

STRUCTURAL ADJUSTMENT, LAND CONCENTRATION AND COMMON PROPERTY: THE CASE OF GUINEA BISSAU¹

John W. Bruce² and Christopher Tanner³

Introduction

To date, there has only been modest and preliminary attention to the relationship between structural adjustment and common property regimes. Using the case of Guinea Bissau as an illustration, this paper suggests that structural adjustment releases market forces which under certain circumstances can lead national political and economic elites to strip local communities of much of the land they use as commons. The phenomenon is not new; the enclosure movement in 18th century England is a case in point. But in socialist Guinea Bissau the legal basis for appropriating the commons is not feudal rights but the state's ownership of all land. Recognition of indigenous land rights, including acceptance of local communities' rights to areas used as commons, is likely to be a more reliable barrier against land-grabbing than any expectation of probity or restraint on the part of those who administer land for the state.

No one should be surprised that competition and conflict are typical of the creation of property relationships. After all, the assertion of property rights is the assertion of a right to exclude others. This applies to common property as well as to individual property. The creation of common property brings an end to open access. It occurs not when a resource is so plentiful that there is enough for all, but when some community concludes that scarcity requires that it appropriate and manage for itself a resource which was once open to

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² Director, Land Tenure Center, University of Wisconsin- Madison

³ Consulting Anthropologist, Cambridge SEPR Associates, Cambridge, England

all to use. In Guinea Bissau, we see local communities and national elites staking out conflicting claims to resources which have only lately come to be seen as scarce.

This paper only examines one dimension of a more complex set of issues. The relationship between structural adjustment and common property needs to be explored on several levels.

First, structural adjustment rectifies distorted factor prices created by "cheap food" policies. Because agricultural prices increase, the value of agricultural land increases, especially in areas near urban markets. We know that strengthened market forces tend to cause indigenous land tenure to evolve toward stronger individual rights and weaker community rights in land (Boserup 1981, Feder and Noronha 1987). Structural adjustment releases those market forces, and so an impact on the evolution of indigenous tenure systems can be anticipated, including the emergence of sales. The existence and extent of that impact needs to be studied, because the process is by no means simple or unidirectional.

Second, multilateral and bilateral donors have as part of their structural adjustment lending sometimes imposed conditionalities requiring reform of land tenure. Some conditionalities mandate specific reforms, typically the registration of individual titles, while in other cases the conditionality requires a process of reconsideration of the existing tenure system, with reference of specified economic and social objectives (Bruce and Magnusson 1991). The formal and political aspects of such conditionalities need to be studied, as do their extent and impacts.

Third, the result of these tenure changes needs to be explored. The changes urged are not novel, and there are precedents in Africa to which we can turn for indications as to probable results (Barrows and Roth 1990, Dickerman 1989). Of course the precedents took place in somewhat different circumstances. In the earlier cases, such as the Kenya individualization reform, the question was whether land markets would work a concentration of resources in the hands of a few and generate landlessness. Our case, that of Guinea Bissau, suggests that state action, through the abuse of discretion by administrators, can accomplish the same results more expeditiously. This may be the critical factor in the great majority of African coun-

tries who nationalized all land after independence, but have now undertaken structural adjustment programs.

Abuse of state land allocation powers to grab land from local communities has been noted in the literature regularly, in Mauritania (Park et al. 1991), Sudan (Republic of the Sudan 1986), northern Ghana (Goody 1986), Somalia (Besteman 1990), Senegal (Golan 1990) and Nigeria (Myers 1991). The Guinea Bissau case, however, deserves special attention. The extent of the land appropriations is great, and requires explanation; the possible remedies are more difficult to frame because of the scale of the process.

The Guinea Bissau Case

Guinea Bissau's agrarian structure is characterized by a dualism between *pontas* (concessions) and *tabanca* (village) farmers. Early plantation agriculture began on the Bijagos Islands, producing palm products. Some plantations were very large. The *Companhia Estrela de Farim*, for example, had a concession of 25,000 hectares in Oio Region. Newer concessions, however, were less directly involved in production, and were used to establish monopoly buying rights over the producers, large and small, in their respective regions. Thus, most production came from hundreds of small villages (*tabancas*) across the country, which had to sell to the concession holder in their area if they were to secure cash for taxes and essential purchases.

The term "*ponta*" predates the large-scale, mainly European plantations and concessions, and derives from earlier Cape Verdian settlers who arrived on the coast in the latter half of the 18th Century. "*Ponta*" was used to describe the numerous small farms set up by the Cape Verdians along the Cacheu or Farim rivers. Some of today's "*ponteiros*" claim descent from these earlier settlers, most of whom married women from local communities and so legitimized their presence in the area. More recently, the term has come to refer to newer African as well as foreign investors who are seeking to establish commercial production on concessions granted by the government.

The plantations went into decline during the 1930s and 1940s, hit by the effects of the recession and World War II. Export crop production consequently became totally dependent upon the local producers who, now more than ever, were obliged to divide their productive activity between subsistence and export crop production.

After the World War, small family farmers remained the production backbone of both subsistence and export economy. The 1953 Agricultural Census, carried out under the direction of Amílcar Cabral, reinforces the point. Although covering only "native agriculture", the census gave a total of 85,478 family farms (exploracoes agricolas) farming a total of 482,177 hectares (5.6 ha per family). Cabral describes groundnuts as the "principal, and effectively the only export crop", occupying nearly 22% of total area cultivated and becoming "increasingly integrated into the agriculture of Guineans" (Cabral 1956).

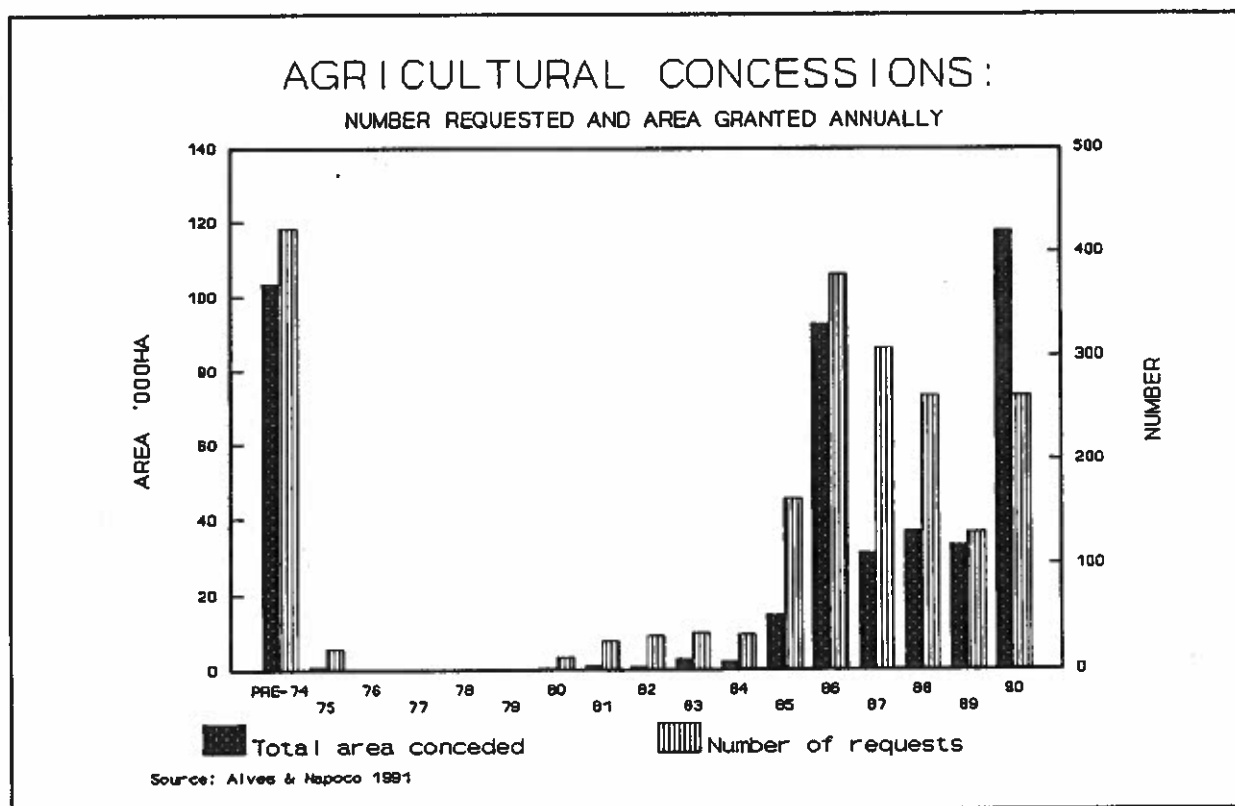
These tabanca farms continued to feed small surpluses into national and international markets through the intermediary traders and ponteiros, who in turn dealt with the large trading houses. The post-war period saw the tightening of the monopoly hold of a small number of large farms over the accumulation and subsequent exportation of village-produced surpluses. The tabancas also engaged in clandestine marketing of crops across land frontiers, which also characterizes the years of state-monopolized marketing immediately after independence. Thus, even within a risk minimizing farming strategy, small farmers sought to maximize income by avoiding official channels in search of better prices.

Post-independence rhetoric always has promoted the idea of agriculture leading the way towards national development. During the early years after independence, however, the rural sector received little attention in real terms. No new investment was made to repair or improve rural infrastructure, and state controlled prices and marketing systems gave farmers little incentive to invest or to raise their production.

As far as property rights were concerned, the independence constitution confirmed that the ownership of land was vested in the State and people of Guinea Bissau. Existing colonial legislation dating from the 1961 Overseas Property Decree remained in force, and has to date never been revoked, replaced or modified.

Economic liberalization began in 1984, with the support of World Bank lending. Progress was hampered by a failure to liberalize the market and loosen state control of key economic activities. Since 1987 the process has accelerated and profound social and economic change have taken place in Guinea Bissau. The state has withdrawn from its monopoly role in marketing and distribution, prices have been deregulated and subsidies removed, and a new exchange rate policy has narrowed the gap between official and parallel rates.

Actual developments in agriculture over the following years reveal how economic and social forces operating in a newly deregulated environment have exploited both the policy framework and the land concession regulations under the 1961 Decree to acquire newly valuable land for very little real capital outlay. Thus, one of the most notable features of rural development since 1986 is the explosion of new *pontas* controlled by absentee, urban-based "owners". There has been relatively little effective assistance to the *tabancas* beyond specific donor-assisted projects. The extent of concession granting is indicated in the table on the following page (Tanner 1991: 26, drawn from Alves and Napoco 1991).



The number of concessions granted in the entire pre-independence period (422) is low when compared with the total granted subsequently (1653). And of these later concessions, 1337 (81%) have been granted since 1986. Similarly with area, 103,500 ha were granted before 1974, against a total of 332,430 ha since 1974; of the latter, 310,900 ha (94%) have been granted since 1986.

The sharp rise in area conceded in 1990 is attributed by some observers to two factors. Firstly, this year saw the appearance of more new *sociedades*, or joint shareholding enterprises with several partners. Current law gives the top limit for new concessions as 2,500 ha. In *sociedades*, each partner is able to apply for land at this ceiling, with the result that, for example, a ten partner enterprise might theoretically gain access to 25,000 ha.

The second factor is credit. The rapid expansion of concessions has coincided with the availability of investment credits through the credit arm (DESECO) of the National Bank (BNGB). While concessions have not served as collateral for loans, a certificate of concession and related documents have been required as proof of access to a secure production opportunity. (Guarantors have been utilized in lieu of collateral.) Recently, government has decided to discount the interest rate on these loans, encouraging borrowing on a speculative basis.

Third, the granting of concessions in Guinea Bissau has been the responsibility of the Ministry of Public Works, as a result of the national capability for cadastral survey being located there. This allowed a disassociation of the reality of concession allocations from the rhetoric of agricultural policy, which continued to assert a government commitment to develop smallholder agriculture. These three factors, plus new infrastructural and other projects in specific areas, appear to have fueled the rise in concession requests and the large areas conceded over 1990. Insider information on credit policies and projects has enabled a small number of people to obtain preferential access to the best agricultural land. That land tends to be along rivers and thus controls access to water by surrounding populations.

Because land is owned by the state, it is treated as a free good, to be allocated as needed. The criterion is that "land should go to those

who cultivate it". Fees seek to cover the cost of the allocation process, but there is no open market in land which can set land values, and the state does not attempt to calculate them. Because land is so cheap, and there are no significant land taxes, applicants for concessions have every incentive to seek as much land as they can obtain, regardless of how much land they can afford to develop. The result, as elsewhere, is that while small areas of commercial production may be established on some concessions, the total area of most concessions is often less intensively utilized than land in the traditional agricultural sector. Indeed the raw figures produced by a recent and as yet unpublished Ministry of Rural Development and Agriculture survey suggest that as little as 2% of concession areas is being exploited.

Guinea Bissau requires the submission of a development and investment plan with the application for concession. Grants are determined on the basis of this plan. This system appears to have been ineffective. The research indicated that substantial area of concessions remained undeveloped and that revocations were unusual. This is the invariable experience in African countries with concession systems, due on one hand to a lack of resources for monitoring and evaluation, and on the other, a failure of officials to act against the interest of family, friends, and colleagues. There are obvious temptations for bribery of public officials implicit in the system.

A more straightforward and effective way of dealing with this problem is to create a land market with land taxes. If the state sold the land for commercial agriculture as freehold charging a modest cost which needed to be recovered, the applicants would ask for only as much land as they could profitably use, to recover the costs and make a profit. A similar effect could be achieved, though probably less reliably, if the state (or the *tabancas*, if ownership were vested in them) auctioned off the land available for concessions, and charged more substantial rent.

In field research on concessions and the conflicts with *tabancas*, a number of problems have emerged, problems which have frequently appeared with similar systems elsewhere in Africa (Tanner 1991). This system is based in state ownership of land. In theory the state, with the consent of the *tabanca*, takes land and grants it to the

concessionaires. This land, by the state's legal standards is classified as unused, though it is often seen by the tabanca as part of their heritage. The system is obviously fraught with potential conflict, and the research indicated, as elsewhere, that conflicts are indeed occurring, in spite of legal safeguards in the 1961 decree. Some of the difficulties are rooted in the policy of granting large concessions to potential investors, others in the law itself, and yet others in the way the law has been implemented.

The criteria used by the state to decide if land is available to a concessionaire are different from those of the local community. In principle, tabanca residents do not object to outsiders wanting to use land near their village. Indeed, they value the resource and are happy to see it used productively if they themselves do not have the labor or other resources to use it. Even where local people are willing to allow an outsider to use land, however, they do not want to suffer the loss of long-term control of the land to the government. Other problems include:

- 1) Resentment among tabanca residents over land taken for concessions but not used, which is also seen as an abuse of traditional customs which virtually oblige a local community to offer land to a new arrival who wants to settle and cultivate there;
- 2) Resentment among tabanca residents over more land being taken than has been approved by their own people, if customary approval has been sought, or has been approved by government authorities, when boundaries are "moved" outward subsequently, detection leading only to a small fine;
- 3) Competition between tabancas and pontas for resources, such as water for irrigation and grazing for livestock, the latter involving mutual claims of cattle damage to crops.

These conflicts center on the substantial areas of "commons" utilized by residents of the tabancas, for the gathering of firewood and other forest products, for grazing of livestock and for hunting. The research indicated that the boundaries of these areas are well-known and reasonably clear, and in many cases are the dividing line between one tabanca's "territory" and that of another. These apparently unused areas are often in fact lying idle as part of the long fallow rotation agriculture practiced locally, or are clearly seen by the "owning" tabanca as land held in trust for its future generations. These are the areas most directly threatened by the granting of concessions, because the intensive and sometimes seasonal use by tabancas residents can be ignored, to classify the land as unused and available for grant.

The experience in Guinea Bissau illustrates an urgent need to examine critically the assertion that land must be gotten into the hands of entrepreneurs coming from outside local communities if agriculture is to develop. Too often the entrepreneurs are not producers, but speculators. There is a lack of recognition of the extent of existing commercial production in the tabanca sector --or its potential for commercial production. This reflects an alarmingly persistent tendency to regard the tabanca sector as a subsistence sector whose destiny is more the provision of social security need than the achievement of production goals. There is then a danger of the marginalization of the bulk of the national population by an agricultural development strategy that is too punta-focused in implementation, with serious implications for poverty and related social indicators over the long term.

While the lack of development of most of the newer pontas demonstrates the failure of concessions as a tenure strategy for agricultural development, there is a positive side to this. The deforestation and displacements of plant and animal populations which would have taken place if development of the concession had proceeded, has not occurred to any great extent, although there are indications that tabancas are clearing larger areas to cultivate haphazardly or plant with fruit trees in order to fend off concessionaries. The commons are still there on most concessions and in many cases local communities still use them, unaware of the long-term implications of the changed legal position. Retrieval of the situation is still possible, if politically difficult.

How does a government back out of this sort of cul-de-sac? The policy objective is not the full development of the concessions, which would be ecologically very damaging, but a scaling back of concession rights and the retaining of land in sustainable uses.

A recent Land Tenure Center report (Bruce et al. 1992) has identified several important needs as:

(a) The development of mechanisms to return undeveloped areas to tabancas, through either enforcement of the development conditions to terminate concessions or through a process which allows concessionaires to obtain unconditional title to the developed portions of their concessions by turning back the undeveloped portions to the tabancas.

(b) A clear recognition of customary rules and legal protection of the customary rights over the territories of tabancas, as defined by customary rules.

(c) Implementation of a program of tabanca demarcation, which establishes the boundaries of these communities based on local expectations as to resource access for present and future generations.

(d) Creation of a stable regime for community (tabanca) management of resources used in common, preferably as common property or failing that, as a matter of administrative law.

(e) The re-examination of dispute settlement mechanisms to understand how they could best be arranged to facilitate change in customary rules to meet new needs and to achieve a fairer adjudication of disputes between potentas and tabanca residents.

For resource management, the critical element will be the creating of a stable regime of common property management by the tabancas. There is a need to recognize that not all resources within the territory of a tabanca are appropriately managed as common property. While customary tenure in Africa is sometimes characterized as communal, this is misleading. The common use of the term "communal tenure" for these systems obscures the fact that they provide secure private rights (less than freehold ownership, of course) to

individuals or households. Tabanca land tenure is not static but evolving, and holders of farmland in the tabancas increasingly see themselves as de facto landowners. The fact that the level of internal conflict over land within the tabancas is low suggests that the existing tenure systems are meeting local needs reasonably adequately, and coping with a complex ethnic and cultural land and resource use system probably more effectively than any "modern", "codified" law.

Any adequate regime for tabanca land management must recognize both the strong individual and household rights which exist in agricultural land, while devising mechanisms for tabanca management of the forest, pasture and water resources which are best managed as a common fund for community use. This task, and that of restricting speculative land appropriation by elites, are inextricably connected; one will not be achieved without the other. The creation of common property, thus, occurs at the nexus of competition for land between local communities and national elites.

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