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The Community Land Trust as an Alternative Land Tenure System

Growing citizen concern over the conversion of farm land to more intensive uses, and about the disappearance of family farms, has captured the attention of numerous federal officials. Eleven federal agencies are currently pursuing a national agricultural lands study, constituting a review and synthesis of all existing studies of the changes in prime agricultural land in this country. Secretary of Agriculture Robert Bergland has called for a national dialogue on the structure of American agriculture. In ten public meetings, in 1979, he listened to testimony of citizens regarding land ownership, control, and tenancy; barriers to entering and leaving farming; size of farms; the role of technology; returns to farmers; costs to consumers, and many other critical issues concerning the nature of rural life in the United States. A report and recommendations are forthcoming. These small steps reveal concern at a level that may slow the unchecked concentration of land ownership depicted below, or at least may support and encourage alternative tenure systems such as the community land trust.

The current land reform movement in the U.S. seeks not only to change and control land *use*, but further to change and control *ownership* patterns. The economics of land ownership determines in part its use--whether the land is farmed or developed--and determines to a large extent who is wealthy and who is poor. Current patterns of land ownership in the U.S. have not been thoroughly studied, and those reports which have been produced are investigative searches dependent on tax rolls and annual reports with no support from the government sector (Barnes, 1971). These preliminary investigations have revealed staggering statistics: it is likely that five percent of the population owns nearly two-thirds of the private property in America (Barnes, 1972). This report, seven years old, does not reflect the growing trend of foreign direct purchase of American land, removing the land from the people at a quickening rate.

One suggested reform is the establishment of community land trusts, removing parcels of land from the free market and placing them on a stewardship for a larger common good. What follows is a look at the development of the concept of private ownership in the U.S., the current situation, and the feasibility of communal ownership as a successful reform.

DEVELOPMENT OF PRIVATE PROPERTY

The extension of a person's right to land beyond simply the right to use it derives from imperial Rome (Sakolski, 1957). Traditional notions of land ownership are quite different from the American acceptance of individuals (or corporations) accumulating more land than they can use and then charging others for the privilege of using it. African, ancient Chinese, and American Indian cultures considered the village or community the holder of land, distributing it only as it was needed for use (Bertrand and Corty, 1962).

With the emergence of the Roman Republic, each citizen was granted a small parcel of land as well as rights to the public domain. Wealthy families began to amass the public land, and military leaders were granted large tracts of this land both in Rome and in conquered areas throughout Europe. Eventually, small landowners could not compete with the landed aristocrats and sold their land, creating even wider social and economic disparities (Sakolski, 1957).

British feudal empires, although characterized by large privately-held estates, left some public land for commoners to farm or graze livestock. In the 17th and 18th centuries, however, the Enclosure Acts allowed the landed class to fence off millions of acres of common land from public use (Bertrand and Corty, 1962). The commoners who left England as a result of this feudal land grab settled in New England, and, initially, land there was evenly distributed, with common areas as well. The land companies who settled the South, however, were sent by the aristocratic class, who parceled out large plantations and began to farm them using African slave labor (Barnes, 1972).

Once the U.S. gained its independence, some method for distributing the unsettled expanse of Western lands had to be determined. The debate was not concerned with whether private or public ownership would be explored; there

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was no doubt that individuals would be allowed to own the land. One side of the debate, most identified with Jeffersonian ideals, favored distribution of small parcels to settlers at no cost. The opposition favored selling the land to settlers and speculators alike (Sakolski, 1957). Unfortunately, the wealthiest speculators were among the most powerful politicians, and what ensued was the distribution of millions of acres with no regard for the individual.

The series of land frauds that took place in the first half of the 19th century succeeded in driving up land prices to the point that people moving West could not afford to settle, and set the stage for today's distribution of land. The earliest of these frauds, known as the Yazoo land frauds, allowed the Georgia legislature to give away more than 30 million acres to a group of land speculators (Patrick Henry included) who then resold them at enormous profit (Bertrand and Corty, 1962). Henry Miller, a German immigrant who amassed 14 million acres in his lifetime, succeeded in acquiring free from the government several thousand acres of dry land under the Swamp Lands Act of 1850. The Act made available to individuals free any "swamp land" only traversable by boat, so Miller crossed his land by loading a rowboat onto a wagon and having a team of horses pull him across.

The timeliness of these frauds is realized in the case of Lloyd Tevis and James Ben Ali Haggin, who received title to 150 square miles of California's San Joaquin Valley by hiring vagabonds to claim 640-acre parcels of land under the Desert Land Act and then transferring those claims to themselves. Although the fraud was discovered, the lands were never returned, and in 1890 Haggin and Tevis incorporated the land under the name of Kern County Land Company. In 1936, oil was discovered under the land, and rather than pay taxes on the oil earnings, Kern County Land Company invested in tax-loss farming. In 1967, Tenneco, an oil-chemical-manufacturing-packaging-farming-land development comglomerate bought the company, and although Tenneco reported earnings of $73.8 million in 1970, it paid no federal income taxes that year, and filed a tax credit of $20 million (Barnes, 1972).

While these land frauds were amassing land with no regard for the law, Congress enacted laws throughout the 1800s which allowed the acquisition and perpetuation of large land holdings. The initial land act was the Preemption Act of 1841, which allowed families already settled on 160 acres of unsurveyed land the first option to buy it. This Act, as well as the more important Homestead Act of 1862, allowed land speculators to obtain thousands of acres of land by using "dummy entrymen"--hiring men to claim land and sign it over to the company. The Homestead Act, on paper, granted families 160 acres if they lived on the land and improved it for five years. In reality, few families received the benefit of this law.

Realizing the rampant violations of the Homestead Act must be stopped, Congress enacted the Reclamation Act in 1902. This law provided federal funds for irrigation of farmland only if the owner resides on the land and owns less than 160 acres. The low density of settlement patterns made its enforcement difficult initially, and enforcement of the 160-acre limit continues to plague the Bureau of Reclamation, as political pressure forced relaxation of the regulations (Barnes, 1972). In California, farmers' organizations are still working to have this Act enforced and implemented for small landholders (Markusen, 1979).

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The social consequences of these historical giveaways are the perpetuation of the current pattern of land ownership, creating great disparities of wealth and power between the landed aristocracy and the small landowner. Eventually the landless (powerless) rural people migrate to the cities, unprepared for urban life, or remain in poverty in their homelands. This early land distribution farce set the stage for the current corporate comglomerate landownership in the U.S.

THE TREND CONTINUES

Blatant violations of laws are easily identified, even if they are not easily rectified. Today, political land giveaways to favored landowners are much more subtle, achieved through preferential tax treatment, zoning changes, highway routing, and subsidies.

The tax system provides incentives for land speculation in four ways. First, and probably the most lucrative tax benefit, is the capital gains tax. Under this loophole, profits from the sale of real estate are taxed at approximately half the regular income tax rate. A second tax break is the accelerated depreciation clause. Real estate investors are allowed to deduct from their taxable income the annual depreciation of structures on their land (Barnes, 1972). Most real estate investments do not depreciate at all, so investors get a double return on their investment at the expense of the taxpayer.

The oil depletion allowance, a tax break for owners of oil, timber, coal, and other mineral deposits, deprives the federal treasury of up to $1 billion a year (Barnes, 1972). Later it will be shown that a large percentage of these lands are owned by a very few large companies.

The fourth tax break for land speculators is the deduction of farm losses from non-farm income. Again, as in the accelerated depletion clause, although the land *use* is losing money, the land *value* is increasing rapidly, and any losses are returned in part through income tax deductions (Barnes, 1972).

In addition to income tax provisions, property taxes are also lower for large landholders, through the systematic underassessment of corporate landholdings. In 1970, a Vanderbilt University study reported that, in Tennessee's five most productive coal counties, coal companies control one-third of the land but pay less than 4% of the property taxes. In Georgia, in 1972, the state government paid $2000 an acre for land owned by Union Camp that had been assessed at $20 an acre (Barnes, 1972). The list of extralegal underassessments is endless.

"...CONGRESS ENACTED LAWS THROUGHOUT THE 1800S WHICH ALLOWED THE ACQUISITION AND PERPETUATION OF LARGE LAND HOLDINGS"

Some tax policies have legalized underassessment. In 1966, the California legislature enacted the Williamson Act, a law to preserve prime agricultural land by reducing property taxes on the land, the idea being that lower taxes would keep the farmer from having to sell out to developers. A 1972 study by the California State Board of Equalization revealed that 26% of the 9.5 million acres benefitting from the Williamson Act are owned by twelve corporations (Barnes, 1972).

The social welfare implication of underassessment is that the wealth of rural areas is being *siphoned* away by absentee-owner corporations. The corporations are not reinvesting their profits in the region, largely because the company's base is usually not where their farmlands are, and they are not even paying enough property taxes to support public facilities (primarily schools) (Barnes, 1972). Corporations generally use migrant farm labor, who do not pay taxes or spend their money in the region either.

Another area of government policy which, although intended for the small farmer, actually benefits the corporate landholder is the subsidy program for not growing crops. Originally, the subsidies were to prevent the small farmer from being forced off the land by rising costs and lower prices. Yet this program, too, has backfired. The wealthiest seven percent of farms receive 40% of the benefits of the subsidy (Casalino and Barnes, 1972). When Congress set a $55,000 limit in subsidy, many corporations subdivided into dummy subsidiaries to receive full benefit (Barnes, 1972).

THE CURRENT DISTRIBUTION OF LAND

The combination of government support for corporate ownership of rural land and the corporations' ability to manage around the law has created the conglomerated land holding situation today. Activities requiring large tracts of land for success have been industrialized by large U.S. and multinational corporations. Agriculture, timber, energy, and land development profits are all concentrated in the hands of a few large landowners.

TIMBER

Non-local timber companies are the largest landowners and largest industrial employers (lumber, pulp, and paper), as well as the largest polluters in the South.[1] Often the single company in a rural town, they enjoy low wages, low taxes, and no unions. Other timber dependent states are under the control of the same corporations; in Maine over one-half of the state's land area is controlled by five large timber companies and their subsidiaries. The top twelve corporations control over half the total timber industry acreage in the U.S. In addition to their corporate holdings, the "multiple use" criterion of national forests have set aside 186 million acres of public forestlands for use by the timber companies, although in theory recreation, wildlife, and watershed protection are equally considered.

The large get larger in the timber industry --Georgia-Pacific acquired sixteen smaller companies from 1960-1970--and the government encouraged this growth in each company through the capital gains tax. Additionally, with the increasing technological shift of the timber production industry, to tree farming (planting trees like crops) and mechanized harvesting, individuals will soon be unable to compete in the timber market.

ENERGY

Although the exact holdings of oil companies cannot be determined, domestic oil holdings of the largest companies total over 64 million acres. Beyond oil, the largest twenty oil companies own 60% of U. S. natural gas reserves.

Over thirty of the top fifty coal companies are oil subsidiaries, and oil companies control over half the available uranium reserves. These corporations are beginning to buy failing solar companies as well, in an attempt to gain complete control of all energy supplies, termed "vertical integration."

The grim reality of energy production can be seen in Appalachia, where fossil fuel mining is a billion dollar endeavor annually. Yet the residents of Appalachia remain poor and totally controlled by the mines, which jeopardize their land, their homes and their health.

LAND DEVELOPING

Many of the major corporations are putting their land holdings to use in residential development. "The solution to the problems of a city," according to the president of the ITT Community Development Corporation (Barnes, 1972), "is to have someone enlightened own it and control it." Large corporations, feeling enlightened, are attempting to develop (and control) their own cities. ITT is developing the city of Palm Coast on 100,000 acres of Florida's shore; Standard Oil is involved in four communities developing near Houston; Gulf Oil has begun developing new towns in five states.

Land development is a good investment to avoid inflation, taxes, and the development of stockpiles of old money, and also reaps great profits. Even under the guise of developing well-planned, pleasant living situations, the corporations have created sterile uniform suburban development (like Levittown and Reston) that allows them to maintain control over their expanses of undeveloped land as well. More subtly and even less tested is how deliberately the corporate developers are creating uniform living environments, encouraging the American public's dependence on the products of the corporations, and increasing their control over the American lifestyle.

AGRICULTURE

In 1950, there were 5.4 million farms in the U.S., the average size being 215 acres. That situation changed in the next decade to 4.6 million farms, averaging 302 acres (Bertrand and Corty, 1962). By 1970, there were only 2.9 million farms, the average being 380 acres. An article in the *Wall Street Journal* on May 11, 1972 estimated that 1670 small family farms were being sold *per week*. The largest 2% of farms (approximately 40,000) accounted for over one-third of farm sales in 1969 (International Independence Institute, 1972).

Conglomerates such as Standard Oil, Boeing, Dow Chemical, Goodyear, Union Carbide, and Tenneco are all investing in agribusiness, with the blessings of the U.S. Department of Agriculture. The USDA claims larger corporate farms enjoy more economic efficiency in food production. Yet in 1967, J. Patrick Madden, a USDA economist, reviewed 138 studies of farm production costs and found that mechanized one- and two-person farms, in all studies under 1000 acres, were repeatedly more efficient (Barnes, 1975). Efficiency aside, corporate farms can afford to lose money on farming and often desire a loss for tax purposes discussed above. A small farmer, living off his or her farm income, seems on paper to have a less economical operation than the large corporation's farming efforts. A small farmer simply cannot compete.

Aside from the tax incentives for corporations to invest in farmland, speculation is a profitable reason for buying agriculture land. *Dun's Review* put it aptly: "The kicker in many agri-deals is the hope that a suburb or a recreation development will sprawl its way." (Casalino and Barnes, 1972).

Some of the corporate farmers have a real interest in farm production, hoping to develop integrated "total food systems." Tenneco, originally an energy company and among the top fifty corporations in the U.S., is attempting

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to control a selection of fruits and vegetables "from seedling to supermarket." The company purchased the Kern County Land Company in 1971 (1.8 million acres) and Heggblade-Marguleas, the largest fresh produce distributor in the U.S. Combine these purchases with Tenneco's Packaging Corporation of America, farm machinery corporation (J.I. Case Company), oil and chemical subsidiaries, and the largest date processing plant in the country, and they have essentially cornered the market (Barnes, 1972).

The implications of this change in the pattern of farm holdings in simple economic terms are explicit: to start a farm that costs \$500 in 1940 now has capital costs of \$12,000, not including interest payments and assuming an individual can secure a loan of that magnitude. One of the major contributors to this exponential jump in farm start-up costs is the increasing technological dependency of agricultural production. Agriculture technology is not only capital intensive (machines, buildings, and chemicals), but is also concerned with the hybridization of plants and animals and new techniques such as crop rotation and contouring which are labor-intensive. The shift toward increasing use of technology also implies a theoretical increase in the amount of land available to a farmer as productivity per acre increases. This increase in productivity per acre as a result of increasing technology nets a decrease in the actual number of people employed on farms.

As agriculture becomes more mechanized and continues to be dominated by the corporations with the capital, the family farmer is effectively driven off his or her land. Many have migrated to urban areas. Some continue to subsist in poverty on land that has been in their family for decades. A few farmers are proletarianized by large corporate farms, continuing to farm but having no stake in the land (International Independence Institute, 1972). A growing number of small farmers are supplementing their incomes with off-farm jobs. Using the 1960 statistics again, 34% of employed men and 61% of employed women living on farms were engaged in nonagricultural jobs. These percentages are an increase from 17% of men and 52% of women in 1940 (Bertrand and Corty, 1962). The option for men and women to gain independence from the current industrialized American lifestyle is rapidly becoming an economic impossibility.

Unfortunately, my limited research has found no sociological studies of the problems of farm residents who are forced to live in bleakest poverty as a result of corporate hoarding of land, forced to sell the land their family has farmed for generations, or forced to move or work in the city. Most social science researchers are preoccupied with the urban environment, where large numbers of unhappy people at high densities create health, safety, and satisfaction problems for the ruling class. The urban rich cannot avoid being affected by the urban poor as easily as they can forget the plight of the small farmer, isolated many miles away. This preoccupation with the city on the part of both researchers and government agencies has allowed the unchecked amassing of much of the remaining rural land in the U.S., as small farmers then are integrated into the urban problem.

AN ALTERNATIVE

The problems of urban crowding and corporate control of the U.S. economy are easily recognized and often debated, yet few analyses question the American system of private land tenure. Modification of the system which allows a few wealthy individuals and corporations to collect land in absentee ownership is the first step toward a more equitable distribution of wealth. The community land trust is an institutional, legal, alternative form of land tenure that may provide a means to achieve this new distribution.

The community land trust concept is an attempt to separate land from those things classified as property and to consider it as trusterty. According to Ralph Borsodi, a founder of the land trust movement, property is created by people through their labor, and can be owned and exchanged. Trusterty is land, water resources, natural forests, and mineral resources--essentially that which was not created by people and should not be owned by individuals (Borsodi, 1968). Robert Swann, director of the Institute for Community Economics and the National Community Land Trust Center, proposes that any trusterty which is held at all should be held as a common trust, under the control of the entire community (International Independence Institute, 1972).

Within this theoretical framework, the actual land trust is a legal entity, generally a private nonprofit corporation, that acquires land by gift or purchase to be held for an unlimited duration. Proponents of land trust do not consider government intervention to nationalize land the most feasible nor the most effective method of acquiring land. In the 1930s, the Federal Resettlement Administration tried land trusts, which were unsuccessful for basically two reasons. First, land trusts were initiated and administered by the FRA rather than as a response to public demand. Second, the politics of government control of land placed too much pressure on the FRA, so the program never got off the ground (International Independence Institute, 1972).

Once the land is acquired, the trustees determine what parts of the land trust are of interest to the community as a whole, such as mineral resources or water. The remainder of the land is divided and leased to members of the trust. The individuals or families involved generally sign a long-term renewable lease, and pay annually approximately 2-3% of the cost of the land. In some instances the leases are inheritable and guarantee the same rights and security a landowner typically enjoys. The exceptions are that the lessee must be in residence on the land and that the lessee cannot exchange the land or the lease on the open market, but must deal with the other trustees.

The trust is administered by members of the community, and a variety of forms of governing are presently used. Income from the leases can be used to purchase more land or to help other groups begin their own trusts. The community also decides generally the acceptable uses of the land.

USE OF LAND TRUSTS: URBAN APPLICATIONS

How the land is used makes community land trusts different from conservation trusts such as the Nature Conservancy, whose land trusts are specifically to preserve special areas. Community land trusts encourage development that seeks to meet both the economic and social needs of a larger community. Generally, community land trusts are developed as either solely residential communities or residential/agricultural communities; these forms will be discussed in greater depth below. There is, however, potential for urban land trusts as well. The National Urban Land Program of the Trust for Public Land focuses on inner-city vacant lots (an estimated 20,000 in Philadelphia, 45,000 in New York, and 100,000 in Los Angeles), acquiring these bits of land and bringing them under community control. The interested residents form a committee, and eventually an autonomous corporation to take the land titles. Projects to date have been developed as community gardens and parks or cleared and planted as open space with future plans for use (Blackmore, 1978).

In Rockville, Maryland and St. George, Vermont, the municipalities have assumed title to land which normally would be sold for taxes. In Rockville, forty acres of industrial development is planned, the land being leased rather than sold to developers. The city then has more direct control over the use of the land than zoning could provide (International Independence Institute, 1972). Local governments, then, could act as a trustee when land is newly developed, retaining title to the land and monitoring its development. Edgardo Contini (1972) suggested the concept of "land dedicated to urban development as a public utility, owned and administered by the community itself." Community control through the local governing body would be acceptable governmental intervention to the proponents provided the trust is administered by an independent public body. Unless governments can be involved, widespread use of community land trusts, particularly in urban areas, may never materialize.

USE OF LAND TRUSTS: RURAL APPLICATIONS

Rural agricultural land trusts are much less complicated and more politically and economically feasible than urban ones. Generally, rural trusts can be accomplished with less government involvement, and at a lower cost than urban land. And at the present, while rural land trusts can provide a residence and a livelihood for members, urban land trusts are smaller parcels which can only be used collectively, making the rural areas an easier choice for members, based on personal economics.

Rural land trusts occur at every scale, from thirty acres to the 5700-acre New Communities, Inc., in Lee County, Georgia. Most of these trusts, initiated by Robert Swann's Institute for Community Economics, are based on the *Gramdan* movement in India, which set aside millions of acres for the landless poor while Gandhi was in power. The basis for New Communities, Inc., was to begin to provide a land base for Georgia's rural black population. The articles of incorporation of the North Carolina Land Trustees of America, Inc., include as a purpose to acquire land "to be used by people who possess the abilities and will to act as stewards of the land but who lack capital resources."

THE SUCCESS OF THE MODEL

New Communities, Inc., is the most publicized community land trust, the first one organized around the *Gramdan* model. Begun ten years ago, the farm is the largest black-owned single-tract agriculture operation in the U.S. Future plans include building residential settlements, schools, and an industry base (centering on the processing of farm products) (Blackmore, 1978). They have the potential for a self-sufficient new town, yet no private property in the entire development.

Vermont's Earth Bridge Land Trust, Virginia's Wartroot Trust, and the Oregon Women's Land Trust are based on collective agriculture efforts. Maine's Sam Ely Community Services Corporation has concentrated on leasing land to individuals for their own individual efforts, whether farming or simple residential, still preserving some common land (Blackmore, 1978). In all cases, families who would otherwise be forced to live in non-rural settings near industrial jobs and where low-cost housing is more abundant now have access to land they can develop in accordance with the community's wishes and their own desires, and now may gain a measure of control over their own lives.

An added benefit of community land trusts is the variety of people attracted to them. An unscientific survey of members of land trust communities by John Blackmore (1978) revealed a multiracial mix of all ages, all economic levels, and all political ideologies. Common to most are love of the land, desire to have more control over how land is used, and recognition that the government will not intervene in the growing control of productive land by large corporations. Few could have chosen this lifestyle without the community land trust.

CONCLUSION

Although only a small amount of land is currently held in trust, the existing community land trusts show the viability of such a tenure system. Not everyone in the U.S. can live on a farm nor would they choose to, but the current maldistribution of the population (according to the 1970 census, 70% of the population lives on 2% of the land area) and the success of land trust experiments suggest that more people would choose a rural lifestyle if resources were available to do so. If corporate landholdings are allowed to increase at their current rate, fewer and fewer individuals will be able to live in non-urban environments.

The perpetuation of private ownership also contributes to the powerlessness of working people whatever the environment. Marx suggests the industrial proletariat could never have been created had land been available to everyone. In agricultural production, increasing disparity in holdings by one owner coupled with increasing disparity in technology and scale of production, has led to the proletarianization of the family farmer. Land trusts are providing a means for these farmers and others to regain their independence.

For land trusts to be successful on a nationwide basis would require large-scale changes in the American political and economic systems. The existing efforts, however, are providing the disenfranchised and others access to land and to a productive capacity that can compete with corporate farming systems. They may prevent the corporations from achieving "vertical integration" of all food products; that is, stop the control of every aspect of production from "seedling to supermarket."

Economically, land trusts can influence land prices in the adjacent region by either leasing land on favorable terms (placing a ceiling on prices) or holding back from the market (putting a floor under prices). The rental charges on leased land can also influence demographic patterns, if the trusts can accommodate a significant proportion of the population.

On a broader social level, land trusts and the sharing of land encourages residents to use a cooperative economic organization in their other endeavors, familiarizing the market-indoctrinated Americans with other economic systems. And without the motive of profit, development decisions can be more influenced by larger community objectives and definitions of need not based solely on economic gain.

The accepted planning solutions to urban problems today focus on inner-city situations--public housing projects, industrial jobs. To a limited extent, through mechanisms such as the community land trust, rural solutions may be sought to urban problems. Making viable a rural lifestyle may in fact circumvent some problems which arise as rural residents are forced into the city. Consideration of the 98% of the land area where densities are lower may result in fewer urban problems directly, as city-dwellers become able to take on a non-urban lifestyle, and indirectly, as land trusts slow the corporate takeover of rural land in the U.S.

NOTES

1. The discussions of timber, energy, and land developments draw totally on the research of Peter Barnes and Larry Casalino, 1972, *Who Owns the Land?*, published by the Center for Rural Studies, San Francisco, California.

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