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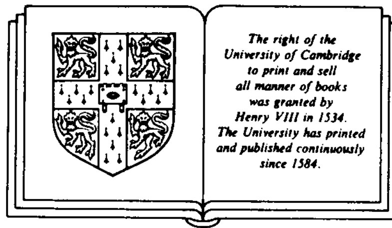

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Foreword

Professor Sally Falk Moore delivered the nineteenth series of Lewis Henry Morgan Lectures at the University of Rochester in 1981 on March 17, 19, 24, and 26. All those who heard her elegantly clear exposition were aware that what she had to say was a careful distillation of her argument and of the evidence supporting it. The lectures and discussion of them indicated that there had to be more and there is, here presented in fully developed form.

The lecture titles of Professor Moore's original series, "Process in Anthropology," were:

1. Making Models That Move
2. Explaining Historical Sequence: An African Case of Early Economic Success
3. Not Very Customary Law: The Chagga of Kilimanjaro Today
4. Some Significant Sequences

Comparison of these titles with the present version's part and chapter designation makes it clear that the shape of the original has been preserved, though often what was initially a paragraph has become pages or even an entire chapter.

This study of the Chagga, based on extensive field research and augmented by the published literature in several disciplines and by archival resources, undertakes to break new ground in the study of law and social change, and has strong implications for anthropological theory in general. The account is certain to be of great interest not only to anthropologists concerned with East Africa, but to all anthropologists, especially those engaged in the study of law or change. It will also be significant for individuals with a diverse range of other concerns, such as those interested in history, social theory, economic development, and political systems.

Lewis Henry Morgan, though he did not know the Chagga, would have certainly welcomed this book and the lectures from which it developed.

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In dealing anthropologically with law and with social change, Professor Moore's work unquestionably carries forward the broad tradition for which Morgan labored so hard to establish a base.

ALFRED HARRIS
Editor
The Lewis Henry Morgan Lectures

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Preface

This is a book about the transformation of the way of life of an African people. It uses fieldwork data to illuminate history and the historical record to make sense of ethnography.

When I first went to Africa in 1968 to work among the Chagga of Kilimanjaro, I had three general lines of inquiry in mind. The first concerned recent history. The Chagga were reputed to be among the most modern of the rural peoples in Tanzania, being prosperous cultivators who had started one of the first African-owned cooperatives in the continent. I wanted to know how their economic transformation had come about and why. The second question had to do with their indigenous legal system. In the nineteenth century, the Chagga had permanently occupied individually held plots of land and irrigated gardens. Permanent landholding clearly meant that they had had an elaborate system of property rules. I was interested in the nature of the ongoing system of landholding, other aspects of local law, and the way these might reflect change. The third issue concerned African socialism. I wanted to see it in action, to observe at the grass-roots level the attempt to implement an ideological position. This book reflects those interests, and concentrates on the legal dimension of local affairs. Law is treated here as a categorical slice of life that includes both local practice and national policy, activities both in and out of the courts, and touches everything from politics to property, from incest to inheritance.

The fieldwork for this study was done in a series of segments in the summers of 1968 and 1969, the summer of 1973, and later visits in the winter of 1974 and the fall of 1979, and a brief visit in 1984. The longest periods of continuous contact were four-month stretches in the summers. Kiswahili and English were the languages I used. In addition to their own language, Kichagga, almost all Chagga speak Kiswahili. Kiswahili is the language of the schools, the courts, and of public affairs. A number of Chagga also speak some English, and a few speak it well, so I often had opportunities to check matters in both languages.

In order to make certain that the material I was collecting was not

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someone's idiosyncratic view I worked in four contiguous ex-chiefdoms, Kilema, Marangu, Mamba, and Mwika. I also made some visits to the primary courts in Keni-Mriti-Mengwe and in Moshi. The people I knew in each ex-chiefdom did not know my contacts in the others and had no way to know what I was being told elsewhere. I employed research assistants to collect some comparable materials in Machame and Uru, though, of course, they had no idea what patterns I expected the material to produce. Thus some data have been assembled from seven of the seventeen ex-chiefdoms of the mountain. Only a small part of this material is in this book.

Working in segments of time over a number of years, originally because of family reasons, not intellectual ones, eventually turned into a singular advantage. To return at intervals and to be more warmly welcomed each time is encouraging. But more important, revisiting in this way gave a time perspective on dispute histories and on political change that could not have been obtained in any other way. To know people over a dozen or more years is to see their children grow up, to have shared some of their past, to have known some of the people who have now died. That knowing-the-past changes the ways one perceives others and is perceived oneself.

Many Chagga helped me in my collection of material, some as paid research assistants, some out of friendship, others out of curiosity or ethnic pride. I cannot mention all of the many people I knew or met, but would like at least to acknowledge some by name. But for the patience and help of these persons this account could never have been assembled: Mary Makulata Nguma, Hawkins Ndesanjo Mremi and his wife Martha Makwai, the Reverend Arbogast Sekundo, Joseph Merinyo, Mapenguka son of Muchake, Petro Itosi Marealle, Sifueli N. Minja, Elinami Njiro, Aaron Z. Nkya, Epiphania Masawe, Pastor Godwin Moshi, Nicodemu Male, Stanislaus Teliani Mosha, Fidelis Merishoki, Magistrate Modesto Ngoti, Magistrate John Leana Moshi, and Cliff Mamuya. All of these persons, and a large number of others, took time from their other affairs to talk with me, to tell me things about their lives or work, and to ask me questions about mine. Crossing the great distance that lay between us was a moving experience for me, and a profoundly humbling and instructive one.

Although the studies of an academic anthropologist may seem politically insignificant from an American perspective, they are not politically colorless locally. Because of the strong ideological commitment of the Tanzanian government to detribalization, the idea that someone was writing about the way of life of the Kichagga-speaking people of Kilimanjaro had local political resonance. That layer of meaning floated behind many immediate concerns. Some individuals feared that too much might be

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found out about their property dealings. Others worried that their manipulations of the bureaucracy might be discovered and reported, or some absence of political faith recorded. To be counted trustworthy by some in these circumstances is great good fortune. To be classified as potentially dangerous by others would not be unreasonable. Doing fieldwork in such a setting is a complex task. Writing about it has sometimes been more so. But now that enough years have passed since independence the most dedicated friends of African socialism themselves speak publicly and more frankly of deep running problems in realizing the ideals of the movement than in the early days.

As far as possible the field data in this book are reported as observed, found, told. Having found corroborating materials in a variety of ex-chiefdoms gives the specific instances chosen for description a typifying ethnographic weight. And their specificity gives them life. But in the interest of not harming any individual, identities have been concealed by changing names and by omitting detailed geographical locations. But other than concealing identities, I have not tampered with the data reported here.

This book is written for the Chagga themselves to read, and for their children later on, as much as it is for others to learn about them. For those interested in social theory the history of their "customary law" poses many of the analytic and methodological questions that are problematic today. Quotation marks emphasize that the notion of "customary law" is itself a cultural construct with political implications. The term sounds as if it designates a straightforward set of traditional rules. But the entity to which it refers is a set of ideas embedded in relationships that are historically shifting. The label "customary law" has its own history in the colonial and postcolonial worlds.

I have reason to be grateful to many individuals and a number of institutions for having had the opportunity to explore these questions on Kilimanjaro. First, I am grateful to the African Studies Center at the University of California, Los Angeles, for having provided me with a scholarship period to prepare myself before I started fieldwork. I was thus able to learn the rudiments of Swahili before embarking, and to read something of the history of the area. I am especially grateful to Professors Hilda Kuper, M. G. Smith, and the late Max Gluckman for their interest, help, and encouragement at that stage of my work. The Social Science Research Council funded my first trip to East Africa, the National Science Foundation two subsequent ones, and most recently the Wenner Gren Foundation made possible a side trip to Kilimanjaro when I was in Africa on other business. Nothing would have been possible without the financial support so generously given. I am also grateful to University College, London, for hospitality over the years, especially for allowing

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me to use its facilities between trips to Africa, and to the University of Dar es Salaam, for permitting me to be a research associate of that institution whenever I was in East Africa. At Dar my work was formally sponsored by a series of deans of the Law School to whom I owe thanks, particularly to Yash Ghai and to G. M. Fimbo, and to Professor Isaria Kimambo who made my work possible in his capacity as chief academic officer of the university during several of my visits. Recently and informally I have been encouraged by the interest and hospitality of Professor Justin Maeda and I want to acknowledge my debt to him. I also have had many reasons to be grateful to the Department of Anthropology at Harvard University over the past three years for the cheerful collegiality which made it possible for me to finish this book. I am very much indebted to Jane Trahan for processing the manuscript through its several drafts and managing its form with skill and care. To Alfred and Grace Harris at the University of Rochester I owe special thanks, since their invitation to give the Morgan Lectures and their cheery welcome at Rochester brightened a period of work that might otherwise have been less productive. And last I would like to thank my husband for being such good company and such a warm friend through so many unusual times and in so many unusual places.

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