as that of monogamous marriages. Unless, therefore, every wife is registered as a landowner, there is a possibility that if only one of them is registered, she may elect to dispossess the children of her co-wives. Indeed, suspicions between co-wives are prevalent and would be catalysed if the husband decided to register land in the name of only one wife. Consequently, none of them is registered. On the other hand, registering every wife as an owner of her own piece of land is not only expensive but also portrays the man negatively as the head of the household. According to one male key informant with five wives, having pockets of independent households on the same parcel of land defeats the very purpose of polygynous marriages and, may be fertile breeding grounds for suspicions and secessions. This is because children of one wife may be tutored by their mother to hate their stepbrothers creating tension within families. Thus, inspite of maintaining relatively cohesive families, exclusive ownership of land by men has been used as an instrument of female control.

However, because polygyny is often marked more by acrimony than harmony, the man may be forced to separate the wives by buying them land at different places. Some men register such parcels in the names of their respective wives, while others do so in their own names. The bottom line, however, is that such parcels belong to the woman and her children but the rights of disposal are held by the man. The case of X, presented before the land control board on 21st October 1997, exemplifies this scenario.

X is a retired primary school teacher married to two wives. The first wife has four sons while the second does not have children. According to his narration, the first wife and her children have become hostile to the second wife, under the pretext that being childless, she could conspire with their father and dispose of the family land at their chagrin. Thus, he decided to transfer 1.3 ha at Kshs. 360,000 in order to buy land for the second wife elsewhere, as this was the only way he would stop the simmering disputes. The board consented to his request but on being asked if he would register the new parcel in the second wife's name, he remained non-committal.

In terms of gender parity, the reform process seems to have been flawed right from the beginning. It is not accurate, however to argue that colonialists assumed that the power of allocation enjoyed by men prior to land reforms meant the right of ownership and, therefore, proceeded to allocate land to men (cf. Nasimiya, 1985a, Okoth-Ogendo 1978b). In Tongaren Division, for instance, the anomaly was that the individual had to show proof of his or her ability to use land productively and repay the loans that would be advanced to him or her. Men were, therefore, in a more advantaged position as they hastily sold livestock and whatever other property they had and paid the required deposit. Data show, for example, that several women attended the land allocation interviews and actually passed them, but they were prevented from acquiring land by their patriarchal and clearly chauvinistic husbands. For instance, one elderly female informant bitterly claimed that were it not for the husband's protestations and unwillingness to let her acquire land, the plot adjacent to what her husband was allocated would have been hers.

The disparity in the gender ownership of land cannot, therefore, be justifiably attributed to land registration *per se*, but to the state of affairs that prevented the economic empowerment of women to enable them to compete on an equal footing with men when land registration began.

5.3.5 Consequences of skewed land ownership

Having looked at the pattern of land registration, it is easy to conclude that men have been the principal beneficiaries of the process. However, the fact that more men than women are registered as land owners should not be used as a barometer to conclude that they have had an advantage over women. The most critical point is to find out whether or not land registration has culminated in changes in interpersonal and productive relations to the detriment of women.

For instance, the storage and disposal of the produce is a key component of food security. Moreover, in the land tenure reform discourse, this appears to be an area in which the political economy of gender is most apparent (cf. Nasimiya, 1985a). This is because it brings to the fore the politics involved at the household level in deciding how the produce is allocated to alternative ends. In Tongaren Division, the control of the produce tends to reflect how land is controlled. Since the control of the means of

production is concentrated in the hands of men. their active participation in food crop production has also been enhanced. This participation has inevitably sharpened their interest in how the produce is allocated. Data show that most of the decisions are taken by men, unlike in the traditional set-up where matters of subsistence were the prerogative of women (cf. Wagner, 1970).

Similarly, Babukusu separated some crops from male appropriation. A wasteful man had limited access to the food stored in the woman's granary and, in fact, custom prevented men from entering their wives' granaries (cf. Nasimuyu, 1985a, b; Nangendo, 1994; Wandibba, 1972). Today's centralised food storage has limited women's control of the food crop produce. In addition, usufructuary rights of women and the allocation of land to unmarried daughters as was the custom in the past are no longer practised.

However, since individualisation of tenure vests a lot of power in the registered owner of the land, such an owner is in the enviable position of disposing of the land under any form of pretext without interference from the other stake holders. This is how the interests of women have been injured. This scenario was foreseen and has partially been mitigated by L. C. B's. Indeed, with a vibrant and responsive L. C. B., land registration might be credited with increasing the power of women by providing them with the legally sanctioned opportunity to defend their own as well as their children's interests in land. However, the main limitation of L.C.B. in this division is its lack of female representation, which often means that the interests of women are not well articulated.

However, data show that women do not feel alienated from land ownership. This is because land is assumed to be held by the husband, wife and their children as a corporate family property. Under this arrangement, however, it is tacitly acknowledged that the property is under the custodianship of the man who, in turn, should always act in concert, and in consultation, with the other members of his family.

Finally, mere registration of land in the name of a man or woman does not lead to improved agricultural output unless it is accompanied by such factors of production as capital and labour. Indeed, mere registration of land in the names of women would not lead to improved productivity. Similarly, it has been argued that women lack collateral to acquire credit for investment (cf. Nasimiyu, 1985a, b; Pala, 1978, Suda, 1996). This

argument is no longer tenable because possession of a title deed alone is not a sufficient condition for the acquisition of credit from lending institutions and agencies.

Thus, the hypothesis that there is gender inequality in access to and control of land is accepted, while taking cognizance of the fact that this state of affairs is more a result of the Bukusu culture which dictates property ownership and inheritance along gender lines than any inherent weakness in the process of land registration.

5.4 Kinship ties and social relations

The social consequences of land registration have been considerable. Private ownership of land called for changes both in the family and other social relationships that had been pertinent to corporate ownership. These changes have led to the weakening of customary limits placed on individual action. In addition, land disputes have escalated and social insurance against misfortune and other forms of distress dwindled.

5.4.1 Relative visits

Individuals belonging to a given kin group are increasingly finding themselves separated from each other. This is because many people in this area have relatives away in the former "non-scheduled" areas. In spite of the physical distance, however, ties of kinship are still strong and, in fact, most of them visit their relatives. The visits are, however, not frequent as many informants do so only occasionally to attend ceremonies or when there are misfortunes such as death and illness. Interestingly, most informants regard their ancestral places of origin as 'home' and still value their ties to these places regardless of their ownership of land elsewhere. Home, to most of them, is where their kinsmen are since it is believed that a person without relatives is like he or she is dead, that is, *Otamba balebe alinga wafwa* (cf. Nangendo, 1994).

Despite this apparent closeness between kinsmen, the trend which is emerging, is that people's visits to their relatives are not motivated by a sense of belonging, but are driven more by necessity. This is to say that individuals do not feel obliged to visit relatives solely on account of their relatedness. As long as there are no funerals to attend,

ill relatives to console or traditional ceremonies to partake in, some people in Tongaren Division take as long as two years or more without visiting their relatives. Thus, kinship relations and their furtherance are increasingly becoming impertinent to the social, political and religious undertakings of the individual. Kin groups, as sources of individual and group identity, are becoming as superficial as other groups such as political parties, churches, professional groupings and clubs. Individuals are relying more on themselves and their families than on their relatives in solving whatever problems they have. Resorting to relatives for assistance is no longer an option open to many people. Indeed, the more affluent informants rarely visit their relatives, although given their endowments, are the prime recipients of, usually, unwelcome visitations from relatives.

5.4.2 Stay with relatives

Most informants stay with their relatives such as their siblings, while the rest stay with a host of other relatives, for instance, cousins, aunts, nephews, nieces, parents and grand children. The fact that most of the people stay with their closest blood relatives also points to the weakening of the wider kinship bonds in this division. The explanation for this state of affairs was that it is unreasonable and burdensome for an individual with his or her own land or, even without one, to live with another person for the simple reason that they are kin. Indeed, most informants and discussants stated that they do not stay with their relatives, besides siblings, because all of them reside independently on their farms while some said that their land is too small to accommodate their families as well as the relatives. In addition, other informants claimed that staying with relatives is a recipe for disputes because they always want to interfere with decision-making.

Thus, the extended family is on the verge of extinction. According to Klaus (1976), strong kinship ties are obstacles to change because they compel individuals to adhere to norms and traditions which see change as foreign and destructive to institutions such as the extended family. An individual deeply embedded in the extended family tends to be reactive even to changes that aim at improving his/her station in life. Therefore, the choice to take up land registration, inevitably, meant a change in many traditional institutions.

On the other hand, informants opined that reliance on relatives does not promote development. Most of them found it better to make decisions in the management of their land independently than with relatives. Indeed, the majority preferred individual to corporate land management rating them as excellent and very poor, respectively.

Today, people in Tongaren Division enjoy security of tenure afforded by land registration and, thus, they do not require the protection of the lineage or clan to invest in land. Most informants felt secure on their land, with or without a title deed, and were ready to grow perennial cash crops like coffee. With this level of security, there is no compelling reason for people to rely on relatives except in the mobilisation of capital which, however, has been frustrated by escalating poverty levels. Thus, investing in social relations is not as welcome a prospect as it was in the pre-colonial and colonial days.

Individuals who have attained a relatively secure economic position in the cash economy have little incentives to invest in the maintenance of kinship ties (cf. Paterson 1980). Such individuals adopt a more individualistic stance, making independent decisions and solely facing whatever consequences which accrue from them. Conversely, individuals who are not secure on their pieces of land tend to rely on relatives for assistance, especially when they are faced with eviction as demonstrated by the case of Y below.

At the start of settlement schemes, I was away working in Uganda. I, therefore failed to acquire land. However, my brother, who was a chief then, managed to acquire two plots in Naitiri and Mbakalo schemes, respectively. When I returned home in 1970, I was basically landless. My brother sympathised with me and gave me the plot in Naitiri scheme. He instructed me to repay the S.F.T loan after which he would transfer the land to me. I struggled and completed the loan in 1990. Unfortunately, my brother was not prepared to transfer ownership to me and, in fact told me to vacate from his land as he intended to sell it. I therefore, sought the assistance of relatives to intercede for me. Since the land was legally his, they would only ask him to be considerate. They managed to convince him but I was given only half of the land as he insisted on selling the other half.

Thus, apart from individual decision making that does not call for reliance on relatives, clan members are often relied upon when there are misunderstandings between kinsmen in the use and disposal of land.

5.4.3 Assistance in marriages, births initiation and financial needs

The immediate family of the individual, singularly and/or in concert with relatives, remain the main source of assistance to many informants during marriages, births, initiations and financial needs. The erstwhile ready assistance from neighbours is not readily available as only a few of the informants rely on neighbours. This is perhaps because the neighbourhood is no longer inhabited by people of the same lineages or clans and, thus, its cosmopolitan nature has limited social insurance, shifting it from the community to the family. However, land privatisation has not altered the main functions of close kin relation, which are the provision of social security including assistance in times of social, political and economic needs (cf. Paterson, 1980:9).

The decline in neighbourliness (*buchesa*) seems to have resulted from an upsurge in individualism, which has stimulated an escalation in interpersonal suspicions. Today, many homes are enclosed while others are guarded by watchmen. Footpaths through other people's land are rare as accusations of trespass could easily be levelled against one who uses another's land as a shortcut to his or her home. Similarly, some people have allocated themselves areas set aside for public use especially footpaths and, in fact, it is hard to reach communal water-points without inviting confrontations with a neighbour for passing through his land. In addition, previously communally used areas such as salt licks (*bilongo*) and grazing fields (*kamailo*) have been expropriated by individuals. Such areas were not allocated to any individuals doing registration but individuals with adjacent plots have personalised them. Therefore, given the nature of poor neighbourhood relations, assistance from neighbours in times of distress is not forthcoming and even when it is, it does not seem genuine. Indeed, opinion leaders who were interviewed in this study decried the poor state of neighbourliness.

5.4.4 Land disputes

The escalation in land disputes was cited by informants as the most outstanding consequence of land registration. Every informant reported having been involved in one land dispute or another with either a family member(s) or neighbour(s). On one hand, family disputes usually pit either siblings against their father, or siblings against each other in succession matters, while on the other hand, disputes between neighbours are mainly boundary-related.

Data show that there are four main types of disputes categorised according to their cause(s) and these are dishonesty in land dealings, succession, boundary and impersonation.

5.4.4.1 Dishonesty in land dealings

Disputes caused by dishonesty in land dealings are a result of the following circumstances:

- i) Sale of the same piece of land to several people, leading to competing claims.
 - ii) Sale and/or purchase of more or less land than agreed and paid for.
 - iii) Sale of land that has been used as security against credit.
 - iv) Attempts to redeem land for which money has already been paid for.
- a) Most transactions in land are not registered, thus, rendering land registers obsolete.

What the records at the District Land Registry (D.L.R.) show is a poor reflection of the reality on the ground (cf. Coldham, 1978a, b; Haugerud, 1984; Shipton, 1989:42). Individuals have failed to register transactions in land because the process is both expensive and time consuming. According to one key informant, aged 46, the bureaucracy and red tape involved have made it entirely incomprehensible to the majority of the people in Tongaren Division. In addition, there are official fees and charges, transportation expenses and bribes to registration officials and witnesses.

Ideally, individual purchasers must acquire a search certificate from the D.L.R. which gives him or her access to detailed information about the status of the land he or she intends to buy. However, according to the District Land Registrar, very few individuals purchase search certificates thus, exposing themselves to the possibility of buying land which has already been sold to someone else. Furthermore, even when one

land purchaser acquires the search certificate, information accessed would not be up to date because there are many unsanctioned transactions, which do not reach the land registry and, thus, cannot be reflected on the green cards. In the process, a dishonest land seller will dispose of the same piece of land to several people. To compound the problem, some of the purchasers do so for speculative purposes. They subsequently dispose of the same land to equally unsuspecting buyers. The unfolding scenario is one in which the real owner of the land is not known as the case of A, G, H, J, and B below, which is before the Bungoma Land disputes tribunal depicts:

A sold two hectares of land separately to G, H, and J. They all signed agreements of transfer with A in the presence of witnesses. Incidentally, none of the three buyers was ready to settle on the land just yet. However, G, who was the first buyer, had fenced off the land with barbed wire. When A sold the same piece of land to H and later to J, he informed them that he had surveyed the land and fenced it off because he had ear marked it for sale and that, therefore, they had to meet the fencing cost as well. They paid him for the fence, oblivious of the fact that the fence had actually been put up by another buyer. G later sold the parcel to B, handing over to him the transfer documents signed between himself and A and also made an agreement with B. B immediately put up a semi-permanent house and ploughed the land, prompting protests from both H and J. A also denounced B as an intruder. The battle for the ownership of the land is now drawn between A, on one hand and G and J on the other. Similarly B has sued G. In the meantime, the land disputes tribunal has placed an injunction on the use of the disputed land.

- b) In some instances, individuals have bought or sold more or less land than was agreed and paid for. This is a product of the failure to involve professional and qualified land surveyors in the execution of land transactions. In the end, one or both parties to the deal discovers that he or she has been cheated. Usually, serial land sellers eventually realise that they have completely exhausted their family's only source of livelihood. They then hire surveyors to demarcate all the land they have sold, hoping that in the process, a few extra acres would remain for them to claim. The buyers, on the other hand, hire their own surveyors, hoping that a few extra acres would be added to their share.

More often, it has been found that the seller actually surrendered less land than he should have done and this, naturally, pities him against those buyers who were allocated less land than their money's worth. On the other hand, individuals who were allocated more land than what they had actually paid for are often asked to surrender the extra land to the owner or pay for it. Either way the source of the dispute is that those who got less land are unwilling to be refunded the money opting, instead to demand for more land. Further, even if they agreed to be refunded, the seller usually does not have the money for refund. On the other hand, those who were allocated more land prefer to pay for the extra acreage(s) rather than relinquish it to the seller, who may be desperately in need of it. Furthermore, after surveying, some individuals realise that part of their homesteads are in another person's land. They are, therefore required to demolish their houses and shift. Failure to reach a compromise leads to disputes. The case below was narrated by a member of the local land disputes tribunal:

When Mzee T died in 1984, he left his plot to his three sons N, W and P and the widow. The three sons, with the help of clan elders, shared the land equally amongst themselves. The widow was allocated three acres. The three sons later engaged in land sales with relish and abandon. The eldest, W, is now staying on the market. The last born, P, sold his land to over twenty people. When he sold the last acre, he became desperate and thought that he may have sold excess land to some of the purchasers. It also happened that some buyers were having opposite feelings. So a surveyor, whom they all agreed on was contracted to survey each plot sold. It was found that almost all the buyers had been allocated less land than what they had actually bought. Infact, P's bedroom was in another person's land. He has been told to demolish the house while the other people want their money refunded. On the other hand, N, is locked in another dispute with a purchaser who was allocated more land than he actually paid for, while W, has attempted twice to expropriate his mother's land

- c) Some individuals have discovered, to their dismay, that they have purchased land which is charged. The implication is that they are required to take over the responsibility of servicing these loans. This is because a considerable number of individuals who sell land purportedly to repay the loans actually do not do so. In the

process, loans have been illegally and unprocedurally transferred to land buyers. For instance, a case was presented before the L.C.B. on 21st October, 1997, of an individual who has sold his land to over one thousand people, yet he secured millions of money from A.F.C. using the same land as collateral. The corporation has found itself in a very difficult position as it cannot recover its money. In fact, given the nature of the dispute, the corporation may not even find a willing buyer. Furthermore, the loan was not adequately secured because the borrower did not deposit his title deed with the corporation as he had not, seemingly, acquired it. However, given the size of land he held then and his stature in society, the corporation may have favoured him in the award of the loan.

According to the area D.O., the land buyers, especially those who wish to invest in land, protect their investment in land and/or acquire credit, are demanding title deeds from sellers who, because they have not repaid the S.F.T. loans do not have them. On the other hand, lending institutions have been very cautious in dealing with loan defaulters. However, there is every indication that full-blown disputes between land buyers and lending institutions are in the offing.

- d) In the last two decades, the price of land has increased exponentially, thus, putting land sellers and buyers on a collision course (also see Glazier 1975; Shipton 1989). For instance, the price of one acre of land in 1990 was KShs. 30,000 but today it is KShs. 100,000. Furthermore, a well cultivated acre of land can yield 30 bags of maize which at current prices of KShs. 1,500 per 90 kg bag, fetches well over KShs. 30,000 which was the price of an acre of land in 1990. Thus, individuals who sold land then are feeling short charged. The common practice is for these individuals to attempt to redeem 'their' land by paying back the money they received from the purchasers. According to the D.O., a person who sold four acres of land in 1990 for a total of KShs 120,000 will sell one acre today that fetches almost the same amount of money and attempt to reclaim the four acres. The source of the dispute is that the purchaser demands a refund at the current rates, which most sellers cannot raise.

According to one key informant, who is a retired magistrate, the practice of land redemption is not driven by greed, but rather by a failure by the people to change

their perceptions of the permanence of land sales. In the traditional Bukusu society, custom allowed a land 'seller' to redeem his land by paying back the cost of the land to the purchaser. This has changed today but many people in Tongaren Division do not seem to have adjusted accordingly.

5.4.4.2 Succession disputes

Succession disputes in the family occur upon the death of the benefactor, while others crop up while he is still alive. Generally, however, these disputes are motivated by the high premium that society places on land and the high esteem in which land ownership is held. Thus, an individual is torn between loyalty to the family and the possibility of not owning land, on one hand, and confrontation and the dignity of land ownership, on the other. In Tongaren Division, the pride of place seems to have been taken by the latter, thus, prompting intra-familial disputes.

The legal procedure is that upon the death of the landholder, the death is reported to the chief who is duly required to report the matter to the local court, which determines the heirs to the deceased's land. The court then forwards a certificate of succession to the land registration office for implementation. Thus, in cases where only one heir is registered, the fear of dispossession by the other siblings compels them to hastily demand their share of their father's land. If the registered heir refuses on account that perhaps they are still young, disputes erupt.

Succession disputes, which pit parents against their children happen when parents insist that they can only be succeeded when they die. They, therefore, allocate small portions of land to their married sons, but without any proprietary rights. For instance, the sons may not sell or mortgage land allocated to them. They remain beholden to their benefactors, who usually demand total loyalty. Thus, land is also used to control children. However, some parents start to dispose of land wantonly forcing some children to be rebellious to parental authority. The family then ends up divided between those who support dissent and those who support conformity. Sometimes parents, in collusion with a loyal son, may decide to sell family property as D, a 35 year-old informant, narrated:

My father has two wives, both living on the same parcel of land. When I got married five years ago, he refused to allocate me land, arguing that he was still burdened with fees obligations and could not, therefore, reduce the size of land by allocating some of it to me. In the meantime, my younger brothers have completed school and two of them are married. Initially, they were also not allocated land by our father, who said he was paying fees for our stepbrothers. The local provincial administration interceded for us and we were allocated land. However, none of us was given a title deed and thus, besides usufructory rights, we do not have the power that goes with land ownerships. Since our stepbrothers are still at school, land was not allocated to them. The problem is that our father has formed an alliance with the second born son of my stepmother and is wantonly disposing of land. The other children are threatened with stoppage of their education when they complain, while my eldest stepbrother who is married has been told that to be given land, he must undertake to meet the fees obligations of his two brothers who are still in school. Indeed, disputes over land have become the hallmark of our family

According to one village elder, aged 54, sometimes a man may allocate his land equally among his wives so that each wife decides how she allocates her share of the land to her sons. However, some wives may have more male children than others, meaning that children of the same man end up having a disproportionate share of his land. Although rare, such practices have led to disputes between co-wives and their children, on one hand and between them and the man, on the other hand. The wives, especially those with many sons, usually read favouritism if their husband decides to allocate land in this manner.

5.4.4.3 Boundary disputes

Boundary disputes are the most common form of disputes in Tongaren Division today. Therefore, it appears that the establishment of clear boundaries has not helped in checking these disputes (cf. Shipton, 1988). In 1997 alone, forty-two boundary cases were filed with DLDT (District Land Disputes Tribunal). This, though, was a gross underestimation because most of these disputes are solved locally by village elders in conjunction with the provincial administration. Thus, the only disputes which reach the land registry are normally the most severe and which, therefore, would have overwhelmed local mediation.

These types of disputes usually occur between neighbours. At the start of the settlement of Tongaren Division, every plot was surveyed and beacons erected to set it apart from the rest. Most of the beacons erected in the 1960's are still intact, although some dishonest people have attempted to curve away sections of their neighbours' land by shifting the beacons. This is an exercise in futility because all the original plots have maps at the D. L. R. Regardless of this, disputes have resulted from such actions because, according to one key informant, aged 67, it is against Bukusu traditions for a person to shift a common boundary, however, right he may be, without consulting the person with whom they share it.

The main reason, however, for the apparent escalation in boundary disputes is perhaps the fact that boundaries have been severely altered given the rampant practices of land inheritance and sales. Most of these dealings are not registered and, therefore, the maps at the D. L. R. do not reflect them. Thus, the old boundaries as reflected on the land maps make the maps obsolete and of very little help in dispute resolution.

Lastly, impersonation disputes entail the disposal of land that belongs to someone else through false pretences. However, such disputes are rare as only an insignificant number (2.1%) of informants reported disputes of this nature. Indeed, there was no specific case of this nature as informants just claim to have heard and not experienced them personally.

5.4.5 Land disputes tribunal

The Land Dispute Tribunal Act No. 18 of 1990 empowers the District Commissioner (D. C.) to appoint elders to hear and determine civil land cases in their respective areas of jurisdiction. Three elders who are well versed with the area have, therefore, been appointed from each administrative location to sit on the District Land Disputes tribunal. Their main task is to dig up the historical background and expose all the facts pertaining to any disputed land. Boundary disputes are handled by the tribunal in consultation with the D. L. R., while succession disputes are handled in liaison with the courts of law.

The operations of the land disputes tribunal has not been smooth. According to the Tongaren Division D. O., the tribunal has been about 60% effective in the discharge

of its responsibilities although some people have accused it of unfairness in its decisions, with bribery and presentation of false witness being cited as the main determinants of dispute outcomes. The panel of elders is, therefore, very susceptible to corruption which has seen injustice meted out on the less affluent people, some of whom, it was claimed, though not proved, have been dispossessed of their land rights. The financially powerful people with strong political connections, some informants claimed, bribe tribunal panelists or even influence the choice of who sits on the tribunal. As disputes escalate and become sharper, bribes are bound to upsurge.

5.4.6 Cost of disputes

Land disputes are costly ventures in terms of time lost, money expended and agricultural output. For instance, to file any boundary related disputes, a complainant must pay a fee of KShs. 1,250 while dishonesty-related disputes cost KShs. 740 each (Table 4.14). According to the Bungoma District Commissioner, the resolution of disputes takes very long because it involves many logistical issues which present problems. This dragging of cases affects productivity because once a dispute has been filed with the tribunal, the lands office is accordingly instructed by the chairman of the tribunal, who is the D. C., to put an injunction on any further transactions on the land under dispute. This injunction lasts as long the case dispute remains unresolved.

The other costs contingent to the disputes include transportation, meals, boarding and often, although not substantially proved, bribes to witnesses and panelists. The secrecy in which the vice of bribery is practised made it too difficult to ascertain its extent.

Table 4.14: Disputes and costs before the dispute tribunal, 1997

TYPE OF DISPUTE	YEAR	NUMBER OF DISPUTES	COST PER CASE	TOTAL COST (SHS)
Boundary	1997	88	740	65,120
Dishonesty	1997	42	1,250	52,080
TOTAL	-	130	-	117,200

SOURCE: Land Disputes File, District Land Registry, Bungoma, 1997

From the discourse, it can be discerned that the spirit of individualism that has been encouraged by land registration has led to the breakdown of kinship ties and social relations. Thus, the hypothesis that individualization of land ownership has transformed social ties and kinship relations is supported by the findings and, so, it is upheld.

In a nutshell, the above discourse reveals that land registration in Tongaren Division has neither enhanced food security nor boosted people's income levels. It has also failed to redress gender inequality in access to and control of, land mainly because of the pervasive dictates of the Bukusu culture. However, it has transformed kinship ties and social relations to suit the individualistic nature of private land ownership.

CHAPTER 6

CONCLUSIONS AND RECOMMENDATIONS

6.1 Introduction

This study was designed to pursue four salient objectives, thus:

- i) To investigate the impact of land registration on food security in Tongaren Division
- ii) To find out how land registration has affected people's income
- iii) To analyse factors which deny women access to land and,
- iv) To describe kinship and social relations in the context of land registration.

In this chapter, therefore, the main findings of the study are summarised in accordance with the stated objectives to determine whether or not they have been realised. Lastly, pertinent recommendations are made.

i) Food Security

The findings of the study do not entirely support the hypothesis that land registration has enhanced food security in Tongaren Division. On the contrary, incessant food insecurity has been the rule and not the exception, with only a few of the informants producing sufficient food every year. In the wake of rapid population increase and a vibrant land market, the per capita land size has declined to a point where actual returns has also began to decline. However, a reduction in land size does not lead to a reduction in output *per se*, but rather it means that more people are reliant on a smaller piece of land for their subsistence than before. Furthermore, in a situation of reduced land size, crop diversification is not possible and this explains the people's over reliance on the monoculture of maize production. Thus, increased reliance on white maize production, unlike in the pre-colonial days when a diversity of crops was grown, is coinciding with food insecurity. This is because maize is harvested only once annually and cannot provide enough safeguards against crop failure. In addition, most of the maize is sold to generate some cash given that cash crop production is very low. Indeed, given the

precarious cash crop markets, an individual would rather grow maize and hope that he/she produces a surplus for sale than gamble with cash crops and expose the family to the danger of food inadequacy.

Furthermore, labour and capital availability for food crop production is very limited. Commercialisation of labour as envisaged in the Swynnerton Plan has failed to materialise, while family labour, which is relied upon by most households is not sufficient. This has impacted negatively on food security. Similarly, many people are unable to mobilise capital for the purchase of farm inputs and land preparation. This has led to low agricultural output. All these factors, coupled with a poor discharge of professional advice to farmers, show that land registration has failed to propel agricultural output for food security in Tongaren Division. It is vital to point out, however, that a few individuals with large parcels of land and who are able to command labour and capital do actually enjoy food security.

ii) Income

Income indicators show that income in Tongaren Division is still very low. This is because individuals have been unable to maintain the size of land as originally allocated to them. Conversely, only a few informants have bought extra land since the completion of the registration exercise, while the hire of labour and mobilisation of capital to invest in land present major burdens to most informants. Indeed, collateral security required by lending institutions has rendered many potential credit beneficiaries uncredit worthy. Given the low rate of credit utilisation, lack of farm inputs is very rampant, leading to poor outputs. Similarly, a very insignificant number of informants had valuable assets and the quality of their residences was quite low. Lastly, many people in Tongaren Division are only able to pay fees at local day secondary schools where they can negotiate with school heads on the modes of payment rather than the strict cash terms which characterise provincial and national schools.

Thus, land registration has not led to an increase in people's level of income as data on all income indicators show increasing inability to achieve aspirations and attract certain benefits.

iii) Gender

It has emerged in this study that a very insignificant number of women are registered as land owners. Their access to land today is still determined by their relationship to, and association with, men. As girls, they till their fathers' land and as wives, they till their husbands' land. The cultural practice of inheritance, although showing a trend towards accommodation of women, has been biased against them. However, the land market has provided an opportunity for some women to own land in their own rights, but this only applies to the salaried and economically empowered ones. Given the still pervasive cultural dictates of property ownership, however, women in Tongaren Division have not adequately exploited the land market. Generally, it is the single women who have all the freedom to purchase land, while the institution of marriage has apparently been used to control and curtail the aspirations of women regarding land ownership. A married woman's rights to land are secure only as long as she stays married. Since she does not have any legal claims to the land held by the husband nor that held by her father and siblings, divorce portends landlessness. Perhaps this is the one reason why the rate of divorce is very low and, in fact, no single case of divorce was reported.

Therefore, seen in terms of title deeds, land registration has occasioned open bias in the distribution of land between men and women. However, this bias is more a product of the perpetuation of patriarchy which defines property ownership along gender lines than any specific weakness in land registration. This is to say that there is nothing inherent in the registration programme that expressly puts hurdles in the registration of women as landowners. The gender disparity reflected in land registration is actually a product of the stated cultural factors that have operated in tandem within the framework of land registration to perpetuate the status quo.

iv) Kinship ties and social relations

Kinship ties and social relations have been altered to suit the individualistic nature of land registration. The communal modes of existence, exemplified by close contact between kinsmen and the predominance of extended families, have been rendered irrelevant by the mode of land ownership which places more premium on the individual

than the group in which he or she belongs. In addition, land disputes have upsurged both in variety and incidence, farther straining social relations and occasioning costly litigation.

6.2 Recommendations

The following recommendations are made:

- i) The contention that farmers would use their title deeds to acquire credit, a noble objective indeed, is not viable anymore. This is because the possession of a title deed is only a necessary and not a sufficient condition in the acquisition of credit. As a result of the apparent dilution of the significance of title deeds, only a small number of farmers have made efforts to acquire them, while a few others, inspite of having repaid the S. F. T loans, are yet to collect their title deeds from the D. L. R. Similarly, land purchasers rarely ask for title deeds from the sellers implying that they do not have any intentions of using land to acquire credit. This study, therefore, recommends that the government, in conjunction with approved lending agencies, should make possession of a title deed more attractive by ensuring that farmers have access to credit under terms and conditions which are not selective and deterrent. A title deed should be a sufficient condition for the acquisition of credit since land is the only form of security that small holder farmers have. The credit so issued should be adequately supervised to ensure that it is put to proper and appropriate use so that it is promptly repaid to make the facility sustainable. To cut down on administrative and supervisory costs, extension officers should be incorporated into any credit programme. Adequate capital will increase output, thus, ensure increased income and food security.
- ii) The government should consider waiving the S.F.T loan arrears which most people are unable to repay. It is mainly because of this loan that people have been unable to acquire title deeds. When the government established settlement schemes, it agreed to pay the departing European settlers for land at the price they demanded. This price was more than the value of the land. Indeed, European settlers did not pay for this land as it was alienated for them from its African owners by the crown. Thus, the government should not have accepted to pay them. At most only improvements on the land should have been paid for. It is, therefore, unfair for the government to burden the people with this debt which it should not have committed itself to in the first place. Continued harassment of

farmers to repay this loan is both counter productive as it compels them to sell off the land other than repay and, an exercise in futility, as foreclosure is not possible given that land has changed hands so much that to establish the bonafide owners is a herculean task, indeed

- iii) The government should maintain a more strict control of the land market. This does not mean that it stops land sales and purchases altogether, but rather, it means that it makes it difficult for people to engage in illegal land sales. Prior to the mid-1980's, people did not engage in land sales because they knew that until they repaid S. F. T. loans, land legally belonged to the government. However, when it appeared that individuals were not repaying the S. F. T. loans as regularly as they should, the government allowed them to sell land to repay it. This marked the beginning of the chaotic and illegal land dealings being experienced today. To control the dealings in land, the government should provide all the registered owners, or their successors, with title deeds and ensure that all dealings in land are registered. This is because individuals do not register dealings in land not just because it is costly to do so, but also because the dealings are illegal given that their ownership is yet to be legally legitimised through the issuance of title deeds. This anomaly would be corrected by issuing title deeds as a follow up to the second recommendation.
- iv) Once all the land is legally registered and the chaos in the land market minimised, land dispute tribunals should be phased out and all land disputes be handled by courts of law. The L. C. B. should be retained as a regulating body to ensure that all dealings in land are registered and not as an inhibition to the operations of a free land market as it appears to be today.
- v) The reduction in land size has meant that farmers plant maize only because it can be used for both food and cash needs. This has, however, led to food insecurity since many people sell most of the produce to meet their cash needs. The recommendation by the government (cf. Swynnerton, 1955; GOK, 1986) that food security will only be assured by growing cash crops so that any short fall in the food produced can be met by buying food from the market is still valid. It is, therefore, recommended that farmers shift to the growing of seasonal cash crops

such as onions, tomatoes, kales and cabbages to improve their cash base. The soil in Tongaren Division has potential for the production of these crops.

- vi) Land registration has isolated women from land ownership. However, land ownership by virtue of possession of a title deed does not necessarily lead to an improvement in the economic status of the holders and, thus, women should not be registered as land owners on this premise. It is recommended that when land registration is updated or done a fresh, joint ownership between a man and his wife be made as a policy. This will improve the bargaining power of women as they will no longer have to rely on the L. C. B. whose role will be redefined to exclude the protection of vulnerable stake holders in land, to protect their rights and those of their children. Women will then become equal partners with men in the utilisation and control of land. They will become signatories to any land deals and probably contribute to the decline in wanton land sales. In the event of a divorce, a woman would be at liberty to either dispose of her share or leave it for her children. In this way, land ownership will no longer be used to control women. However, it is recognised that the pervasive practice of polygyny will hamper the successful implementation of this recommendation.
- vii) Finally, this study was carried out in an environment of limited time and financial resources. Thus, it is recommended that a well funded, all-encompassing follow-up study to cover the entire Bungoma District be undertaken. This will enable a timely comparison between the settlement schemes and the former non-scheduled areas in the district on their performance under the land registration programme.

BIBLIOGRAPHY

Alila, P. O

- 1977 Kenya Agricultural policy: The Colonial Roots for African Smallholder Agricultural Policy and Services. Working Paper No. 320. Nairobi: Institute for Development Studies, University of Nairobi.

Bassett, J. T. and E. Crommey (eds.)

- 1993 Land in African Agrarian Systems London: The University of Wisconsin Press

Bassett, J. T

- 1993 Introduction: The Land Question and Agricultural Transformation in Sub-Saharan Africa. In Land in African Agrarian Systems, eds., J. T. Bassett and E. Crommey, pp. 3 –31 London: The University of Wisconsin.

Binswagger, H. P. and J. McIntire

- 1987 "Behavioural and Mutual Determinants of production Relations in land – abundant Tropical Agriculture". In Economic Development and Cultural Change, 36: 73 – 99.

Boserup, E.

- 1970 Women's Role in Economic Development London: George Allen and Unwin.

Bromley, D. W

- 1984 The Role of Land Reform in Economic Development. Comment. In Agricultural Development in the Third World, eds., C. K. Eicher and J. M. Staaz, pp. 275 – 277 Baltimore: The Johns Hopkins University Press.

Bruce, J

- 1993 Do Indigenous tenure Systems Constrain Agricultural Development? In Land in African Agrarian Systems, eds., J. T. Bassett and E. Crommey, pp. 35 - 56.
London: The University of Wisconsin Press.

Clough, R. H

- 1968 An Appraisal of African Settlement Schemes in the Kenya Highlands. Ph. D. Thesis, Faculty of the Graduate School, Cornell University (microfilm).

Coldham, S

- 1978a Land Control in Kenya. Journal of African Law, 22 (1): 63 – 77.
1978b The Effects of Title upon Customary Rights in Kenya. Journal of African Law, 22 (2): 19 – 111.

Davison, J.

- 1987 “Without Land, We are Nothing: The Effects of Land Tenure Policies and Practises upon Rural Women in Kenya” In Rural Africana, 27: 19 – 133.

De Janvry, A

- 1984 The role of land tenure reform in economic development: Policies and politics. In Agricultural Development in the Third World, eds., C. K. Eicher and J. M. Staaz, pp. 263 – 274. Baltimore: The John Hopkins University Press.

Downs, R. E., D. O. Kerner and S. P. Reyna (eds.)

- 1991 The Political Economy of African Famine. Philadelphia: Gordon and Breach.

Ghai, D. and S. Radwan (eds.)

- 1983 Agrarian Policies in Africa. Geneva: ILO.

Giddens, A

- 1979 Central Problems in Social Theory: Action, structure and contradiction in Social analysis Berkely: University of California Press.

Glazier, J.

- 1975 Land and the use of tradition among the Mbeere of Kenya. Lanham: University Press of America.

Government of Kenya

- 1966 National Development Plan 1966 – 1970 Nairobi: Government Printer.
- 1970 National Development Plan 1970 - 1974 Nairobi: Government Printer.
- 1973 Department of Settlement, Annual Report. Nairobi: Government Printer.
- 1986 Sessional Paper No. 1 of 1986 on Economic Management for Renewed Growth. Nairobi: Government Printer.
- 1990 Land Disputes Tribunal Act of 1990. Nairobi: Government Printer.
- 1996a Bungoma District Development Plan, 1994 – 1996 Nairobi: Government Printer.
- 1996b National Development Plan. Nairobi: Government Printer.
- 1997 Bungoma District Development Plan, 1997 – 2001 Nairobi: Government Printer.

Haugerud, A.

- 1984 Household Dynamics and Rural Political Economy among Embu farmers in the Kenya Highlands. Ph.D. Dissertation, Graduate School, Evanston, Illinois.

Heyer, J.

- 1975 "The origins of regional inequalities in smallholder agriculture in Kenya, 1920 – 1973". In East African Journal of Rural Development, 8 (1 & 2)
- 1976 "Achievements, problems and proposals in the agricultural sector". In Agricultural Development in Kenya: An Economic Assessment, eds., J. Heyer, J. K. Maitha and W. M. Senga, pp. 1 – 33. Nairobi: Oxford University Press.

Hunja, R.

1984 The Swynnerton Plan and the Customary trust holding. Unpubl. LL. B. Dissertation, Faculty of Law, University of Nairobi.

Hunt, D.

1984 The Impending Crisis in Kenya: The Case for Land Reform. Hampshire, UK and Brookfield, V. T. Gower.

Kabwegyre, T.

1974 Land and the growth of social stratification in Uganda: A sociological interpretation. In History and Social Change in East Africa, ed., B. A. Ogot, pp. 111 – 133. Nairobi: East Africa Literature Bureau.

Kibiti, R. N.

1996 Culture and Gender. In Mila: A Journal of the Institute of African Studies, (N. S.) 60 – 72.

Kisambwa – Mugerwa, W.

1991 Institutional Dimensions of Land Tenure Reforms. In Changing Uganda: The Dilemmas of Structural Adjustments and Revolutionary Change, eds., B. H. Hansen and M. Twaddle, pp. 311 – 321. London: James Currey.

Klaus, E.

1976 Tradition and Progress in the African Village. London: C. Hurst.

Langer, O.

1963 Political Economy, Vol. 1: General problems. Translated from Polish by A. H. Walker. Oxford: Pergamon Press.

Leys, C.

1975 Undevelopment in Kenya: The Political Economy of Neo-colonialism 1964 – 1971. Berkeley and Los Angeles: University of California Press.

Mackenzie, F.

1993 "A piece of land never shrinks". Re-conceptualising land tenure in a smallholding district, Kenya. In Land in African Agrarian Systems, eds., J. T. Bassett and E. Crommey, pp. 194 – 221. London: The University of Wisconsin Press.

Mbithi, P. M. and C. Barnes

1975 Spontaneous settlement problem in Kenya. Nairobi: East African Literature Bureau.

Migot-Adhola, E. S., F. Place and W. Oluoch-Kosura.

1993 Security of tenure and land productivity in Kenya. In Searching for land tenure security in Africa, eds., J. W. Bruce and S. E. Migot-Adhola, pp. 119 – 140. Washington, DC: Kendall/Hunt.

Munro, P. A.

1960 The land tenure revolution in Kenya, 1954 – 1959: Legal and political implications. Unpublished M. A. Thesis, Faculty of Political Science, University of Columbia.

Nangendo, S. M.

1994 Daughters of the clay, women of the farm: Women Agricultural Economic Development and Ceramic production in Bungoma District, Western Province, Kenya. Ph. D. Dissertation, Faculty of Bryn Mawr College, Pennsylvania.

Nasimiyu, R.

1985a The participation of women in Bukusu Economy: The situation as at the end of the 19th Century. In History and culture in Western Kenya: The people of

Bungoma District through time, ed., S. Wandibba, pp. 51 – 64. Nairobi: Gideon S. Were Press.

1985b Women in the colonial economy of Bungoma: Role of women in agriculture 1902 – 1960. In Women and Development in Kenya, ed., G. S. Were, pp. 56 – 73.

Nairobi: Gideon S. Were Press.

1991 Women and children's labour in rural economy: A case study of Western Province, 1902 – 1989. Ph. D. Dissertation, Faculty of Graduate Studies, Dalhousie University.

Noronha, R. and F. J. Lethem

1983 Traditional land tenures and land use systems in the design of agricultural projects. Staff Working Papers No. 561: World Bank.

Nwabuzor, E. and M. Mueller.

1985 An Introduction to political science for African students. London: MacMillan Education.

Ogutu, M. A.

1985a The pre-colonial economic history of Western Province. A paper presented at the Western Province Cultural Festival Symposium held at Kakamega 8th – 11th August, 1985.

1985b The role of co-operative societies in the socio-economic development of Bungoma District. In History and Culture in Western Kenya: The people of Bungoma District through time, ed., S. Wandibba, pp. 66 – 77. Nairobi: Gideon S. Were.

Okeyo, A. P.

1980 "Daughters of the lakes and rivers: Colonisation and the land rights of Luo women". In Women and colonisation: Anthropological perspectives, eds., M. Etienne and E. Leacock, pp. 186 – 213. New York: Praeger.

Okoth-Ogendo, H. W. O.

1976 African land tenure reform. In Agricultural Development in Kenya: An economic Assessment, eds., J. Heyer, J. K. Maitha and W. M. Senga, pp. 152 – 186.

Nairobi: Oxford University Press.

1978a The political economy of land law: An Essay in the legal organisation of underdevelopment in Kenya 1895 – 1974. D. S. L. Thesis, Law School, Yale University

1978b The changing systems of land tenure and the rights of women. In The participation of women in Kenya society, eds., A. O. Pala, T. Awori, and A. Krystal, pp. 132 – 139. Nairobi: Kenya Literature Bureau.

Pala, A. O., T. Awori and A. Krystal.

1978 The participation of women in Kenya society. Nairobi: Kenya Literature Bureau.

Paterson, D.

1980 Coping with land scarcity: The pattern of household adaptation in one Luhya community. Working Paper No. 360. Nairobi: Institute for Development Studies, University of Nairobi.

1984 Kinship, land and community: The moral foundations of the Abaluhya of East Bunyore. Ph. D. Thesis, University of Washington.

Ranger, T.

1993 The colonial areas of Zimbabwe. In Land in African Agrarian Systems, eds., J. T. Bassett and E. Crommey, pp. 354 – 385. London: The University of Wisconsin Press.

Robinson, N. A. (ed.)

1993 Agenda 21: Earth's Action Plan. New York: Oceania Publications.

Shipton, P.

1988 The Kenya land tenure reform: Misunderstandings in the creation of private

property. In Land and society in contemporary Africa, eds., R. E. Downs and S. P. Reyna, pp. 191 – 134. Hanover, N. H.: University Press of New England.

1989 Land and the limits of individualism: Population growth and tenure reforms south of the Sahara. Discussion Paper No. 320. Cambridge, Mass: Harvard Institute for International Development, Harvard University.

Smith, L. D.

1976 An overview of agricultural development policy in Kenya. In Agricultural Development in Kenya: An economic assessment, eds. J. Heyer, J. K. Maitha and W. M. Senga, pp. 111 – 150. Nairobi: Oxford University Press.

Sorj, B.

1980 "Agrarian structure and politics in present-day Brazil". Latin American perspectives, 7: 23 – 34

Sorrenson, M. P. K.

1967 Land reform in the Kikuyu country: A study in government policy. Nairobi: Oxford University Press.

Suda, C. A.

1986 Household labour organisation and utilisation patterns on small farms in Western Kenya: Implications for agricultural production. Ph. D. Dissertation, Faculty of the Graduate Studies, University of Missouri, Columbia.

1991 Female labour contribution in home management and agricultural production in Siaya District. In Women and Development in Kenya, ed., G. S. Were, pp. 1 – 23. Nairobi: Institute of African Studies, University of Nairobi.

1996 Household labour use and change in gender roles on small farms in Ndhiwa Division, Western Kenya: The challenge of comparing the contributions of different workers. Arlington: Winrock International.

1997 Gender relations in agricultural production in Kenya: Insights from Laikipia District. In Gender and agrarian change in Tanzania: with a Kenyan case study,

eds. S. Ngware, R. Ordgaard, R. Shayo and F. Wilson, pp. 119 – 140. Dar-es-Salaam: DUP.

Swynnerton, R. J. M.

1955 A plan to intensify the development of African agriculture in Kenya. Nairobi: Government Printer

United Nations.

1966 Progress in Land Reform Fourth Report. New York: UN.

Van Zwanenberg, R. M. A

1973 The land question in Kenya from the 19th Century to the present day. A paper presented at the Third International Congress of Africanists, Addis Ababa, Ethiopia, December. 9th – 19th

1975 Colonial capitalism and labour in Kenya, 1919 – 1939. Nairobi: East Africa Literature Bureau.

Wagner, G W

1970 The Bantu of Western Kenya. London: Frank Cass.

Wandibba, S.

1972 The Bukusu Forts. Unpublished B. A. Dissertation. Department of History, University of Nairobi.

1997 Changing roles in the Bukusu family. In African families and the crisis of social change, eds. S. W. Thomas, B. Cardice and L. K. Philip in collaboration with A. B. C. Ocholla-Avayo, J. Akong'a and S. Wandibba, pp. 332 – 340. London: Bergin and Garvey

Wanja, H. J

1979 An analysis of the factors affecting loan repayment on the Million Acre Schemes. Working Paper No. 355. Nairobi: Institute for Development Studies, University of Nairobi.

Wasserman, G.

1976 Politics of decolonisation: Kenya Europeans and the land issue 1960 - 1965. London: Cambridge University Press.

Wilson, R. J. A.

1971 Land tenure and economic development: A study of the economic consequences of land registration in Kenya's small holder areas. (A paper read before the "Society" in Belfast on 26th April, 1971).

APPENDICES

APPENDIX I

QUESTIONNAIRE

DECLARATION: Information given here is solely for academic purposes and will be treated with utmost confidence.

1. Name of respondent (optional) ..
2. Plot number
3. Location
 - [1] Naitiri
 - [2] Mbakalu
 - [3] Ndalul
4. Gender
 - [1] Male
 - [2] Female
5. Marital status
 - [1] Single
 - [2] Married (Monogamous)
 - [3] Married (Polygynous)
 - [4] Widowed
 - [5] Separated
6. Age ... Years (When were you born? Calculate and enter)
7. How many people live in this household?
8. What is your level of education?
 - [1] Primary
 - [2] Secondary
 - [3] College
 - [4] University
 - [5] No formal education
 - [6] Other (specify)
9. Are you a farmer?
 - [1] Yes
 - [2] No (discontinue interview)

10 When did you start farming?

[1] In 1990s

[4] In 1960s

[2] In 1980s

[5] Before independence

[3] In 1970s

11. What are your other occupations besides farming?

[1] Salaried employment

[3] None

[2] Self employed

[4] Other (specify)

12 How many hectares of land do you cultivate?

13 Is the land you cultivate adequate?

[1] Yes

[2] No

14 Do you lease land?

[1] Yes

[2] No

15 How many hectares of land do you lease?

16 What do you see as the cause(s) of land sub-division?

[1] Population pressure

[4] All

[2] Inheritance

[5] Other (specify)

[3] Sale

17 In your opinion, what are the possible consequences of land sub-division?

18 Do you think the practice of land inheritance should be proscribed? (Please explain).

19 Of the crops listed below, which ones do you grow?

[1] Maize

[9] Cabbages

[2] Beans

[10] Kales

[3] Sunflower

[11] Cassava

[4] Sweet potatoes

[12] Pineapples

[5] Millet

[13] Oranges

[6] Bananas

[14] Coffee

[7] Peas

[15] Tomatoes

[8] Sorghum

20 Why do you grow these crops?

- [1] For subsistence
- [2] For cash
- [3] Both
- [4] Other

21. Which main food crop is grown on your farm?

- [1] Millet
- [2] Sorghum
- [3] Maize
- [4] Cassava
- [5] Beans
- [6] Bananas
- [7] Sweet potatoes
- [8] Irish potatoes

22. Which main cash crop is grown on your farm?

- [1] Maize
- [2] Sunflower
- [3] Coffee
- [4] Beans
- [5] Bananas
- [6] None
- [7] Other (specify)

23. How many hectares of your land is under food crops?

24. Do you think it is desirable for farmers to grow more food crops than cash crops?

- [1] Yes
- [2] No
- [3] Other

25. Do you think it is desirable for farmers to grow cash crops than food crops?

- [1] Yes
- [2] No
- [3] Other

26. Is the food you provide every year sufficient?

- [1] Yes
- [2] No

27. Please, explain your answer above

28. Approximately how much income do you earn from all your agricultural activities?

29. Has income from your agricultural activities been increasing or reducing over the years? (Please, explain)

30. What do you see as the significance of land registration?

31. Would you grow cash crops without a registered land title? (Please, explain).

- 32 Identify the source of your working capital.
- | | |
|----------------------------------|--------------------|
| [1] Sale of agricultural produce | [3] Loans |
| [2] Monthly salary or wages | [4] Other (specify |
- 33 Do you find it difficult to obtain capital?
- [1] Yes
- [2] No
- 34 Do you go for loans to invest in farming?
- [1] Yes
- [2] No (Go to No. 39)
- 35 Where do you go for loans?
- [1] Agricultural Finance Corporation (A. F. C.)
- [2] Farmers' Cooperative Society
- [3] Commercial Banks
- [4] Other (specify)
- 36 How satisfactory are services offered by lending institutions?
- | | |
|-----------------------|-------------------------|
| [1] Very satisfactory | [3] Very unsatisfactory |
| [2] Satisfactory | [4] Unsatisfactory |
- 37 Do you have unserviced loan(s)?
- [1] Yes
- [2] No
- 38 Why have you not serviced it?
- 39 Why don't you go for loans? (Check as many as may apply)
- | | |
|---|---------------------|
| [1] High interest rates | [5] Not necessary |
| [2] Lack of collateral security (title deed) | [6] Don't know |
| [3] Fear that you might lose your land in case of default | [7] Other (specify) |
| [4] Only rich farmers are given loans | |
- 40 Do you think the grant of loans would boost your agricultural productivity?
- [1] Yes
- [2] No

41. Please explain your answer above.
42. How did you obtain your piece of land?
- [1] By inheritance
 - [2] Purchased it individually (Go to No. 43.)
 - [3] Bought it as a group
43. Why did you buy the land?
- [1] For farming
 - [2] For settlement
 - [3] For prestige
 - [4] For future investment
 - [5] Other (specify)
44. In this community, who controls land?
- [1] Individual male owners
 - [2] Individual female owners
 - [3] Clan elders
 - [4] Families
 - [5] Other (specify)
45. Do you have your own title deed?
- [1] Yes
 - [2] No
46. Who is the registered owner of the land?
- [1] Male head of the family
 - [2] Female head of the family
 - [3] Joint group
 - [4] Other (specify)
47. Should women be registered land owners?
- [1] Yes
 - [2] No
 - [3] Other
48. Explain your answer above.
49. What do you think are the factors which deny women ownership of land?
50. Have you ever sold your land?
- [1] Yes (Go to No. 51)
 - [2] No
51. What size of the original land did you sell?
52. Why did you sell it?

53 How do you rate individual ownership of land?

[1] Excellent

[4] Poor

[2] Good

[5] Very poor

[3] Fair

54 How do you rate communal ownership of land?

[1] Excellent

[4] Poor

[2] Good

[5] Very poor

[3] Fair

55. Do you have any relatives?

[1] Yes

[2] No

56. Do you visit each other?

[1] Yes

[2] No (Go to No. 59)

57. How often do you visit each other?

[1] Frequently

[2] Occasionally

[3] Very frequently

58. Why do you visit each other? (Check as many as may apply)

[1] Friendship visits

[4] Initiation and other ceremonies

[2] To attend clan meetings

[5] Other (specify)

[3] Funerals

59 Why don't you visit each other?

60 Do you stay with some relatives in your home?

[1] Yes

[2] No (Go to No. 61)

61 Why not?

62 It is better to plan, make decisions and manage your farm activities individually than with relatives. Do you approve of this view?

[1] Strongly approve

[3] Strongly disapprove

[2] Approve

[4] Disapprove

[5] No opinion

63. Reliance on relatives promotes development. Do you agree with this view?

[1] Strongly agree

[3] Disagree

[2] Agree

[4] Strongly disagree

64. Who assists you in the following routine farm work?

• Ploughing

• Harvesting

• Weeding

• Other

• Top dressing

65. In the event of death and sickness, births, initiation and financial needs, who assists you?

66. How do you obtain farm labour?

[1] Through hire

[4] Neighbours

[2] Family members

[5] Others (specify)

[3] Friends and relatives

67. Do you have any labourers on your farm?

[1] Yes

[2] No

68. Are you satisfied by the present labour availability?

[1] Yes

[2] No

69. Are your children at school?

[1] Yes

[2] No

70. At what stage of learning are they?

[1] Nurserv

[4] College

[2] Primary

[5] University

[3] Secondary

[6] Other (specify)

71. Who pays for their education?

[1] Own payment

[4] Assistance from relatives

[2] Bursary fund

[5] Other (specify)

[3] Harambee

72 Why are your children not at school?

73. Which of the following valuable items do you own? (Check as many as may apply)

[1] Motor vehicle

[4] Radio

[2] Tractor

[5] Television

[3] Bicycle

[6] Other (specify)

74 Did you own these items (above) prior to land registration?

[1] Yes

[2] No

75 How do you spend income from agriculture?

[1] Reinvesting in agriculture

[4] Investing in other business

[2] Entertainment

[5] Other

[3] Catering for the welfare of the family

76 What position do you hold in this community?

77 Have you ever purchased an extra piece of land?

[1] Yes

[2] No

78 How do you plough your land?

[1] Tractor

[3] Hoe

[2] Steers (ox-plough)

[4] All the above

79 What type of maize seeds do you use?

[1] Hybrid

[2] Local varieties

[3] Other

80 What type of manure do you use?

[1] Artificial manure

[3] Composite manure

[2] Animal manure

[4] Other

81 What do you see as the consequences of land privatisation?

[1] Hatred

[4] Disputes

[2] Land sales

[5] Good land conservation

[3] Landlessness

[6] High productivity

82. What are the main causes of land disputes?
- [1] Dishonesty in land dealings [4] Sale of someone else's land
 [2] Succession disputes
 [3] Boundary disputes
83. Who solves these disputes?
84. How are the disputes won or lost?
- [1] Witchcraft [4] Bribery
 [2] Sorcery [5] False witnesses
 [3] Violence or threats of violence
85. Of the below listed quarrels, which one(s) have affected you?
- [1] Interpersonal
 [2] Familial
 [3] Other
86. Do you think land ownership by women rather than men would have any impact on agricultural productivity? (Please, explain)
87. Would you own land independent of your husband? (Please, explain) (Women only)
88. Would you welcome the prospect of your wife having her own land which you did not allocate or purchase for her? (Please, explain) (Men only)
89. Do you think your daughters should inherit land? (Please, explain)
90. Who decides how your agricultural produce is used?
91. How many of your children are employed?
92. Do they remit any money to you?
- [1] Yes
 [2] No
93. Do you feel secure on your land?
- [1] Yes
 [2] No
94. Please, explain your answer above

THANKS

THE END.

APPENDIX II

INTERVIEW SCHEDULES FOR KEY INFORMANTS

I. DISTRICT LAND REGISTRATION OFFICER

1. Land registration and issuance of title deeds is a continuous exercise. However, many people interviewed do not have title deeds. Why is this the case?
2. How upto date is the District Master register? Are all the dealings in land registered? If not, what kind of dealings are registered and what are some of the difficulties encountered in handling dealings in land?
3. What happens to individuals who transact in land without informing your office? What is the legal status of such transactions?
4. Who is supposed to take the initiative to ensure that whatever dealings in land are registered?
5. How inviolable is a title deed?
6. So far, how many women are title holders? Is there a gender disparity in land registration?
7. What happens to land when the holder of a title deed dies intestate?
8. How rampant are land disputes? What is the cost of such disputes in terms of litigation and agricultural productivity?
9. Have you ever refused to register land and issue a title deed? What were the reasons for this action?

II. DISTRICT OFFICER (CHAIRMAN, LAND CONTROL BOARD)

1. Tongaren Division is a gazetted land control area. What is the minimum size of land that your committee can approve for transfer? Why?
2. What is the most prevalent form of land transfer? Are there cases of land speculation? If so, how do you detect and handle such cases?
3. Apart from the size of land, what other factors do you consider in vetoing or otherwise approving land transfers? Are there any requirements that buyers should abide by?
4. The board is involved in assisting the Agricultural Finance Corporation recover some of the money it loaned people at the dawn of land registration and later. Is this an official or private arrangement? Don't you think this is encouraging illegal dealings in land that seem prevalent as people are reluctant to present themselves before the board?
5. How rampant are land disputes and what is their main cause? How effective is the land disputes tribunal?
6. Are there pieces of land that lie fallow for long periods of time without cultivation? Since this is a very uneconomic use of land, what is the position of the board in this matter?
7. Are there cases of double or multiple dealings inland? How do you, in your capacity as a District officer, handle such cases? Are they rampant?

III. DIVISIONAL AGRICULTURAL OFFICER

1. What are the main crops grown in the Division and what potential does the division have in terms of new cash and food crops?
2. What is the total yield (in tons) and area (in hectares) of the main crops in the division (the recent records available for a period of five years)? Is there any obvious trend? Why?
3. Is there any competition for land and inputs between cash crops and food crops? (Please explain)
4. What were the total earnings from crop agriculture for the division in 1997?
5. Do you have extension services in the division? How effective are they?

IV. BRANCH MANAGER, AGRICULTURAL FINANCE CORPORATION, KIMILILI.

1. Since 1963, how has been the loan disbursement programme? Can you say that the loan has helped many farmers, most of whom are small holder peasants?
2. At the initial stages, who qualified for the loan? Were there any vetting procedures? Have these changed today?
3. From the mid 1980's, farmers began receiving strongly worded letters from this corporation demanding payment of loan arrears. What was the rationale of issuing such letters that only catalyzed land sales?
4. Most farmers either misused the loans or misappropriated them. Many of the farmers were in fact, unable to repay the loans. Could you attribute this to poor supervision?
5. How hard or easy is it for farmers to acquire credit? Don't you think the kinds of collateral securities you require are beyond the reach of many a farmer?
6. What is the maximum amount of money do you lend to a farmer and for how long should the repayment be made? Is this amount adequate?
7. How effective is a land title deed as collateral security?
8. Is it true that individuals who sell their pieces of land purportedly to repay loan arrears do not actually do so? Any evidence?

V. OPINION LEADERS

- 1 How did a group of people or clan acquire a piece of land?
2. Who controlled land, its allocation and disposal?
- 3 What was the significance attached to land and how does it compare with the present situation?
- 4 Was there security of tenure? (Explain)
5. How was property inheritance, including land, carried out?
6. Did women own land? What was their status in relation to land?
7. How well did women play their role as food producers? What made this possible?
8. Did unmarried daughters have access to land? Why? What happened to whatever they produced from their parcels? Did they inherit land?
9. Was there food security? How did this relate to the mode of land ownership?
- 10 Who stored food and where was it stored? What happened to the surplus?
11. How did the introduction of a cash economy influence the mode of land use and especially the role of women in agriculture?
12. Do you think men have usurped the role of women as food producers and with what implications?
- 13 Was labour for farming adequate? What made this possible?
14. To what extent did communal living (in forts) contribute to labour availability? What sort of relatives lived together and what were their obligations to each other?
15. How was the wealth of individuals measured?
16. Was surplus production welcome?
- 17 What would you say are the consequences of land privatization?
- 18 How rampant were land disputes and how and by whom were they solved?