Struggles over belonging:

insecurity, inequality and the cultural politics of property at Enoosupukia, Kenya

Scott Evan Matter

Department of Anthropology

McGill University, Montreal

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Abstract

In the formerly forested highlands overlooking Kenya's Rift Valley from the boundary of Narok District, rights in land are highly contested. Disputes revolve around a central question: who belongs at Enoosupukia and to whom does Enoosupukia belong? For a core community who call this place their ancestral home, uncertainty about the answer translates to a pervasive sense of insecurity and hardship; faced with a diverse array of competing claims from a constellation of actors, including non-local members of several ethnic and sub-ethnic collectivities as well as local and central branches of the Kenyan state, residents of Enoosupukia seek to alleviate their problems by negotiating recognition of their claims to belonging. In so doing, they deploy a variety of strategies, from lobbying for the completion of land registration and titling to forging and maintaining connections with appointed and elected officials who can act as patrons and protect them from unfavourable interventions. While these strategies have resulted in limited success thus far and locals currently enjoy the ability to occupy and make use of the land they claim as their own, though not necessarily in all the ways they would like to, their continued presence in the highlands is tenuous, subject to frequent challenges, and contingent upon constant negotiation.

This thesis is organized around a modified version of the intensely political central question of belonging at Enoosupukia; rather than evaluating claims and claimants to determine who belongs and to whom the place belongs, I ask how belonging is negotiated and contested, through what practices and according to which principles. Further, I ask whether and how recognition and legitimacy of particular claims, if only fleeting, are established. Taking neither insecurity nor inequality to be inherent, I examine how they have been historically produced and continue to be socially reproduced via conflict and compromise. Moreover, I explore the ways in which insecurity and inequality converge in the cultural politics of property when not only specific claims and practices with respect to the occupation, use, and ownership of land but also the cultural and political logics underpinning those claims and practices are contested. Given that struggles over belonging are ongoing, I do not identify ultimate winners and losers in this thesis; however, I do point to the ways in which uncertainty perpetuates advantage and disadvantage for different actors, reproducing insecurity and hardship for some while directing benefits, even if not permanent ones, to others.

Résumé

Dans les hautes terres du Kenya donnant sur la Vallée du Rift à la frontière du District de Narok, les droits à la terre sont fortement contestés. Les disputes tournent autour d'une question centrale: qui appartient à Enoosupukia et à qui appartient Enoosupukia? Pour le noyau communautaire qui le considère son chez-soi, l'incertitude face à ces questions génère un sentiment d'insécurité. Confrontés à des revendications concurrentes de divers acteurs, incluant des membres « non-locaux » de collectivités ethniques et sous-ethniques, ainsi que les branches locales et centrales de l'État kényan, les résidents d'Enoosupukia cherchent à négocier la reconnaissance de leur appartenance. Ce faisant, ils déploient une variété de stratégies, incluant du lobbying pour l'engregistrement des titres fonciers, et l'établissement de liens avec les fonctionnaires ou les élus qui peuvent les protéger contre des interventions défavorables. Bien que ces stratégies eurent un succès limité et que les habitants continuent d'occuper et d'exploiter « leur » terre, leur présence continuelle reste précaire, soumise à de fréquents défis, et dépendante de négociations constantes.

Cette thèse s'articule autour d'une version modifiée de la question politique concernant l'appartenance à Enoosupukia. Au lieu d'évaluer les requêtes et les requérants pour déterminer qui appartient et à qui appartient ces terres, je demande comment l'appartenance est négociée et contestée, à travers quelles pratiques et selon quels principes? Est-ce que la reconnaissance et la légitimité des revendications, mêmes temporaires, sont établies et comment le sont-elles? J'examine comment l'insécurité et l'inégalité sont historiquement produites et comment elles sont socialement reproduites par l'entremise du conflit et du compromis. J'explore comment l'insécurité et l'inégalité qui se retrouvent dans les politiques culturelles de la propriété sont contestées, que ce soit concernant l'occupation, l'usage et la possession de la terre, ou les logiques culturelle et politique sous-jacentes à ces revendications. Les grands gagnants ou perdants ne sont pas identifiés dans cette thèse étant donné que les luttes d'appartenance sont toujours en cours; par contre, j'indique les manières dont l'incertitude perpétue les avantages et les désavantages pour une variété d'acteurs, perpétuant l'insécurité et les difficultés pour certains alors que d'autres en tirent des bénéfices temporaires.

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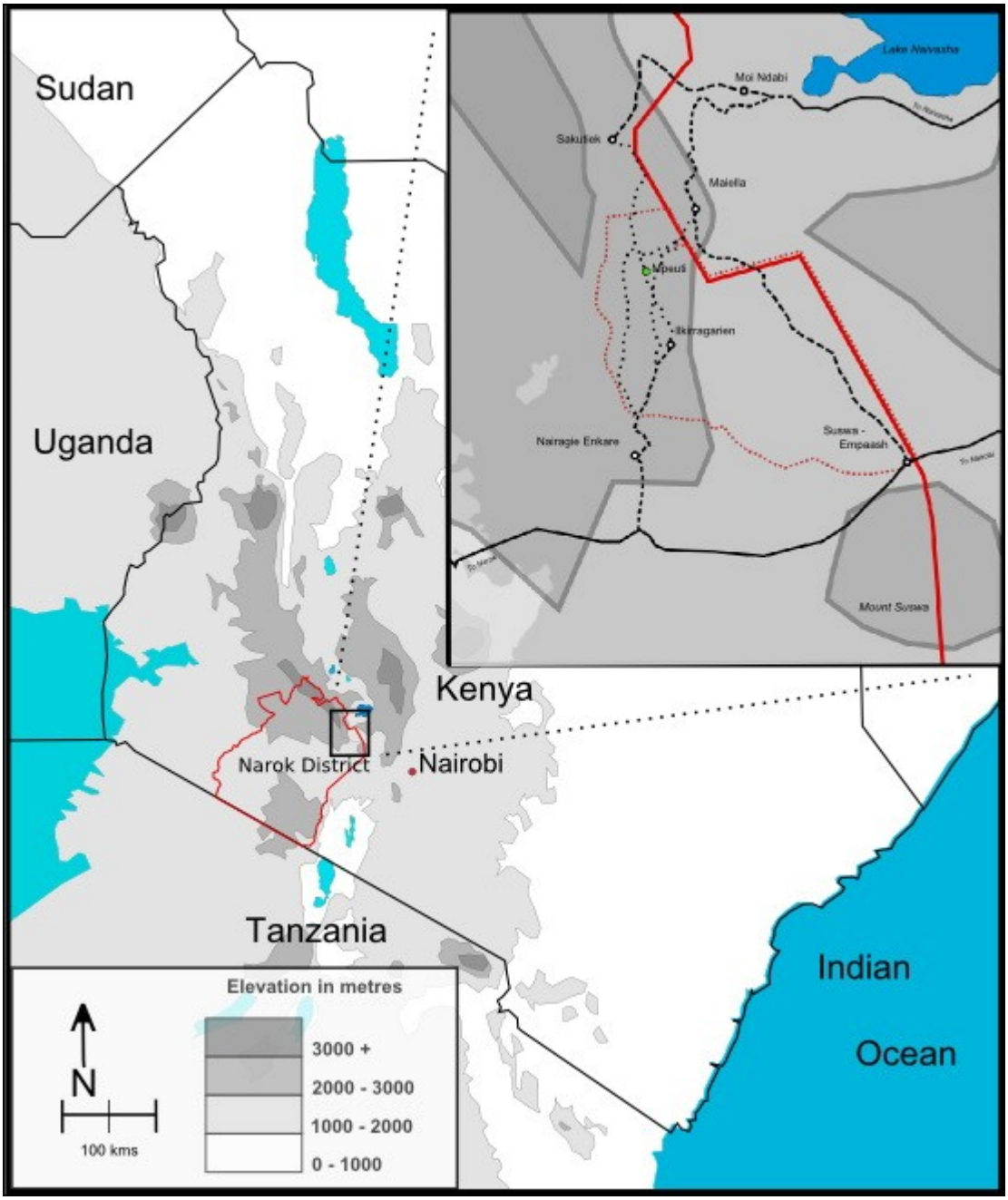

Location of Enoosupukia in Kenya

Preface

In the process of carrying out anthropological fieldwork, one asks countless questions of friends and informants to understand their lifeways and experiences. But this is rarely a one-way process, and the anthropologist is not alone in asking questions to learn about the worlds of Others. Throughout my time at Enoosupukia, informal conversations and casual moments were replete with the phrase "*amaa, Scott, enkop inyi ...*" ("In your country ...?"). While these questions often concerned comparisons between local lives and livelihoods and those in Canada, one such moment stands out particularly clearly in my mind. Sitting in a neighbour's kitchen one evening with two friends, one questioned whether there are Dorobo in Canada. On the basis of a common history of hunting and gathering as a primary livelihood, I approximated this complex ethnic category with Canada's Indigenous peoples. After a series of questions about the kinds of work that Canadian First Nations historically did and do today – do they harvest honey?, do they hunt game?, are they farmers? – my friend's inquiries shifted, turning to the question of poverty and whether Canada also had poor people (*ilaisinak*). After stumbling through an explanation of urban poverty and homelessness, and the debt-laden working poor, my other friend interjected from across the hearth: What about Canadian Dorobo? Are they also poor? Yes, I answered, many are worse-off than non-

Indigenous Canadians. Before I was able to launch into an explanation linking colonization, expropriation of lands and confinement to reserves with Indigenous poverty in Canada, my friend continued, wondering aloud: “Why is it that all Dorobo everywhere are beset by hardship (*osina*)? What went wrong at the beginning so that Dorobo can be oppressed and pushed down?”

While I do not pretend to address this weighty question from a global perspective, this thesis nevertheless contributes towards a better understanding of widespread processes of marginalization through a detailed discussion of a single case study. In particular, I focus on the cultural politics of property at Enoosupukia – a dynamic social field in which specific rights in and uses of land, as well as the very principles by which such rights can be claimed and legitimized, are contested – to examine the operation of processes by which various forms of inequality are both reproduced and challenged. My approach in this thesis, and in my field research, can perhaps best be called ethno-historical, and I have sought to produce a text that situates contemporary local struggles in their wider political-economic and historical context. Such an approach is useful in that it allows for exploration not just of the ways in which property, power, and inequality are socially constructed, but also how the past continues to influence the present. On one hand, the presence of the past is made apparent in the active deployment of historical experiences, principles, promises, and relationships in current-day negotiations around access to and control over particular resources and, perhaps more subtly, around status and belonging. That is, the past is a resource that social actors can draw upon, appropriate, and reinterpret in various ways. On the other hand, past precedent can also present an obstacle to agency: marginalization can be difficult to overcome, and rights are that much more tenuous when those who claim them must constantly do so from a

subordinate position, subject to the challenges and interventions of more privileged others. By presenting a nuanced, empirical account of ongoing disputes over rights in land and belonging in a context of pervasive uncertainty and persistent insecurity at Enoosupukia, I hope to show how such negotiations are infused with power, and in so doing overestimate neither the fluidity of land tenure, the freedom of the marginalized, nor the hegemony of the more powerful.

Background

This thesis has its inception in a conversation in Montreal, in early 2003, with my graduate supervisor, Professor John Galaty. I had come to McGill University the previous fall, intending to develop a project investigating agricultural innovation and genetically-modified crops in Kenya, but, over the course of one semester I was drawn back to questions of land rights and identity concerning Indigenous peoples and minority groups, seeds sown during my undergraduate studies at the University of Alberta. That afternoon, we discussed several Kenyan sites beset by ongoing conflict over rights in land, including the one addressed in this thesis. The case of Enoosupukia was immediately fascinating to me, as it involved a convergence of many elements: the area had been a site of violent conflict nearly ten years earlier, in late 1993, in which members of distinct ethnic groups fought one another, leading to numerous deaths and the displacement of thousands of people. Media reports and previous scholarship on the clashes reported a conflict between communities holding different notions of rights in land – ethno-territoriality, on one hand, and individual, private ownership, on the other, and focused on the role of politicians in inciting and orchestrating conflict. Further, this simmering dispute was complicated by the government's claims that the area was a protected forest, which, in early 2002, had manifested in the form of an eviction order

against all those currently residing there. This complexity, I thought, needed to be documented and analyzed.

A few months later, I arrived in Nairobi to investigate the causes and consequences of the clashes at Enoosupukia in order to better understand the connections between land rights, ethnicity, and conflict. Through good fortune and abundant assistance from friends of friends, during my three-month stay in Kenya I was able to collect enough stories about the 1993 clashes to write my Master's thesis; however, as seems to happen with any research project, I also ended up with many more nagging questions than satisfying answers. While the narratives describing the violence were remarkably consistent, perhaps reflecting a decade of harmonization through retelling, accounts of the history behind the conflict were varied and diverse, hinting at far greater complexity than I had imagined. At the same time, in my visits to Enoosupukia during this initial field trip and especially in my early conversations with a few local residents, I found the degree of hardship experienced as a result of continued tenure insecurity and uncertainty particularly striking. This was reinforced when, in late February, 2005, Enoosupukia was the first area subjected to forced evictions as the government sought to reclaim the Mau Forest and to reestablish a program of forest conservation. Labelled as “squatters” who had “encroached illegally” into a protected area, residents of Enoosupukia were driven from their homes by hundreds of police and soldiers, their crops, many of their possessions, and their homes destroyed. A brief visit in July, 2005, in the aftermath of these evictions, revealed not just destruction and despair – though those were present in large amounts – but also creative efforts by local residents to reassert their claims to rights in land and to secure recognition of their belonging at Enoosupukia. Taking advantage of the wider scope and greater length of

time in the field afforded by a doctoral project, I hoped to better understand both the historical background to the insecurity and hardship experienced by people at Enoosupukia and the ways they actively sought to alleviate those problems. This thesis is the product of five years of working towards that objective, though it is of necessity a partial account of a ceaselessly dynamic situation, now frozen as a snapshot in time.

Methods

This thesis is built from materials collected during nineteen months of field research in Kenya, carried out between June, 2003, and December, 2008. The major portion of this time in the field occurred from March, 2007, to January, 2008, and then, after an eight month hiatus due to Kenya's post-election violence, from August to December 2008. During these two periods, my time was split between residence at Enoosupukia and shorter stays in Nairobi, Narok, and Naivasha. At Enoosupukia, I was fortunate to be hosted by a local family who provided me with a separate room and a comfortable bed, and was able to use their house as a base from which to make daily visits to neighbours and adjacent neighbourhoods, almost exclusively by foot due to the hilly terrain and the deplorable condition of the roads. The bulk of my time at Enoosupukia was in the neighbourhood known as Mpeuti, the hills and valleys surrounding Mpeuti Primary School, which lies at the boundary between the adjudicated lands of Kipise Adjudication Section, and the more highly contested Trust land area of Enoosupukia. Residence in this neighbourhood, with a well-respected family, was central to my field research in that it allowed me to develop friendships with and gain the confidence of many of Enoosupukia's residents, so crucial to successful anthropological participant-observation. It also enabled me to become a proficient speaker of Maa, the primary language of daily interaction in the community, which allowed me to work

generally without a translator.

While in the field I made extensive use of qualitative data collection techniques. I spent hours each day visiting people at their homes, in their fields and with their herds as they worked, or at one of the two local tea shops known affectionately in the neighbourhood as “town.” I also attended numerous community events, from fund-raising parties celebrating the birth of new babies or upcoming marriages, to school and church openings and closings. In the second half of 2007, I was also able to attend many local meetings convened by candidates for the County Council seat for Enoosupukia Ward, and one involving a parliamentary candidate for Narok North constituency, as an observer more than a participant. On all of these occasions I was able to join in conversations about daily life and about pressing local issues and to both gain a sense of people's priorities and concerns and develop my own, which formed the basis of more focused interviews. Many, but not all, of these countless interactions were recorded in hand-written notes amounting to hundreds of typed pages. These have been coded thematically to produce a searchable database.

In addition to these relatively informal interactions, I also conducted dozens of more focused interviews, both with individuals and small groups, over the course of several different field work periods. For example, in the weeks preceding the official closure of Kipise Adjudication Section, described in Chapter 3, I took the opportunity to conduct twenty-two semi-structured interviews, two of them with groups of six to eight people, to gather opinions on the value of land adjudication and titling and the expected outcome of the closure of Kipise section. Similarly, during my first visit to Kenya in July, 2003, I conducted twenty-four individual and group interviews to collect narratives describing the clashes and the history of Enoosupukia, sometimes with the aid of a

translator. Another eleven individual and group interviews were done in July and August 2005, focusing on the evictions carried out earlier that year. For the most part, these interviews were recorded in writing by me, though a small number of the 2003 and 2005 interviews were taped, and the English portions of the 2003 interviews have been fully transcribed. I recorded an additional twenty-six interviews focused on local histories of social change in November, 2008, with a range of elder and younger informants. The recordings of these interviews range in length from fifteen minutes to three-and-a-half hours, conducted almost exclusively in Maa. These have not been fully transcribed though I have made use of excerpted portions and notes taken during those interviews in this thesis (and I intend to have these interviews transcribed and translated in the future). In addition to these numerous interviews with local residents and community members, I conducted a number of semi-structured interviews with officials of Narok District, Narok County Council, the Kenya Forest Service, and the Ministry of Lands on topics related to land adjudication and forestry both more generally and as applied at Enoosupukia. These interviews were mainly conducted in English, and they were recorded in writing rather than audio-recorded. As with the notes from informal conversations and interactions, the written transcripts and notes from these interviews have been thematically coded for ease of management. Material from all of these oral sources has been treated not as a record of fact, but as a collection of narratives representing, explaining, and arguing diverse perspectives, and thus as claims and counter-claims in themselves.

The historical and contemporary aspects of this thesis draw on a combination of the interview and participant-observation material mentioned above, as well as archival material in various states of public availability. Official documents, reports, and copies of

particular Laws of Kenya were obtained from the Government Printer in Nairobi, consulted in the library of the District Development Office in Narok, or accessed online at the Kenya Law Reports website, KenyaLaw.org. District Annual Reports and other colonial-era documents were obtained from the Kenya National Archive in Nairobi, as well as from the microfilmed copy held at Concordia University's Vanier Library, in Montreal; these are cited in-text by their title and year, but are not included in the list of references at the end of the thesis. Two mini-troves of unpublished correspondence and documentation have been invaluable resources concerning the history of local development and leadership at Enoosupukia and the declaration of Enoosupukia as a County Council Forest. One of these was collected by Simon Ngayami from various sources, including the personal collections of several residents of Enoosupukia, and the other was provided by Davis ole Tamooh, former Narok County Council Forester, now a land rights and sustainable forestry activist. I have made and retained copies of all these unpublished, publicly-unavailable documents, and they are cited throughout the thesis in footnotes. I have also made extensive use of newspaper articles, drawn primarily from the Daily Nation due to its extensive online archive. Additional articles were obtained from John Galaty's personal archive in Montreal. As with the oral sources, I have tended to treat these written documents as statements to be interpreted rather than as records of fact, and have done this by reading both oral and written sources in light of one another to try to evaluate and understand the stories they present.

While the vast majority of data used in this thesis derives from these techniques of qualitative collection and analysis, some methods were used to collect more quantifiable data. In July and August, 2007, I developed a questionnaire for a preliminary census in collaboration with a small number of local residents, then trained five

enumerators to conduct interviews based on the questionnaire and accompanied each of them in the field in turn. In total, we interviewed people at over 250 houses in Mpeuti and neighbouring areas of the Trust Land, collecting basic data on family composition, ethnic and clan affiliation, family genealogy, livestock holdings and agricultural activities. The purpose of this exercise was both to collect data and to make myself and my project more visible in the local community. These data have not been processed or systematically analyzed, in part due to inconsistencies in data collection deriving from my inexperience with survey design methods and implementation. Enoosupukia was subsequently included in a multi-sited, team research project, the SSHRC-funded, McGill-based Pastoral Property and Poverty Project, in which I am a collaborating researcher. An extensive survey, designed and run by far more experienced researchers, was carried out in late 2008. This larger survey collected much more data than my preliminary census, in more rigorous fashion and with greater consistency. Data produced through this survey awaits application and interpretation in future work, particularly in comparative analysis between the seven sites of the multi-sited project to examine relationships between tenure change, livelihoods, and poverty along with a host of other social factors.

Several techniques were used to develop the original maps presented in this thesis. Working with Simon Ngayami, I produced a preliminary map of the primary research area to help define the spatial boundaries of the neighbourhoods in which I focused my work, to familiarize myself with the terrain, and to use as a base for the preliminary census described above. This was done by traversing the area on foot and making hand-drawn maps of clusters of houses from positions marked in a GPS receiver. I then input those GPS points to Google earth, which fortuitously has high-

resolution satellite images freely available for the Enoosupukia area. Also with the assistance of several local residents, I mapped the locally-recognized boundaries between Kipise Section and the Enoosupukia Trust Land, and between Enoosupukia and neighbouring locations and adjudication sections, walking the boundaries and making GPS marks, which have likewise been uploaded to Google earth. I also did preliminary work to map historically-important local sites, including family-owned apiaries, but that remains incomplete and awaits future opportunities. Both Google earth and Inkscape were also used to digitize archival maps and create scalable vector graphic versions for illustration rather than analysis. An participatory-mapping project, to be carried out in conjunction with a Kenyan NGO, intended to document both apiaries and *shambas* demarcated in the process of land adjudication to compare their distribution, unfortunately did not come to fruition during the field research period.

Finally, I make some use of non-English terminology in this thesis, drawn mainly from *Maa*. Where non-English words are used they are italicized, with translations included in parentheses after their first appearance, or with italicized non-English words in parentheses adjacent to their English gloss as in the first paragraph of this preface. Spelling follows that found in Franz Mol's (1995, 1996) exceptional dictionary and grammar of the Maasai language, though my glosses and definitions sometimes vary from his due to interpretations based on current usage at Enoosupukia that may be idiosyncratic either to the community or to my level of fluency.

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I owe debts of gratitude and more to many people who have supported, encouraged, and challenged me throughout my doctoral studies and in the production of this thesis. First and foremost among them I would like to deeply thank the many current

and long-time residents of Enoosupukia, whose names are too many to list here, who welcomed me into their lives and shared with me their stories, experiences, and opinions during my field research. Without their willing cooperation, the story that unfolds in the pages of this thesis could not have been told. Of those many people, Simon Ngayami deserves special recognition for his tireless work as both a facilitator and a gatekeeper for this project, and I am also grateful to his family – wife, children, parents, brothers, sisters, and cousins – for both their warm welcome and for allowing me to borrow so much of Simon's time during my visits. In addition, the four other residents who worked with me to conduct the preliminary census deserve special thanks for their dedication and hard work. They are: Robert Ngayami, Stanley Ngayami, John Mebarni, and Grace waMorris Mbile. A further, special thank you to Dr. Sarone ole Sena and his family for welcoming me into their rural home at Ololulung'a for two months while I began to learn Maa, and to Kores ole Musuni for his role as a language teacher, guide, and friend. Also in Kenya I would like to thank the staff and management of Upper Hill Campsite in Nairobi and Fisherman's Camp in Naivasha for providing me with homes away from my home-away-from-home, relaxation and entertainment, and delicious food.

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Elements of this work have been presented in numerous forums, including conferences and workshops organized by the Canadian Anthropology Society, the American Anthropological Association, the Canadian Association for African Studies, the Canadian Association for the Study of International Development, the Workshop in Political Theory and Policy Analysis at Indiana University, the McGill Indian Ocean World Centre, and the McGill Centre for Society, Technology and Development. I thank those organizations for the opportunity to present my work and participants in those conferences and workshops for the valuable feedback that has helped to improve it. I also thank the Political and Legal Anthropology Review for publishing a paper that incorporates some of those key elements, and to three anonymous reviewers whose feedback has been useful far beyond the scope of that paper.

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Chapter 1

Insecurity, inequality, and the cultural politics of property

Enoosupukia is a polysemic toponym: a locality, an administrative location, a fertile frontier, a former site of violence, a vanished town, a proposed land adjudication section, a grazing reserve, a conservation forest. Rights to reside on, make use of, and own land here, but also, more generally, to imagine it, to constitute it as a place, and to govern, are claimed and contested by current residents, displaced former inhabitants, powerful politicians and others who aspire to power, local government in the form of the Narok County Council, and the central government of the Republic of Kenya. None of these claims or claimants has gained privileged authority; they continue to engage with one another, in ways sometimes complementary, sometimes conflictual, with reference to distinct frameworks – cultural, political, legal – and sometimes in different tongues: Maa, Kikuyu, Swahili, and English, to be sure, but also of civil and indigenous rights, of development and conservation, of property and propriety. Amidst this profusion of actors, imaginings, contested claims, and disjunctive logics, an ostensibly simple question remains the key point of contention: who belongs at Enoosupukia and to whom does Enoosupukia belong?

The physical landscape of this highland area, situated atop the southeastern end of Kenya's Mau Escarpment, which forms the western wall of the Rift Valley, has been visibly marked by the manifestation of successive answers to this central question. On a wide, relatively flat shelf in otherwise broken terrain, a few herds of cattle and small stock graze the lush forage that has overgrown the site of the town of Enoosupukia, its plan marked only by concrete foundations and the deep ruts of derelict roads. Across a shallow channel from the town-site stand the ruins of Enoosupukia Primary School, one of two that were looted and dismantled in the aftermath of violent clashes in October, 1993; stone walls with painted blackboards at opposite ends of a cracking concrete floor are all that remains, a monument to development undone. The surrounding hills, some rising steeply more than one hundred metres above the valley floors, are punctuated with trees of indigenous species, often garlanded with tendrils of cloud; larger remnant stands allude to a thick forest now largely removed. Between the trees, wide grassy slopes – some marked with shallow terraces bounded by piled sod – suggest a history of extensive cultivation. Modest houses, many of them built with wattle-and-daub walls and roofed with polythene sheets, others with rough-hewn planks and corrugated iron, are scattered throughout the area, homes to current residents; many of these homes are surrounded by or adjacent to small fields of maize or potatoes.

While uncertainty about belonging is persistent, insecurity surges and subsides with the sometimes sudden restructuring of local, national, and global political networks. The clashes of 1993 for example, in which Maasai and Kikuyu fought one another over political and material control of Enoosupukia, were intimately connected to power struggles at the centre in the context of the reintroduction of multiparty politics in Kenya (Klopp 2001; Matter 2010). This shift had in turn been effected by a convergence of

domestic campaigns for political liberalization and geopolitical shifts at the end of the Cold War (Atieno-Odhiambo 2002). After nearly twelve years of relative stability, the precarious balance was again upset, this time by a Cabinet decision to forcibly evict people living in various areas of the Mau Forest, due in part to a convergence of domestic and transnational environmental activism with a newly-elected government desperate to project an image of good governance to the world (see Chapter 5). Just days after receiving a one-week ultimatum to evacuate the area, local residents were shocked by the arrival of several hundred soldiers and police who proceeded to chase them from their homes, burning crops and possessions along the way. Having been alerted to this violent episode through the online version of the Daily Nation, one of Kenya's two daily, national newspapers, I was able to arrange a visit to Enoosupukia a few months later, in July, 2005, to document the incident and its aftermath.

Those directly affected by the eviction operation, mainly Dorobo and Purko Maasai who resided on the northern and western portions of Enoosupukia in an area still governed under the Trust Land Act, felt victimized and betrayed. Their nearly-ripe crops having been destroyed, they were forced to rely on the hospitality of friends and neighbours who lived nearby on lands that were awaiting the completion of official adjudication and registration and the issuance of title deeds, while occasionally returning to their fields to glean potatoes that had been planted between rows of maize. A few months after their expulsion from the “forest,” County Council rangers returned and set upon the temporary shelters in which some evictees were living, extending their attack to nearby homes and even to Mpeuti Primary School, on whose land the camp had been erected, again using fire to mete out punishment. In an interview about the evictions, one local elder emphasized the gravity of the situation by recounting an abbreviated version

of his life history:

> I was born and grew up here, at Enoosupukia, on the land that the government calls a forest just across the valley from this home. Even my father and mother were born here, and my father had a family of five children, of which I am the youngest. And I am now an old man with about ten children. There is nowhere else from which we have come, and we have nowhere else to go to live. We have no ways to acquire other wealth apart from what we already have, and that is our land. So I am confused about this eviction. The government should know this land is ours. We must press the government to recognize us to ensure that we have land to give to our children in the future so that our children will not fear about where they will stay in the future.[1]

By the time I returned to Enoosupukia in 2007, a tenuous stability had returned. Some of those evicted had reoccupied the contested land, their dwellings clustered near the northern boundary of Enoosupukia location where they had reportedly been advised by a local politician to settle. Others had constructed new homes around Mpeuti, on land held by friends or relatives as freeholders-in-waiting, where they tried to rebuild their lives. Despite these apparently positive steps, people still felt they had been set back; throughout my field research I heard frequent complaints that the people of Enoosupukia were afflicted by hardship (*einosa osina*). In many cases, such statements were accompanied by a recitation of grievances. Notwithstanding a small dispensary and clinic affiliated with the Catholic Diocese of Ngong, some highland residents complained of limited access to medical facilities as critical cases and laboratory testing had to be dealt with in neighbouring centres, the closest of which is at Maiella, seven kilometres away over steep hills; given the deplorable condition of local roads and the absence of locally-owned vehicles, seriously ill patients occasionally had to be carried on makeshift stretchers. This sense of remoteness carried over to discussions of agriculture and the local economy. Local producers routinely had to transport their produce – e.g., maize, potatoes, charcoal – on the backs of donkeys to weekly or semi-weekly markets at

1 Marura Omerae, interview at Enoosupukia, 10 August 2005.

Maiella, Sakutiek, or Nairagie Enkare where they had to compete for sales with local farmers. Prior to the 1993 clashes, Enoosupukia had been a thriving centre with its own weekly market, a daily milk collection service by the Kenya Cooperative Creamery, and a local office of the Pyrethrum Board of Kenya, which linked local residents to the cash economy as producers.

While some of these perceived hardships date back to the time of the clashes, when the Kikuyu farmers who made up a large proportion of the highland population were chased from the area, they have been exacerbated by a pervasive sense of insecurity. Some, especially those who returned to the contested forest land, told me that since losing their crops in the 2005 evictions they make decisions about what to plant based on the time it would take before their fields could be harvested: maize was risky, as the cool highland temperatures meant the crop could take up to nine months to mature; potatoes were considered more secure as they matured and could be harvested more quickly. As one friend explained, faced with uncertainty about when or if they might again be subjected to the application of military force, “people here at Enoosupukia are living just like bushbucks (*empuaa*), any threat or disturbance makes them flee in fear.”[2]

According to many at Enoosupukia, persistent hardship and pervasive insecurity can only begin to be addressed once local residents are acknowledged as rightful owners of the land on which they live; in short, they continue to seek recognition of their claims that they belong at Enoosupukia, and that Enoosupukia belongs to them. Further, many argue that the best way to ensure such recognition is through the provision of title deeds by the Government, reflecting both local anxieties about displacement and long-term encounters with official policy and discourse promoting registration and titling as

2 Simon Ngayami, interview at Enoosupukia, 28 September 2007.

central to agrarian development.[3] In a series of interviews about the process and outcomes of land adjudication at Enoosupukia, respondents consistently linked acquisition of titles with stability and permanence. Characteristic statements included formulations such as: “receiving title deeds will bring peace to our hearts and will give us rights and stability;”[4] and, “if I get a title deed, I'll feel like a true resident of this land and will be completely free. ... With title we won't lose hope because we will have something real.”[5] Others made more concrete connections regarding the role of title deeds in disputes over rights and belonging. As one man explained: “no one can bother you once you get title to your land, and so with title you will have no more problems and even your children will have no problems from others. When we get titles here with our names, no one will bother us anymore, not even the government, and then we'll get development.”[6] This protective property was further conveyed in a key metaphor, ubiquitous in conversations about title deeds: a title deed is a shield for your land (*elong'o olshamba lino*).

That expectant landowners at Enoosupukia have not yet been conferred title deeds by the state is – again, in local discourse – a sign of marginalization and broken promises. Official land adjudication began in the area in 1977, with the declaration of Kipise Adjudication Section, though local residents had been encouraged by leaders to prepare themselves for registration as early as the late 1960s. With the entirety of the highland locality divided amongst members of the community, Kipise was to be the first

3 In this, local sentiments echo findings by Bruce (1993:50-51), which “suggest that farmer demand for individual title comes less from a desire to change agricultural practices and increase production than from their sense that a title conferred by the state may be the best way to defend against reallocations of land by the state and its local representatives, whom they see as the major threat to their security of tenure.”
4 John Nashur, group interview at Enoosupukia, 1 October 2007.
5 John Mebarni, group interview at Enoosupukia, 1 October 2007.
6 Koitee Nashur, interview at Enoosupukia, 3 October 2007.

of a two phase process of adjudication and titling, with the remainder, identified as Enoosupukia, to follow, perhaps within a year or two, once Kipise was completed. Thirty years later, Kipise remained incomplete and Enoosupukia had never been officially initiated, becoming instead a County Council forest in the weeks preceding the 1993 clashes. These delays were widely believed to be a result of interference by well-connected actors, including elected officials, who hoped to gain access and ownership for themselves and their kin and clients, as one man stated clearly:

> We don't yet have titles in this adjudication section because of corruption. It's because there are people who don't want this community, the Dorobo community, to get title deeds. Sakutiek, Nairagie Enkare, Ildamat, those lands are all titled, but Enoosupukia is not. Why not? Because this is a Dorobo community and a Dorobo place. But some Maasai, especially Purko, are trying hard to get land here. They have lands in the plains, but not in fertile areas. They want land here because here there are no problems with water, food, or anything else. It's always green. There's never drought or famine in this land of ours (*metii olameyu ena kop ang*).[7]

In order to gain access, non-local Maasai and their influential patrons were believed to be manipulating uncertainty to their own advantage. This had been made clear in the 2005 eviction, as the same man explained to me two years earlier:

> In the past, [Narok North MP] Ntimama protected people at Enoosupukia, both Purko and Dorobo, from this kind of thing, using his position to prevent evictions. This time though, the eviction specifically targeted “farmers,” and that means Dorobo as this is our main activity now for subsistence. And now that things have quieted down, Ntimama is saying that people can leave livestock in the Trust Lands because it doesn't damage the forest, but we can't go back there to farm. This favours Purko who only want this place to graze away from their homes in the lowlands. Maybe they have a plan to get title for the Trust Land for themselves after staying there for some time. They're using their influence on the County Council to get land.[8]

In the face of intervention by well-connected outsiders, especially politicians and other officials, Dorobo and others at Enoosupukia are relatively powerless. Almost as prevalent as lamentations about hardship and insecurity is the explanation that

7 Ololtung'ani (name changed for anonymity), interview at Enoosupukia, 1 October 2007.
8 Ololtung'ani, interview at Enoosupukia, 28 July, 2005.

underlying these problems is a lack of leadership, that is, a lack of connection to elected or appointed officials, deriving from both discrimination and numerical inferiority. In a Maasai-dominated District, the social legacy of being Dorobo – that is, current or former hunters and honey collectors – can be a heavy burden; Dorobo occupy a peripheral position in Maasai ethno-sociology by virtue of the work they do (or did), considered polluting and degrading by culturally-hegemonic pastoralists (Galaty 1979, 1982; Blackburn 1982). Considered as a distinct ethnic group, Dorobo are far outnumbered in Narok District by Maasai, accounting for less than 1% of the population in the 1989 census, the last for which data on ethnicity was published.[9] Further, members of this ethnic category are dispersed across numerous administrative locations which serve as electoral wards for the Narok County Council, compounding the problem of district-level ultra-minority with local sparsity. In Enoosupukia Location, the highland areas occupied primarily by Dorobo and some Purko Maasai held about 14% (1301/9381) of the location's population and 13% (269/2093) of its households, as counted in the 1999 census, while Keekonyokie Maasai are overwhelmingly represented in the remainder of the location.[10] Adding to the complexity, Enoosupukia Location is one of four that made up the Keekonyokie Location in Narok from its demarcation in the colonial era until its subdivision after independence; on the whole, Keekonyokie are a minority in Narok District, outnumbered by the far more populous Purko section. Numerical minority in Kenya often translates to political marginalization, as elaborated in the following

9 By comparison, Maasai accounted for 47% of Narok's population in 1989, losing ground to Kalenjin and Kikuyu newcomers since independence. The 1999 census did not include data on ethnicity, in part as a reaction to the “tribal” clashes that wracked the country throughout the 1990s. The 2009 census once again included ethnicity, but district level data is not yet available.

10 These numbers are derived from unpublished enumeration area (EA) tallies acquired from the Kenya Bureau of Statistics, Nairobi, in 2008. There are also some Dorobo living between Mpeuti and Ilkirragarien, outside the two EAs used here, but they reside outside the area directly affected by the 2005 evictions. For more in-depth discussion, see Chapter 6.

statement:

> We [Dorobo] are a small house (*enkaji kiti*) among other houses, and this causes a problem of lack of representation. We can't elect a councillor in Enoosupukia because the Keekonyokie are too many; even administrative appointments like Chief or Assistant Chief are given to bigger communities. There is no one to present our problems to the government.[11]

Phrased another way, “We're just God's people (*kira iltung'anak lenkai*). We have no one else watching out for us. We have no leader. Without leaders, we can't get titles for our land, and without titles we won't be able to progress (*atum maendeleo* – lit., get development).”[12]

Despite persistent insecurity and marginality, Dorobo and others who make their homes at Enoosupukia do, for the time being, enjoy the ability to occupy and use the land they claim as their own, though not necessarily in all the ways they would like to. On adjudicated lands in Kipise section, where claims of ownership have been registered and the expected beneficiaries operate essentially as freeholders-in-waiting, residents report that they will continue to defer construction of more permanent homes and fences, planting of trees, and investment in improved agriculture until they have been issued title deeds. For many, this is not only because they expect acquisition of title to allow them access to credit for such projects, but also because in light of the recent evictions they are unsure whether their rights will be recognized or whether they too will be forced from their land. For those who claim ownership of land currently classified by the government as a conservation forest, insecurity is more biting; whether currently residing on the land or not, their claims are challenged by a host of others, from foresters working for the Narok County Council or the Kenya Forest Service and Kikuyu violently displaced from those same lands after the forest's declaration in 1993, to herders from elsewhere who

11 Mitarone ole Kiondo, group interview at Moi Ndabi, 27 July 2005.
12 Ole Kasana, interview at Enoosupukia, 3 October 2007.

use the highland seasonally as dry-season grazing or to free their individually-owned land at home for cultivation. Claims of rights in land and belonging at Enoosupukia are asserted and contested with reference to a diverse array of principles and precedents, not all of which are equally available to all claimants. Further, uncertainty abounds, as none of these claimants has yet been able to establish hegemonic authority, that is, recognition of their right to exclude or at least regulate the access and claims of others. Thus, currently privileged with tenuous physical occupation and use of contested land but constantly fearful of the implications of their social and political marginality in their home location, the district, and Kenya, denizens of Enoosupukia continue to struggle for recognition and over belonging.

This thesis is organized around a modified version of the intensely political question central to disputes over rights in land at Enoosupukia; rather than evaluating claims and claimants to determine who belongs and to whom the place belongs, I ask how belonging is negotiated and contested, through what practices and according to which principles. Further, I ask whether and how recognition and legitimacy of particular claims, if only fleeting, are established. Taking neither insecurity nor inequality to be inherent, in this thesis I examine how they have been historically produced and continue to be socially reproduced via conflict and compromise. Moreover, I explore the ways in which insecurity and inequality converge in the cultural politics of property when not only specific claims and practices with respect to the occupation, use, and ownership of land but also the cultural and political logics underpinning those claims and practices are contested. Given that struggles over belonging are ongoing, I do not seek to identify ultimate winners and losers in this thesis; however, I do point to the ways in which uncertainty perpetuates advantage and disadvantage for different actors, reproducing

insecurity and hardship for some while directing benefits, even if not permanent ones, to others.

In brief, throughout this thesis I argue that uncertainty and insecurity at Enoosupukia are symptoms of a problematic pluralism that has been produced through successive attempts to encompass and transform the locality. These include both official, governmental interventions – for example, land tenure reform or the demarcation of ethno-territorial units – and efforts by non-state actors – in particular, individuals seeking access to and control over the productive resources available in the highlands – to remake Enoosupukia and the property regime through which land there is governed to their own advantage. While these many translocal incursions have been transformative, none has succeeded in establishing a hegemonic framework. To the contrary, they have resulted in a proliferation of institutions, practices, and precedents by which various claimants can attempt to acquire and secure rights in land, all of which are legitimate in some sense, and none of which are authoritative. This uncertain pluralism has engendered a tenure situation – regime is too definite a term – characterized by ambivalent negotiability: while numerous claimants, almost all of them 'outsiders' in some sense, have taken advantage of new opportunities to negotiate access and acquisition, they must continually shore up their claims to defend against competing claimants; what is negotiable is also renegotiable and agreements made can be broken. The negotiability of property at Enoosupukia is similarly ambivalent for the local residents who have been partially encompassed along with their ancestral land. On one hand, the marginalization of Dorobo in local, district, and national society and politics has left them disempowered, forced to assert their claims from a position of disadvantage and tenuous connection; on the other hand, the ongoing struggles and continued negotiability over belonging at

Enoosupukia are surely preferable to the most likely alternative, definitive exclusion in favour of non-locals or forest conservation. Before outlining in more detail how my argument unfolds in the chapters of this thesis, I sketch out some elements of the conceptual framework through which I view and interpret the dynamic situation at Enoosupukia in the following sections.

Negotiating property

Struggles over belonging at Enoosupukia primarily take place in a realm that anthropologists and countless others have termed "land tenure," constituted by a range of specific phenomena in a much broader domain that can be conceptualized as "property." By focusing on struggles over land, this thesis contributes both a case study and theoretical analysis to the vast and diverse literature on land tenure in Africa,[13] and to a growing literature on "property," with which work on land tenure in Africa and elsewhere has converged in recent years. While "property" has sometimes been interpreted as a culturally-specific notion rooted in Western historical experience – and thus, by implication, inappropriate as an analytical category – both legal scholars (Grey 1980) and anthropologists (Hann 1998; Benda-Beckmann, Benda-Beckmann, and Wiber 2006) have recently reconsidered and significantly expanded the concept.[14] As an

13 Recognizing the immensity of this body of work already in 1963, Bohannan wrote that "it is probably that no single topic has exercised so many students and men of affairs concerned with Africa as has that of land" (1963:101), to which he added, more critically, "it is equally probable that no single topic concerning Africa has produced so large a poor literature." Since that time, the quality of investigations, interpretations, and publications has improved significantly. Central contributions arising from resurgent scholarly interest since the early 1980s include collections edited by Downs and Reyna (1988), Berry (1989), Shipton and Goheen (1992), Basset and Crummey (1993), Toulmin and Quan (2000), Juul and Lund (2002), and Kuba and Lentz (2006), as well as countless articles and monographs. While I do not undertake a systematic review of this literature in this thesis, I refer to and draw upon it throughout the text.

14 However, see Ribot's critique of "property" as "implicitly linked to legalistic, or rights-based, concepts of ownership, title and tenure" (1998:312) and argument in favour of "access" as a more useful concept for empirical examinations of benefits and inequalities around resource use.

analytical tool, property is not just the objects that people “own” or even a particular set of ideas about absolute individual ownership of objects, but rather a “heuristic rubric for a focus on how access to, use of, and control over 'things' or resources are organised in society” (Lund 2002:12). Thus, broadly conceived, property “concerns the ways in which the relations between a society's members with respect to valuables are given form and significance” (Franz von Benda-Beckmann, Keebet von Benda-Beckmann, and Wiber 2006:14); likewise, “land tenure” can be understood as a “social system with a spatial dimension,” (Bohannan 1963:102-103) consisting of relationships between people and land, landed resources, and, more abstractly, rights in land as valuable objects. In particular, my analysis and argument proceed from the position that property is a dynamic social field, historically produced and socially reproduced, embedded in wider social processes and subject to negotiation (Berry 2002a, 2002b; Lund 2002).

In an effort to construct an analytical framework with which to examine property, Franz and Keebet von Benda-Beckmann, along with Melanie Wiber, have proposed that property relations in general are

> ... comprised of three major elements that include: first, the social units (individuals, groups, lineages, corporations, states) that can hold property rights and obligations; second, the construction of valuables as property objects; and third, the different sets of rights and obligations social units can have with respect to such objects. All three are set into time and space. Property in this analytical sense is not one specific type of right or relation such as ownership. It is a cover term that encompasses a wide variety of different arrangements, in different societies, and across different historical periods. (Franz von Benda-Beckmann et al. 2006:14-15).

Empirical manifestations of property occur in a variety of “layers of social organization,” for example in “cultural ideals and ideologies, in legal institutions, in actual social relationships and in social practices” (Franz von Benda-Beckmann et al. 2006:15). Further, property involves both categorical principles and concrete practices which

intersect in various ways. Categorical principles include rules, from written laws to cultural precepts, that help to define which kinds of social units can hold what sort of rights over what types of valuables; these principles inform and guide concrete practices, that is, the actions taken to claim or dispute property relations. Both categorical principles and concrete practices may be subject to debate and dispute, either in themselves or in conjunction. For example, property law may be debated in the legislature of a state, resulting in the amendment of laws or creation of new ones to regulate actual practice. Likewise, two or more social units may dispute ownership of a particular object and challenge one another's claims, potentially leading to altered relations not only between the social units with respect to one another but also with respect to the object in question. In certain contexts, unresolved disputes may be taken to court for adjudication and the decisions can influence both the concrete relations in dispute and the constellation of categorical principles relevant to the case, becoming either legal precedent, necessitating revision of the relevant laws, or both. In less bureaucratized contexts, negotiation of concrete relations may similarly influence categorical principles, becoming part of historical precedent in light of which other disputes may be argued.

In material terms, property is inherently bound up with access and exclusion (Ribot 1998; Berry 2002b:215-217), and these are also subject to dispute and debate about both concrete practices and the categorical principles used to explain and justify them. Contrary to popular western notions of absolute ownership, access and exclusion may be temporally delimited or applicable to certain practices and actors but not others; that is, property tends to involve “bundles of rights” (Franz von Benda-Beckmann et al. 2006; Grey 1980), with respect to which degrees of access and exclusion vary. For

example, in the forest tenure system practised by East African forest foragers like the Dorobo of Enoosupukia, individual and family ownership of territorial blocks included the right to exclude others from placing or harvesting beehives in those territories without permission, but did not include rights to exclude others from hunting on or travelling through those territories (Blackburn 1982, 1986). Similarly, in many of the "customary" African tenure regimes misunderstood and reified by colonial observers, collective ownership of land at the level of the family or lineage involved both the ability to exclude and obligations to grant access to specific, socially positioned others, engendering a dynamic tension subject to negotiation and maintenance of social connections (Berry 1993; see also Bohannan 1963; Mackenzie 1989, 1993, 1996). Likewise, rights and powers to regulate access and exclusion are central to the functioning of common property systems (Ostrom 1990), and apart from true open-access commons, some form of exclusion is implicit in any property regime. Whereas Ribot has argued that access encompasses property by including both sanctioned and illicit uses of resources (1998:312), I see access and exclusion as concrete practices in a more broadly conceptualized field of property relations. While this is more immediately clear in the case of exclusion, which may involve policing and punishment and necessitate explicit reference to categorical principles to justify enforcement, access, even in the form of apparently illicit use of resources, can also be understood as a non-verbal expression or implicit claim of the right to do so. Further, while other social actors in a given property field may not be empowered to prevent illicit access, their ability to contest its legitimacy constitutes a challenge to such physical claims.

Disputes about access and exclusion point to another important feature of property: that it involves not only possession or use of valuable objects by a particular

social actor, or that actor's exclusion of others, but also recognition by other social actors of the legitimacy of these concrete practices and the principles they represent (Lund 2002:12-13). While such recognition may take place on a very small scale and for brief moments, for example, between individuals in a single encounter, it generally involves larger-scale social processes and institutions that transcend intimate interpersonal contexts and persist over longer time periods, for example, systems of law, custom, or convention shared by some set of social actors, from the members of a small community to the population of a state. Such institutions may include the range of categorical principles in terms of which people voice their claims or counter-assertions, as well as the forums in which disputes are heard, from courts of law to community meetings. These institutional elements serve to structure specific interactions, but they are also constituted, reproduced, and even transformed over time through their manifestation in structured interactions, and the authority of such institutions derives, in part, from their legitimization in practice; that is, social order is constantly subject to negotiation in the very practices by which it is reproduced.[15] Thus, processes of recognition of particular, concrete property relations are in a real sense ongoing negotiations over the legitimacy and authority of the property regime within which they are carried out. Or, as Lund has stated:

> ... the process of recognition of property rights by a politico-legal institution simultaneously constitutes a process of recognition of the legitimacy of this institution. These processes work in tandem: they fail and succeed together. In this perspective, property and politico-legal institutions, or social norms and the state are essentially precarious. Property is only property if socially legitimate

15 This perspective on the mutual constitution of structure and action draws on a well-established body of social theory most clearly elaborated in the work of Giddens (1979, 1984) and Bourdieu (1977, 1990). As Leach, Mearns, and Scoones (1999:230) have succinctly stated, this perspective “emphasizes how structures, rules and norms emerge as products of people's practices and actions, both intended and unintended. These structural forms subsequently shape people's action; not by strict determination but by providing flexible orientation points which may either constrain or enable what is possible.”

> institutions sanction it, and politico-legal institutions are only effectively legitimate if their interpretation of social norms (in the case of property rights) is heeded. (Lund 2002:14)

The stakes in such negotiations are particularly high in situations of legal and institutional pluralism (Griffiths 1986; Merry 1988; Franz von Benda-Beckmann 2002; see also Moore 2000), in which claims can be made with reference to different categorical principles, through different and sometimes competing institutions and processes of recognition, a case which obtains in much of Africa and in many postcolonial societies. In such contexts, "citizens and politicians have argued not only over who should get access to land, and on what terms, but also over who should decide, on what basis. Struggles over land in postcolonial Africa have been as much about power and the legitimacy of competing claims to authority, as about control of property per se" (Berry 2002a:639-40). Such struggles involve not only conflicts over actual use, occupation, or control of resources between opposed local actors, but also tensions between state and society, and between official (i.e., legal) principles and procedures, and unofficial ones. Further, they are waged by social actors operating from different social positions, endowed with more or less social, political, and economic capital and thus empowered – and disempowered – to different degrees. As both Berry (2002a) and Peters (2002, 2004, 2006, 2009) have emphasized in recent writings, negotiations around property and belonging can have grave consequences, especially for those who must assert and defend their rights from the margins, and they not only provide opportunities to gain and maintain access, but also render concrete relations tenuous and carry the risk of dispossession and exclusion.

The dynamics of property at Enoosupukia present a clear example of this kind of negotiation and contestation, as well as the opportunities and risks it presents. Tensions

and conflict revolve around both concrete relations and categorical principles, and call into question the authority of different institutions of recognition. At issue are: the ways in which rights in land are constructed as property objects; the particular rights and obligations, and the ways of gaining and maintaining these, that are available to various social units; and the constitution and composition of those social units. For example, questions persist over the degree to which rights in land at Enoosupukia are – or can be – held by individuals, by collectivities, or by the state, as well as about which individuals, collectivities, or branches of the state hold which rights, and about which of these social units can make authoritative determinations about these questions and on which bases. Further, disputes – in the form of both discursive debates and physical conflict – centre on who has the right and the power to exclude others from accessing local highland resources. These questions surrounding "property" at Enoosupukia intersect with multilayered questions about belonging; while various individuals may claim rights in land based on historical occupation, purchase, or the investment of their labour into the productive transformation of the land, these claims are in some ways contingent upon membership in larger social units, including the local – and locally-defined – "community," ethnic and sub-ethnic groups, patronage networks, and the state, whose collective claims to Enoosupukia may each devolve to all or some of their constituent members. In exploring these dynamics in the chapters of this thesis, I aim to situate ongoing "local struggles in [their] specific historical context, taking account of the way multiple interests and categories of people come into play, and impinge on one another, as people seek to acquire, defend, and exercise claims on land" (Berry 2002a:640).

Encountering governmentality, encompassing locality

The plural tenure situation at Enoosupukia today has been constructed from diverse elements over a period of several decades, notably, but not exclusively, as a result of a series of state projects to “encompass” the locality and establish new systems and structures of government (Ferguson and Gupta 2002). While these projects were intended to both render the place and population governable and legitimize the authority of the colonial and postcolonial Kenyan state to govern, they have instead intersected with dynamic local realities, become partially institutionalized, and have themselves been appropriated and transformed, producing uncertainty and contributing to conflict over belonging. In this sense, it is useful to consider Enoosupukia as a “semi-autonomous social field” (Moore 1973) that has been successively penetrated and rendered less autonomous by official and unofficial attempts to transform both concrete relations and categorical principles with respect to property over the years. Rather than obliterating or replacing pre-existing property relations, governmental interventions have contributed to the transformation of property at Enoosupukia by adding new principles and practices. These interventions have simultaneously constrained local capacities to autonomously make and enforce rules with respect to property relations and created opportunities for “outsiders” to assert claims in land; at the same time, local actors have been able to voice their claims in terms of new principles in efforts to gain recognition with varying success.

Specific interventions into the social field of property at Enoosupukia, both indirect and direct, such as the invention of “customary” institutions of indirect rule and later projects of land tenure reform, have been organized by the state and motivated by “governmentality” (Foucault 1991). A portmanteau of “government” and “rationality,” the concept reflects Foucault's historical interest in the practice, conceptualization, and

operation of “government” that is, the “conduct of conduct,” or, “a form of activity aiming to shape, guide or affect the conduct of some person or persons” (Gordon 1991:2). For Foucault, governmentality can be defined, in part, as “the ensemble formed by the institutions, procedures, analyses and reflections, the calculations and the tactics that allow the exercise of this very specific albeit complex form of power [i.e., “government”] which has as its target population, as its principle form of knowledge political economy, and as its essential technical means apparatuses of security” (Foucault 1991:102). Emerging from its roots in western Europe in the fifteenth and sixteenth centuries, governmentality has come to predominate through the co-evolution of bureaucratic-administrative states and a set of institutions and practices for producing and operationalizing knowledge about individuals, populations, and economies, not as objects to be controlled but as subjects to be governed. Governmentality is thus central to the historical emergence of modernity through the reconfiguration of the field of politics and government and the establishment of institutions and practices regulating both the formation of subjects and interactions between them. In terms of the organization and exercise of power, governmentality represents a revolution, supplanting the primacy – though not completely overwriting – more direct and violent forms of power identified by Foucault as “sovereignty” and “discipline.” Power in government,

> ... is only power (rather than mere physical force or violence) when addressed to individuals who are free to act in one way or another. Power is defined as 'actions on others' actions': that is, it presupposes rather than annuls their capacity as agents; it acts upon, and through, an open set of practical and ethical possibilities. [Further] ... power in a society is never a fixed or closed regime, but rather an endless and open strategic game. (Gordon 1991:5)

Whereas governmentality, and government as a specific form of power, emerged slowly over time in the West, the extension of these outside their historical and cultural 'home' has been less subtle and more problematic. As David Scott has argued,

governmentality was central to the colonial encounter as a modernizing mission, manifesting as a specific form of power “concerned above all with disabling old forms of life by systematically breaking down their conditions, and with constructing in their place new conditions so as to enable – indeed, so as to oblige – new forms of life to come into being” (1995:193). Colonial and postcolonial projects of modernization, and even increasingly hegemonic programs of neoliberal development, are underwritten by governmentality as a pervasive colonizing force in its own right, seeing everywhere disorder in need of ordering and improvement (James C. Scott 1998; Ferguson and Gupta 2002; Li 2007; Foucault 2008; Mitchell 2002). However, these revolutionary aspirations have not always been realized, and they have themselves been transformed in “the sticky materiality of practical encounters” (Tsing 2005:1). These points of articulation between governmentality – often in the form of ostensibly well-intentioned projects of intentional social transformation – and local realities are sites of friction and intense cultural politics, through which power, along with specific principles and practices of social organization, is negotiated.

Rather than characterizing such encounters as a dialectic between outside imposition and local resistance, they can perhaps be better understood as involving accommodation and appropriation of principles and practices on both sides as parties to these projects struggle to achieve understanding and remake meanings. As Bayart, considering the shape of the state and of political culture in Africa at large, has argued:

> ... in order to understand 'governmentality' in Africa we need to understand the concrete procedures by which social actors simultaneously borrow from a range of discursive genres, intermix them and, as a result, are able to invent original cultures of the State. We can then see that the production of a political space is on the one hand the work of an ensemble of actors, dominant and dominated, and that on the other hand it is in turn subject to a double logic of totalitarianising and detotalitarianising. (Bayart 2009:249)

Examining such processes of articulation, appropriation, and transformation is an important aspect of this thesis. In particular I focus on the dynamic articulation of principles and practices of government with the cultural politics of rights in land and belonging in the specific local context of Enoosupukia. While Enoosupukia has never been central to the problematization and construction of solutions characteristic of governmentality's encounter with complex realities, it has been a site of repeated interventions of various sorts whose effects have been felt even when their primary targets have been elsewhere.

To argue that state projects of “vertical encompassment” (Ferguson and Gupta 2002) have been profoundly transformative and have resulted in decreasing local autonomy is not to suggest that Enoosupukia and its precolonial residents were completely autonomous or isolated; indeed, prior to colonial intervention Enoosupukia was a constituent locality in a regional social system, in which rights in land and belonging were shaped through the interaction of ethnically-differentiated social units, each of which had its own tenure system and means of defining and regulating belonging that nevertheless intersected with the others. During this period, social and spatial boundaries could be transgressed in various ways, leading to shifting relationships between particular individuals, communities, and land and other resources, while allowing for the perpetuation of the larger, regional social field in which those relationships and boundaries were defined and negotiated (Galaty 1982, 1977; Waller 1985). The colonial encounter, beginning in the East African interior near the end of the nineteenth century, contributed to drastic shifts and reconfigurations in the pre-colonial social field, in particular as a result of the delineation of new legal institutions through which tradition, land tenure, and belonging were transformed via processes of

reinvention and renegotiation (Chanock 1985, 1991; Colson 1971; Mamdani 1996; Moore 1986; Ranger 1983, 1993). While these new institutions, identities, and boundaries were intended to facilitate colonial rule and can thus be considered instruments of governmentality, they were not merely imposed by foreign officials and administrators. Rather, they became and have remained imbricated with intense cultural politics within and between colonially-identified “tribes” around notions of “moral ethnicity” (Lonsdale 1994; Berman and Lonsdale 1992). The ramifications of these colonial dynamics continue to be felt today, both in terms of a legacy of “political tribalism” vis-a-vis post-colonial state politics (Klopp 2002; Lynch 2006a, 2006b), and in terms of property in specific localities where colonial reorganization of social and spatial boundaries added new means of negotiating inclusion and exclusion. At Enoosupukia, these processes shifted the terms of negotiation around the social and spatial boundaries connecting and dividing pastoralist Maasai and Dorobo foragers; these negotiations continue today, especially as Dorobo and others residing at Enoosupukia seek better representation and connection with political leaders and state institutions to bolster their security on land they have inherited from their ancestors.

Whereas the construction of colonial categories and boundaries was, for the most part, indirectly experienced at Enoosupukia, the Kenyan program of land tenure reform, devised in the late colonial period and extended after independence, has been a more direct and intentionally transformative governmental intervention. Contrary to colonial efforts to render local political systems “legible” (James C. Scott 1998), and incorporate them into colonial governance, land tenure reform in Africa has been explicitly proposed and practised as a means to transform social relations. In particular, schemes of land registration and titling have been designed to serve a number of economic and

environmental goals, from enhancing individual tenure security, encouraging agrarian investment, and stimulating agricultural development (Shipton 1988; Okoth-Ogendo 1976), to mitigating perceived or expected resource degradation and the disastrous effects of an impending "tragedy of the commons" (Leach and Mearns 1996; Mackenzie 1998). As a bellwether for much of the rest of Africa, the Kenyan experience in particular has been subjected to intense scrutiny over the years as scholars have investigated whether land tenure reform has truly been necessary, and whether it has been effective in achieving its stated goals, revealing a wide range of effects, but not necessarily successes, deriving from reform (e.g., Atwood 1990; Berry 1988, 1993; Bruce 1988, 1993; Coldham 1979; Haugerud 1989; Okoth-Ogendo 1976, 1986, 1993; Platteau 1996, 2000; Shipton 1988, 1992, 2009).[16] One of the key ideological positions behind all these claims of security and improvement has been the deep-seated liberal assertion that property is closely tied to the power and functioning of the modern state (Berry 2002b:216; Geisler 2006; see also James C. Scott 1998), a governmental assemblage par excellence. In this, tenure reform projects, particularly those seeking to establish an official, state-organized and operated, system of registration and conveyancing, can be understood as efforts to appropriate control and authority over local property regimes, as well as to transform local actors into economically rational landowners and producers.

Despite the intentions behind it, the land reform exercise initiated at Enoosupukia was only partly successful and today remains incomplete. While principles of individual ownership of land have been appropriated to some degree, and many at Enoosupukia essentially – though not always effectively – operate as freeholders-in-waiting, such principles, especially with respect to the permanent alienation of land through sale to

16 Despite significant evidence that land registration may have been neither effective nor necessary in fostering growth, it remains a popularly proposed panacea for all manner of economic ills (see de Soto 2000, 2003).

ethnic 'outsiders,' have not replaced other, previously institutionalized principles of collective and ethnic territoriality, and land claimed by and demarcated to individuals remains subject to multiple competing claims and constraints. Similar outcomes have been reported for other localities across Kenya (Shipton 1988, 1992, 2009; Haugerud 1989), with the distinction that in those places, land registration and titling has been completed on paper while tenure transformation remains incomplete in practice. Perhaps more significantly, the official, governmental processes and procedures for recognizing and regulating property – in this case the land registry and land control boards – have not been able to establish authoritative jurisdiction over the locality. The primary cause of this at Enoosupukia is the fact that registration has not been completed and title deeds remain unissued; however, in areas where registration and titling has been completed and lands have thus been made officially subject to governmental regulation and supervision, official rules and practices remain only weakly institutionalized and continue to be circumvented in various ways. Rural land markets in Kenya remain effectively unregulated and official registers have been rendered obsolete in many parts of the country (Shipton 1988; Haugerud 1989; Okoth-Ogendo 1976; Coldham 1978a, 1978b). As Coldham (1979:617) has pointed out, while unregistered dealings may be devoid of legal effect and proceed invisible to the state, they may be considered valid in the local context; however, it remains possible to challenge local arrangements by asserting claims in terms of and through official practices and principles. At Enoosupukia as elsewhere in Kenya, one of the unintended outcomes of tenure reform has been the proliferation of disputes and uncertainty, rather than their reduction and the enhancement of security, and the proliferation of institutions, principles, and practices around property has been a contributing factor.

Manipulating uncertainty, securing connection

Rather than resulting in the establishment of bureaucratic rule, one of the most significant effects of Kenyan state projects of vertical encompassment has been the incorporation of localities such as Enoosupukia into neopatrimonial politics. As a system of "governance" (Hyden 1992, 2000), neopatrimonialism involves the interpenetration of official, bureaucratic structures and rules with patronage and a blurring of the boundary between the private and public spheres (Erdmann and Engel 2007; Bratton and Walle 1994). Official institutions and procedures – for example, those connected to the state regulation of property – may be manipulated, applied, or evaded for particularistic ends, rather than according to ideological policy prescription or in line with broader public interest; likewise, state resources, such as government funds, administrative appointments, and public lands can be appropriated for personal enrichment or redistribution. This kind of instrumental manipulation of disorder is ubiquitous in Kenya (Barkan 1992; Barkan and Chege 1989; Haugerud 1995; Klopp 2001; Mueller 1984, 2008; Southall 1999; Widner 1992), though it is neither universal nor unchallenged (Klopp 2000, 2002). Land has been a particularly important resource for elites seeking to maintain their position in large patronage networks, and state lands, from forests to public utilities, have been appropriated for sale or redistribution to both wealthy and impoverished clients (Klopp 2000; Southall 2005). The dynamic is somewhat different at Enoosupukia; while rumours persist about the designs of members of the elite to displace local residents and self-allocate land for tea development, neopatrimonial politics have primarily played out in struggles over belonging between smallholders. In light of competing claims, forging and maintaining connection with potential patrons has been a key strategy for seeking recognition and enhancing security.

Notwithstanding the diversity of the continent and variation between states, it has recently been argued that political "power in Africa is best understood as the exercise of patrimonial power. ... [and that] it is in the interplay between the formal and the informal that power is exercised on the continent" (Chabal 2005:3). While this certainly diverges from notions of "good governance" that have come to dominate development discourse over the past two decades (Weiss 2000; Nanda 2006), it nevertheless constitutes a particular form of governance more broadly defined, and may be indicative of a specific variety of governmentality (Bayart 2009; Clapham 1996). A nebulous concept in itself, "governance" refers to more than merely the bureaucratic policy-making and regulatory activities of governments and other organizations. Efforts at specifying the content of the term have resulted in all-encompassing definitions, that governance connotes "a complex set of structures and processes, both public and private" (Weiss 2000:795) or that it embraces "all actors, organizations, and institutions, public and non-public, involved in structuring polities and their relationships, whether within sovereign nation-states or without" (Jensen 2008:381). As Hyden points out, though the definition and content of the concept remains debated, "scholarly analysts as well as those involved in making policy are yet to find agreement on what governance really stands for ... [b]eyond the general observation that governance refers to how power is being exercised and with what results" (Hyden 2000:6).

For his part, Hyden has sought to specify governance as a political process that involves "the conscious management of regime structures with a view to enhancing the legitimacy of the public realm", where regime denotes "not a set of political actors..., but rather a set of fundamental rules about the organization of the public realm. A regime provides the structural framework within which resources are authoritatively allocated. ...

Legitimacy is the dependent variable produced by effective governance" (Hyden 1992:7). Governance can thus be conceived of as a realm of political interaction "bounded by four properties ... identified as particularly important to good politics: 1) authority, 2) reciprocity, 3) trust; and 4) accountability" (Hyden 1992:12). Practices characterized by a high degree of each of these four elements, should generate political legitimacy, and thus the establishment of a governance realm. Elaborating on Hyden's conceptualization, Barkan has emphasized the importance of predictability and reciprocity, stating that:

> the existence of a governance realm is dependent on a regime's adherence to a predictable and legitimate set of procedures that regulate the exercise of political authority and the competition between claimants for state resources. Procedures that are frequently changed are never institutionalized. Procedures that do not provide for a significant measure of bargaining and reciprocity between the rulers and the ruled, and between competing claimants, will not be regarded as legitimate. (Barkan 1992:167)

The negotiation of power in a governance realm is thus not a zero-sum game, connected to the ability of an actor to overcome resistance; rather, power in governance is negotiated through consensus: governors claim power and the governed voluntarily accept and legitimize that claim, producing a relationship of asymmetrical reciprocity. Conceptualized in this way, “governance” encompasses all manner of political systems, from the idealized, bureaucratic state to those characterized by personalized, patron-client connections; however, not all actually existing political systems achieve the emergence of a legitimate “governance realm.” Autocratic rule marked by rampant personal accumulation of wealth, little attention to reciprocity between the elite and non-elite, and abrupt and unexpected rule changes may be widely considered illegitimate by those subjected to the apparently arbitrary whims of a tyrant (Barkan 1992:167). Similarly, the legitimacy of a given governance realm may be disputed by those excluded on some basis, or by those who disagree with the principles or practices by which it

operates, though neither of these necessarily implies illegitimate rule.

The public legitimacy of neopatrimonial governance depends in large part on the operation of a moral economy of patronage that connects rulers and ruled and binds them in relationships of asymmetrical reciprocal obligation (Bayart 2009; Berman 1998; Chabal and Daloz 1999; Daloz 2003; Hyden 1980, 1983; James C. Scott 1976). From an anthropological perspective, patronage involves the circulation of power, influence, and resources in social relationships of inequality, specifically, "between those who use their influence, social position or some other attribute to assist and protect others, and those who they so help and protect" (Boissevain 1966:18; see also Weingrod 1968; James C. Scott 1972).[17] In the context of neopatrimonial politics in Africa, vertical relations "between leaders and followers, rulers and ruled, are to be understood in terms of asymmetrical reciprocity" which does not "reduce the extremes of social wealth and status," but rather serves to "make such inequalities more legitimately bearable than they would otherwise have been" (Chabal and Daloz 1999:41-42). In effect, while "even the lowliest client can expect to benefit from his affiliation to a patron ... the truly destitute are those without patrons" (Chabal and Daloz 1999:42).

Patronage relationships depend on inequality between patrons and clients, but they also involve a degree of mutual dependence. As Scott has noted, it is reciprocity that distinguishes patron-client relationships from those of pure coercion or formal authority; notably, the power of a patron to exploit or coerce clients is limited when "the

17 Lest it be assumed that anthropologists have tended to valorize patronage, Boissevain's (1966:30) comments on the governmental effects of patronage in Sicily, the site of his work, are instructive: "A system of patronage can also be likened to a parasitic vine clinging to the trunk of a tree. As the vine saps the strength of the tree, so patronage weakens government. It leads to nepotism, corruption, influence-peddling and, above all, it weakens the rule of law. And, in Sicily, because violence is still part of the social currency, it has led to the persistence of brokers who are specialists in matters of violence, the mafiosi. In brief, it leads to and perpetuates the very conditions which have brought it into being, nurtured it, and permitted it to develop to the point where it is perhaps the most important channel of communication."

patron operates in a context in which community norms and sanctions and the need for clients require at least a minimum of bargaining and reciprocity; the power imbalance is not so great as to permit a pure command relationship" (James C. Scott 1972:93). Where patrons can monopolize provision of resources vital to the survival of clients, for example in the case of a landlord or leader who is empowered to unilaterally allocate agricultural land, they can effectively demand compliance in their pursuits from those who wish to gain or maintain a share in those resources. Even so, these patrons may be subject to social sanctions, especially if their provision of goods or services to clients falls short of expectations or demands; at the same time, their effective performance of social obligations can validate their position and engender a set of social debts owed by clients (James C. Scott 1976:41-43). Clients who benefit from the support of a patron but are unable to fully repay may be bound by debts of obligation to reciprocate; the gift of support is also a demand for reciprocation (Mauss 1967). Where competition exists between potential patrons, clients have some degree of choice and are more empowered to resist demands for compliance and to voice their own demands for more favourable terms. For example, in cases when patrons are elected officials, entrusted with the disbursement of state resources or able to preferentially implement or prevent state action, their powers of coercion are limited by the fact of having to facing electoral competition at some point in the future. Failure to deliver results may result in the loss of clients to rivals with either proven or promised ability to provide material or political support and protection.

Contrary to Hyden's early arguments that the state has been unable to penetrate and capture local peasant dynamics in Africa and is essentially a "balloon suspended in mid-air" above society, punctured by countless demands and unable to function

effectively (Hyden 1983:19), the neopatrimonial state is thoroughly enmeshed in patronage dynamics and appropriated as both a tool and resource. Appointment to influential administrative and other positions has been a key mechanism to reward clients, to consolidate support and extend the tenure of those at the top of national patronage networks (Arriola 2009; Bratton and Walle 1994). But, while such appropriations may be considered legitimate and part of a historically-produced "politics of the belly" (Bayart 2009), tensions can easily arise over the distribution of opportunities and over whose turn it is to eat – the "who" often implying not just patron-client clusters but also affective social units, from clans to ethnic groups. Widespread disaffection, either due to excessive personal accumulation by elites or significant exclusion of various groups of clients, can threaten the legitimacy of rulers, while not necessarily questioning the logic of the system itself (Chabal and Daloz 1999; Barkan 1992). The perpetual contingency that derives from the institutionalization of informality and patronage exacerbate insecurity for both patrons and clients, especially in conditions of scarcity that limit the circulation of resources and support, leaving clients unsatisfied and patrons vulnerable. As Chabal has argued, "where scarcity and disorder prevail – which is almost everywhere – corruption, predation and other forms of exploitation are rife. And ordinary Africans can only hope to avoid such violence if they become the clients of powerful enough patrons within the political elite" (2005:9-10). Such dynamics have been central to interpreting the numerous clashes over land, power, and belonging that have periodically seized Kenya, including those at Enoosupukia (Klopp 2001; see also Ajulu 2002; Atieno-Odhiambo 2002; Matter 2010; Mueller 2008).

The dynamics of patronage and neopatrimonial politics intersect with local struggles over belonging at Enoosupukia in several ways. Most immediately, the clashes

of 1993 can be interpreted as a result of shifting patronage relationships and instrumental manipulation of the disjuncture between official and unofficial property principles and practices. Kikuyu farmers, formerly acceptable as clients of both local Maa-speaking residents and members of the local and national political elite, became "outsiders" through disconnection and thus vulnerable to dispossession and displacement from lands they claimed to own (Matter 2010). For local residents, similar machinations are perceived in the 2005 evictions from the Trust Land forest as well as in the seemingly interminable delays in completing land adjudication and issuing title deeds for Kipise Adjudication Section. While these interpretations may not always be completely accurate – especially in the case of the forest evictions, which appear to be connected to an increasing penetration of global environmental governance rather than simply to shifting control of domestic power – they form an important basis for action. Local protests that "we have no leaders" are at once an affirmation of the importance of patronage and a claim of belonging. Efforts to redress the grievance of disconnection by negotiating relationships with leaders of various sorts – from publicly performing loyalty in political campaigns to seeking appointment of an administrative chief from the local community – are active means of striving for recognition of belonging, and they are used in conjunction with demands for the completion of adjudication and provision of official title deeds. Belonging at Enoosupukia is multi-faceted, and security of residence and ownership can be enhanced through claims of citizenship, ethnicity, and clientship, made and legitimized with reference to multiple, intersecting institutions and practices. For Dorobo and Maasai who claim rights in land and belonging at Enoosupukia as Kenyans, as Maa-speakers in a historically Maasai place, and as indigenous owners since time immemorial, negotiating connection to leaders can be a means of protecting against competing claims.

Outline of the thesis

This thesis examines ongoing, local struggles over belonging in relation to the complex, historically-produced context in which they occur. While each chapter takes up some particular aspect of the overall picture, they are united by a historical narrative and by key issues that recur in various moments and ways. In particular, I explore the ways in which various actors – notably, those residents of Enoosupukia seeking recognition of their claims to permanent residence and ownership – have dealt with the evolution of an increasingly complex and uncertain property field. In this sense, this thesis tells a story of worsening insecurity and deepening inequality over time, but also of dynamic, if not always successful, efforts by social actors to navigate complexity and negotiate security from a marginal position.

The foundations of marginality and their reproduction and exacerbation in the colonial encounter are the focus of Chapter 2, which first examines the cultural politics of ethnicity in the precolonial Rift Valley region before discussing the construction of colonial boundaries and structures of indirect rule. In particular, I pay attention to the connections between social and spatial belonging in the precolonial and colonial eras, and address the legacy of history in the contemporary cultural politics of belonging in Narok District as it affects and is interpreted by Enoosupukia's Dorobo inhabitants. The colonial encounter had significant, if primarily indirect, impacts on both the local field of property and the politics of representation and recognition in which Enoosupukia as a locality is enmeshed.

The next two chapters continue to interrogate the articulation of ethnic and political belonging with the transformation of property at Enoosupukia by examining not only shifts in who can claim belonging but also how belonging has shifted from a sense

of socially-embedded territoriality to one of individual ownership of land. Chapter 3 focuses on the ideology and practice of land tenure reform, tracing the colonial construction of customary tenure, its problematization in the context of political-economic crisis, and the emergence of land registration and titling as its solution. Further, the chapter follows the sticky encounter between state-sponsored tenure reform and local cultural politics of belonging both in terms of the way land registration disrupted the previously-existing tenure system and opened Enoosupukia to non-local claimants and in terms of how disputes over territorial belonging among Maa-speakers have complicated the governmental transformation of space and subjects. Chapter 4 looks at questions of belonging in terms of conflicts voiced through contrasting notions of individual, civic belonging as land-owning citizens and of collective, ethnic belonging. Specifically, I examine the historical presence and expulsion of Kikuyu as a means to investigate the tensions between individual and collective rights and how these conflicts have reshaped the local field of property. A key question in this chapter is to what extent local residents as “freeholders-in-waiting” are free to transfer rights to others as individuals and to what extent they are constrained by the social and political embeddedness of belonging.

Chapter 5 focuses on the ongoing disputes over access to and control over the Trust Land portion of Enoosupukia by examining the tensions between political forestry and forest politics. The area's official declaration as a conservation forest in 1993 set up a situation of persistent uncertainty and insecurity as ethnically and politically “correct” people were allowed to continue to reside in and use the “forest” while others were kept out. This chapter looks at how shifting national and global connections have impacted the locality and its users, as well as the ways in which the results of those shifts have been interpreted and responded to by locals. In particular I show how renewed efforts to

police and enforce exclusion in response to national and global environmentalist concerns have ironically resulted in an open-access situation in which rights to access and use this “forest” in particular ways are contested between local and non-local resource users and the authority to enforce exclusion is uncertain.

One important factor in determining access to resources at Enoosupukia is the real and perceived connections and disconnections between claimants and powerful patrons in the political elite. The question of patronage connection is addressed most directly in Chapter 6, which looks at both the historical emergence of neopatrimonial governance in Kenya and the ways in which residents of Enoosupukia seek to gain and maintain connection with leaders who can access and direct state resources and power. In particular, I discuss long-term efforts to have local residents appointed into the administrative apparatus at the lowest rung, in the position of assistant chief, as well as the dynamics of local engagement with the 2007 election. These efforts are intended to help secure both recognition of claims to rights in land and recognition of belonging in local and national networks of patronage circulation and thus to alleviate insecurity and facilitate local development.

Chapter 7 presents some contingent conclusions, beginning with a summary of the argument, proceeding to a brief discussion of ongoing negotiations aimed at securing belonging, and ending with some prospects for the future in light of significant recent changes including the promulgation of a new constitution and the articulation of global environmentality with this contested locality.

Chapter 2

Ethnicity, inequality, and the colonial encounter

The name “Enoosupukia” identifies both an administrative location within Narok District, in Kenya's Rift Valley Province, and a specific locality within that location. The location lies along the boundary of the colonial-era Masai Reserve, currently the boundary between Narok and Naivasha Districts, the latter a part of the so-called White Highlands allocated for European settlement by the colonial government. Enoosupukia location covers an area of approximately 215 square kilometres, and includes a diverse topography. From its lowest point, around 1,600 meters above sea level at the foot of Mount Suswa, a massive extinct volcano on the Rift Valley floor, the location stretches over a gently rising plain before climbing up the south-eastern end of the Mau Escarpment to a ridged plateau with a maximum elevation of around 2,800 meters above sea level. The locality from which Enoosupukia location takes its name is found in the highland portion of the location, and was once blanketed by a thick, Afro-montane forest. Enoosupukia derives its name from the Maa-language word *osupukiai*, which identifies a species of tree (latin: *dombeya dombeya*) that blooms seasonally with clustered white flowers, from which bees produce a very sweet, white honey. Enoosupukia was, literally, the place of dombeya trees, most of which, along with numerous other species that composed this portion of the Mau forest, have been turned into timber or charcoal, a

legacy of the radical social transformations that have taken place at Enoosupukia over the past forty to fifty years. Enoosupukia has also been, for as long as anyone there can remember, home to a local Dorobo group,[1] historically hunters and honey-collectors who speak Maa as their primary language and who now rarely harvest honey and even less frequently hunt, distinguishable from other nearby local groups as *iltorobo le noosupukia* (Enoosupukia Dorobo, or, literally Dorobo of Enoosupukia) so that the name of the locality also identifies its inhabitants.[2]

1 "Dorobo" is a contested ethnonym, in part because it was widely misused to refer to most or all of the foraging communities of East Africa during the colonial period (Blackburn 1982; Huntingford 1931). On occasion I have been corrected in my usage of the term Dorobo, which I do in accordance with local convention at Enoosupukia, by non-Dorobo operating in Kenyan civil society. For example, I was once told by a bombastic German that if someone self-identified to him as "Dorobo" he would respond with "oh *pole sana* (very sorry)! Here, why don't I give you fifty shillings if you're nothing more than a poor person?" In another, more telling encounter with a Kenyan NGO coordinator, one of my Dorobo colleagues from Enoosupukia was asked to list the clan names used by the local group. When he began to name Maasai clans, he was stopped by the NGO coordinator who addressed an Okiek colleague, lamenting that it was a shame the people of Enoosupukia had lost their "true" culture and been so fully assimilated by Maasai.

While discursive space seems to be opening in the Kenyan manifestation of the Indigenous Peoples' movement, so that groups are able to assert their identity as Sengwer, Yaaku, or Watta (The Standard 2010; see also Lynch 2006), early political reactions were to assert that "Dorobo" was a derogatory term and to call for its replacement with "Okiek" as the authentic ethnonym of most of these people. Ironically, "Okiek" seems to carry at least some of the same disparaging connotations among Kipsigis as "Dorobo" does among Maasai (Kratz 1980, 1994:358). In a distinct movement, Cronk notes that the former foragers of diverse ancestry in Mukogodo Location, officially identified as "Ndorobo" and accorded their own colonial-era reserve, petitioned the Kenyan Government in 1971 to have their official name changed from "Ndorobo" to "Mukogodo Masai" on the grounds that the former meant "homeless people," though he compellingly shows how this was connected to efforts to claim both rights in land and Maasai status, rather than recognition as autonomous hunter-gatherers (Cronk 2004, 1989, 2002:140). In a fascinating turn, some of these same "Mukogodo Masai" have recently come to assert their "true" identity as Yaaku and, with support from the Kenyan-based Indigenous Information Network, established a community-based organization that participates in global forums as well as organizing language training in the Eastern Cushitic Yaaku language. Dorobo at Enoosupukia have explained to me that while they recognize cultural similarities with other historical foraging groups, they are distinct and should not be misidentified as "Okiek." Blackburn, after his early enthusiasm for the complete replacement of the name "Dorobo" later softened his stance to suggest that it may be appropriate for groups who self-ascribe as such and may have distinct histories from those who self-identify as Okiek (Blackburn 1996: nn 6).

2 Throughout this thesis, I will use "Enoosupukia Location" to refer to the demarcated administrative location, and "Enoosupukia" to refer to the highland locality. In some cases I will further specify neighbourhoods within the locality by their locally-used names. When referring to the locality's indigenous inhabitants, I will use the terms "Enoosupukia Dorobo," "Dorobo of Enoosupukia," or, simply "Dorobo."

Enoosupukia and its Dorobo inhabitants have been, again for as long as local history can trace, participants in a larger regional ethno-economic system, which connected numerous peoples throughout the Rift Valley and neighbouring areas in the pre-colonial era and was dominated by pastoralist Maasai. Despite economic interdependence and significant patterns of exchange between them, including of both food and wives, social boundaries and inequalities between herders, hunters, and farmers were reinforced through their integration into a cultural-political framework in which identity, livelihood, and status were interlinked. Economic specialization and social distinction contributed to a situation in which the constituent groups in this dynamic system also exploited different ecological resources, leading to their occupation of separate territories that were nevertheless neither exclusive nor defined by rigid boundaries. The pre-colonial Rift Valley ethno-economic system was thus marked by both inequality and autonomy between ethnically differentiated, economically specialized, and territorially distinct groups.

Over the past century, Enoosupukia has been increasingly incorporated into a set of translocal processes, beginning with its encompassment under the colonial-era Masai Reserve, governed through “indirect rule,” and continuing through the official and unofficial processes of tenure transformation that will be discussed in subsequent chapters. These processes have been instrumental in integrating the area and its inhabitants into both official structures of rule and the moral economy of patronage with which those are interlinked,[3] and their interpenetration has led to persistent tenure insecurity, which is connected in local discourse with increased hardship (*osina*) and a

3 As discussed in the introduction, the term I use here, “moral economy of patronage” is informed by classic works by James Scott (1976) on the moral economy of peasant societies and Goran Hyden (Hyden 1980, 1983) on the “economy of affection” in Tanzania, as well as more recent work by Patrick Chabal (Chabal and Daloz 1999; 2005) and Bruce Berman (1998).

lack of “development” (*maendeleo*). Hardship, according to many here, is a recent phenomenon, and is connected to the marginalization of the small Dorobo community in the politics of Narok District and of Kenya. As Maa-speakers and as autochthons at Enoosupukia, Dorobo can claim belonging both on the land and in the larger, Maasai-dominated community of Narok District; however, their small population and low social status have contributed to a complicated political dependence on larger groups, especially the Purko and Keekonyokie Maasai sections. In particular, recognition of Dorobo claims of rights in land and belonging at Enoosupukia depends on the support of Maasai leaders who have also sought access for their non-Dorobo constituents and clients.

Dorobo marginality on their ancestral lands is a product of both numerical minority and the ways in which the cultural-political ideology of the pre-colonial Rift Valley was reproduced through colonial practices of “state spatialization” (Ferguson and Gupta 2002). Driven by the political-economic concerns of a growing settler society in early twentieth-century Kenya (Sorrenson 1968), the creation of “tribal reserves” governed by “Native Authorities” was informed by a general British colonial policy of governing through “indirect rule” (Mamdani 1996). Faced with limited staff and resources, and confronted with complex social realities that diverged radically from dominant European conceptions of ethno-political organization in which ethnic groups were akin to internally homogeneous and externally discrete “billiard balls” linked to clearly-defined territories (Wolf 1982:6; Gupta and Ferguson 1997), colonial officials set about demarcating and regulating social and spatial boundaries. As has been well-documented in numerous contexts, the application of “colonial governmentality” (David Scott 1995) was not inconsequential for subject populations: the use of governmental authority to interpret,

imagine, and invent social reality can have major impacts on both social and physical space, especially when combined with the power to make and enforce law (Ranger 1983; Benedict Anderson 1991; Mitchell 1988; Mamdani 1996, 2001; James C. Scott 1998). Without consultation or consideration, Enoosupukia was circumscribed by the boundaries of the Masai Reserve and its residents were subjected to the political authority of pastoralist neighbours from whom they had previously enjoyed a degree of autonomy. In postcolonial Kenya, the legacy of these colonial administrative decisions continues to manifest in Dorobo marginalization in the election and selection of representatives, the distribution of resources for local development, and even recognition of claimed rights in land at Enoosupukia.

In this chapter, I examine the colonial-era invention of ethno-territorial belonging as a way to understand how Enoosupukia and its Dorobo inhabitants have come to be encompassed and marginalized within larger political structures. I begin with a discussion of the pre-colonial social and spatial relations between Dorobo and Maasai, as well as others, in the context of the wider Rift Valley ethno-economic system and with reference to the specific local iteration of which Enoosupukia was a part. Next, I trace the constitution of the Masai Reserve as an ethnically-exclusive space, the demarcation of internal boundaries, and the establishment of political authorities that overlooked Dorobo autonomy. Dorobo did not go without notice in the colonial era, and they were recognized as a particular problem for the development and application of indirect rule and ethno-territorial exclusivity in Kenya. In that light, I look at colonial solutions to the “Dorobo problem” and the ramifications of these solutions, especially in the perpetuation of Dorobo marginality in relation to the Maasai of Narok District. The principles of ethno-territorial belonging invented and inscribed under colonial rule have further implications

for historical processes of encompassment and tenure transformation and the evolution of a legal pluralism around rights in land at Enoosupukia and are thus a theme whose recurrence throughout this thesis I will highlight at the end of this chapter.

Social and spatial relations in the pre-colonial Rift Valley

Prior to the colonial encounter of the late nineteenth and early twentieth centuries, Kenya's Rift Valley region was home to a dynamic ethno-economic system consisting of a “palimpsest of pluralist communities” (Spear and Waller 1993:19).[4] This “interior mosaic” was “arguably one of the most complex ethnolinguistic regions in the continent” (Newman 1995:166), and included numerous ethnic entities, distinguishable from one another by language, cultural practices, social organization, and livelihood, occupying distinct territories; however, these social and spatial boundaries were transcended in various ways, especially along their frontiers, as members of ethnically differentiated communities exchanged commodities, intermarried, and “shifted” between categories to effectively “become” members of other groups (Galaty 1982, 1993b). The permeability of both social and spatial boundaries between constituent groups of this regional system should not be understood to suggest that distinctions were meaningless. In fact, it contributed to a dynamism in which both boundary maintenance reinforcing distinctions and frontier processes of novel ethnic emergence operated (Barth 1969; Kopytoff 1987). While individuals and sometimes whole communities could transcend boundaries to effectively “become” members of different categories, the cultural-political dynamic of the system, described by Galaty as “synthesis through exclusion” (Galaty 1986:106), has perpetuated distinctions between ethnic categories, if not always between specific members of those categories. At the margins and along the internal and

4 As Waller (1985a:357-8) notes, the Rift Valley was not the only location of such a system in East Africa. The Lake Turkana Basin was home to a similar, but more diffuse system.

external frontiers of the region, distinctions were blurred in various ways by "Dorobo" hunters linked to Maasai, Kipsigis, and Kikuyu (Kratz 1980), by livestock-owning former foragers like the Mukogodo (Cronk 1989, 2002, 2004), "agricultural Maasai" such as the Arusha (Spear 1993a), the Nguruman (Jacobs 1968), or the Chamus (Little 1998; D. Anderson 1988), as well as by bilingual and bicultural groups like the Ariaal (Spencer 1973; Fratkin 1993) and the Kikuyu-Maasai "Nusui" of Nairagie Enkare (Galaty 1993b; Waller 1993). Social distinctions were further reinforced by economic specialization and exploitation of different ecological resources, leading to a spatial distribution of hunters, herders, and farmers in distinct but not always discrete territories across the region.

Synthesis through exclusion

By the middle of the eighteenth century, the Maasai had emerged as a hegemonic force throughout the region, through a process of territorial and cultural expansion.[5] Emerging out of a Maa-speaking population that likely occupied a significant area of present-day southern Kenya as much as 1000 years ago (Sommer and Vossen 1993; Ehret 1971), a core group of specialized pastoralists "radiated outwards from the Nakuru-Naivasha area" (Sutton 1993:39), encountering other groups of Maa-speakers as well as non-Maa-speakers and displacing some through military conquest while absorbing others through less dramatically-violent assimilation (Galaty 1993a:68; Sobania 1993). Physical movement and confrontation were accompanied by a cultural revolution in which the strong Maasai preference for "pure" pastoral production and their powerful position in the region led to the reorganization of identity and livelihood practices, perhaps pushing economic specialization among neighbours.

5 At its zenith, the territorial extent of Maasai and other Maa-speaking peoples covered a distance of around 1000 kilometers from Lake Turkana in the north, to the Maasai Steppe of present-day Tanzania in the south, passing through the bottleneck of the Rift Valley and fanning out on either end, reaching, in the south, to within 100 kilometers of the Indian Ocean coast (Spear and Waller 1993).

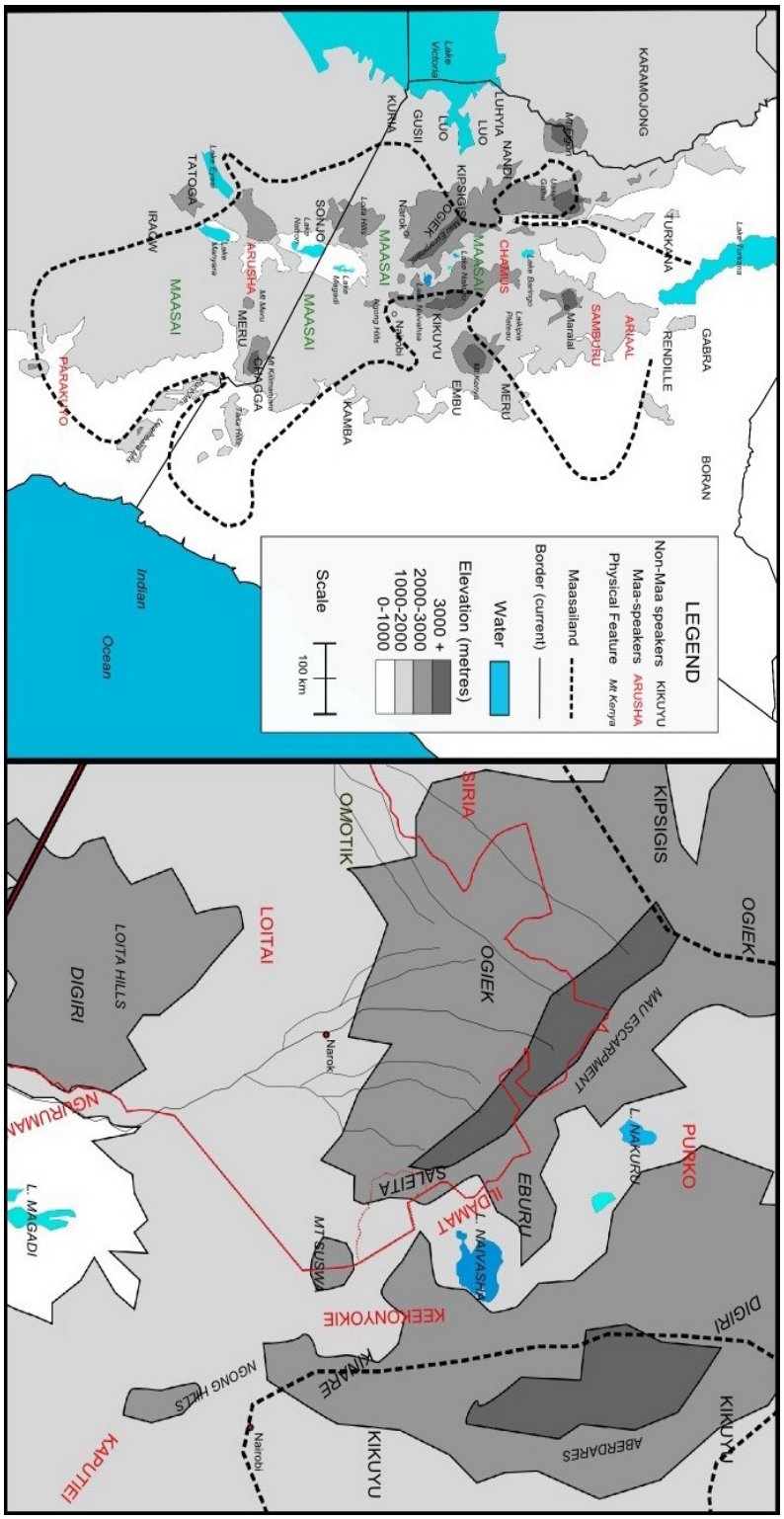

Figure 2.1: Maa-speakers and their neighbours, mid-1800s. Adapted from Waller (1985a), Spear and Waller (1993), Blackburn (1982).

The pastoralist cultural orientation associated prestige and status with livestock ownership and consumption of livestock products, especially milk and blood, while eschewing cultivation and hunting and the associated consumption of cereal, vegetable, of game foods.[6] But "pure pastoralism" depends, at least seasonally, on supplementation and support from non-pastoralists, such as hunters known by Maasai as "*iltorobo*" (Dorobo) or cultivators known collectively as *ilmeek*, such as the Kikuyu; Maasai further entrenched their position in the regional economy and livestock, especially cattle, took on special significance as a form of proto-currency, as pastoral products were exchanged for all manner of goods and services required or desired by pastoralists, reinforcing economic interdependence (Waller 1985b:95). The pre-colonial Rift Valley system can thus be understood as "encompassing a triangle of economic forces – pastoralism, hunting-gathering, and agriculture – within complex cultural structures which were both highly differentiated and complementary" (Spear 1993b:9; Waller 1985b, 1985a; Galaty 1977, 1979, 1982). Taken as a whole, the regional economy incorporated different means and relations of production within a single larger mode of production, with each of the three poles corresponding to peoples exploiting different ecological niches to produce valued items both for subsistence and for exchange with their counterparts.

6 This iteration of the specialized pastoralism "leitmotif" did not constitute a novel emergence (Galaty 1993a). Archaeological data shows evidence of specialized pastoralism in this area over several thousand years (Ambrose 1984; Marshall 1990; Sutton 1993). It is possible that specialized pastoralism co-existed with other specialized livelihoods such as foraging and cultivation, as well as with divserse practices of mixed-agropastoralism bolstered by foraging, due to both ecological constraints in the region as well as the type of cultural processes described here. As Galaty has argued with reference to the Maasai pastoralist revolution: "Maasailand in the nineteenth century was, and still is today, socially and economically complex. Although specialized pastoralism and pastoralists predominated, many other economy varieties were and are practised by Maa-speakers. There is no reason to believe that early Maasailand should have been any less complex, or that the development of a 'purely pastoral' society ... and of mixed pastoralism and cultivation, could not have been pursued by various groups of early Maa-speakers, who influenced or came under the influence of different sets of neighbours, including Southern Cushitic, Southern Nilotic, or Southern Kalenjin-speakers, in turn" (Galaty 1993a:66).

In the idealized ethnosociology of the region, different groups exploited distinct resources associated with particular ecological niches in non-competitive, complementary ways that both facilitated exchange and helped to reinforce, perhaps even naturalize, the ethnic boundaries between them (Spear 1993b:5-6). Thus, livestock-producing herders were linked to rangelands (*ongata* – plains), hunters to forests (*intimi*; sing.: *entim*), and farmers to the well-watered, fertile soils of forest margins or areas carved from forests (*imukuntani* – cultivated lands; derived from the Kikuyu word for garden or cultivated fields). In practice, however, these apparent ecological boundaries were transgressed in various ways. Hunters were found not only in the forests, which were of primary importance for the availability of honey rather than game (Blackburn 1971, 1982, 1986), but also on the plains, either seasonally when bees were not present in highland forests or in more permanent occupation of specific localities (Galaty 1986:113). Agriculture, limited not only by soil types but also by water availability, could be extended into more marginal lands through irrigation (Widgren and Sutton 2004), and deeper into forests through expansion and conversion of forested lands into farms in a process with long historical roots that continues today (Leakey 1977; Waller 1993). Pastoralism likewise included not only seasonal movement between lowland (*olpurkel*) and highland (*osupuko*) pastures, but also periodic incursions into forest margins or onto harvested fields in times of drought.

Interaction among the groups in the system “was facilitated if the two [or more] peoples shared a number of cultural features: language, clan names, age-set structure, and the possibility of intermarriage” (Berntsen 1976:7), and reciprocal exchange between these groups included commodities with material, social, and symbolic value, from food to tools, livestock to wives. Despite pastoralist ideological proscriptions against

cultivation, Maasai sometimes had to supplement their ideal diet of milk, blood, and meat with cereals acquired from farmers, especially during dry seasons when milk and blood from livestock were less readily harvested. From hunters and honey-collectors like the forest-dwelling Dorobo and Okiek, pastoralists sought honey, a key ingredient in beer brewed for consumption in various ceremonial events, implements such as shields and scabbards made from the hides of wild animals, which Maasai would rarely deign to hunt, and services such as circumcision and livestock slaughter, which required the spilling of blood and made practitioners susceptible to pollution (Galaty 1979). Further, like Maasai, both Dorobo and Kikuyu practised circumcision of males and females, which meant that their daughters could be considered possible marriage partners for Maasai men. Maasai wealth and prestige is associated not only with ownership of large herds, but also with large families; while consumable commodities were important for supporting pastoralist economic production, the availability of marriageable women bolstered Maasai social and cultural reproduction.[7] In exchange, hunters and farmers received livestock valued for consumption, use in bridewealth, and for the accumulation of personal wealth by exchanging relatively perishable commodities (crops or honey) for more durable ones (livestock) thus storing and increasing value over time. As both the producers and particularly wealthy owners of this most valuable commodity, Maasai enjoyed prestige and power among the region's many peoples (Waller 1985b:95-96).

7 Marriage typically involved a uni-directional movement of women, from Dorobo or Kikuyu to Maasai, in accordance with the cultural politics of ethnicity to be discussed below. This pattern could be reversed in circumstances of extreme hardship such as drought or the “triple-disasters” of the late nineteenth century (Galaty 1993b; Waller 1985b). Marriage of Maasai girls by Dorobo men could also sometimes be the result of long-term friendships between Dorobo and Maasai men. Among the Saleita Dorobo I know, one elder man of the *olnyangusi* age set has skillfully maintained friendship relationships with several Maasai for years. Not only has he given more than one of his daughters in marriage, but his junior wife – the mother of his two youngest children, including one born in 2007 – is the daughter of one of his Purko Maasai friends.

The tri-partite division of the regional economy was mirrored by categorical distinctions between specialized, “pure” hunters, herders, and farmers that continue to constitute ideal types in Maasai “ethno-sociology” (Galaty 1982, 1977). But, just as exchange transcended the boundaries between these categories, so did some of the groups and the individuals who occupied them. Relationships between individual hunters, herders, and farmers ranged from periodic seasonal interactions and personal contacts that “were the basis of trade, gift exchanges, and invitations to ceremonies” (Kratz 1994:65), to long-term cohabitation in mixed neighbourhoods and homesteads. Individual Dorobo or Kikuyu could take up residence with Maasai, gaining employment as herdsmen (*ilcekuti*, sing.: *olcekut*) and potentially leading to adoption into their host families, allowing ample opportunity to accumulate both livestock and social status (Waller 1985b:110-111). Such processes of adoption and assimilation played a significant role in the growth of an ethnically mixed community around Nairagie Enkare, initially including both “acceptees” who adopted Maasai culture and livelihood and others, often Kikuyu wives, who cultivated to provide the extended family with cereals to supplement the pastoral diet. Over time, a growing population with dual Maasai and Kikuyu heritage became locally known as *ilnusui* (derived from the Kiswahili “*nusu*” - half), signifying “bilingual bicultural families and individuals, now distanced from the pastoral economy, who participate in education, farming, trade, and land acquisition much more frequently than pastoral Maasai” (Galaty 1993b:189).[8] Similar dynamics have been reported among the Nguruman, an agro-pastoral community with Sonjo roots, some of whom were in the process of becoming Iloodokilani Maasai (Jacobs 1968).

8 As will be discussed later in this thesis, the identity and status of this population has been a point of political contention for colonial administrators seeking to maintained ethnic exclusivity in the Masai Reserve as well as between rival Maasai factions building political influence by expanding their client bases (Waller 1993). These politics of belonging are central to ongoing conflicts over rights in land at Enoosupukia, as well as to the “ethnic” clashes that rocked the area in 1993.

Conversely, social relationships of friendship and affinity with hunters, and farmers could be mobilized as a safety net for pastoralists in times of need. With their livestock stricken by drought or disease, or captured in violent conflict, Maasai were able to take refuge with their partners or in-laws. During the particularly disastrous years of the 1890s, “impoverished Maasai made their way to neighbouring communities to exchange stock, ornaments, and even children in pawn for food” (Waller 1985b:95). Over a decade later, writers reporting on various Dorobo groups around the Rift Valley commented that it was nearly impossible to distinguish between “true” Dorobo and impoverished Maasai who had joined them in the aftermath of near destruction (Waller 1985b:129; Hobley 1903, 1905, 1906). These impoverished Maasai, however, did not necessarily “become” Kikuyu or Dorobo; rather, like former foragers and farmers who crossed the ethno-economic boundary, these pastoralists often took their situation as temporary and made efforts to reaccumulate stock and resume their prestigious position in the regional economy (Waller 1985b:129; Cronk 1989, 2002, 2004). Notwithstanding the movement of individuals and specific groups across shifting boundaries, these long-term, sometimes intensive, interactions did not lead to a general dissolution of difference across the region. Instead, distinctions between these ethno-economic categories were maintained through cultural politics voiced through symbolic oppositions and backed by power.

The cultural politics of inequality in the Rift Valley has been described as “a unique East African system of synthesis through exclusion” (Galaty 1986:106), centred around the cultural, economic, and military hegemony of the pastoralist Maasai as “people of cattle.” Being Maasai, the “people of cattle” in the Rift Valley, implied wealth and prestige and was connected to a sense of superiority over people without cattle,

elaborated in a series of symbolic oppositions linking production, consumption, and status (Galaty 1977, 1979, 1982). In this Maasai "ethno-sociology," the pastoralist self-image reflects an essential commitment to pastoralism that also manifests in the performance of core values such as "bravery, fortitude, and arrogance, and decorum, respect, pride, and appearance" (Galaty 1982:4). These values can be further encompassed in the Maasai sense of "*enkanyit*," often glossed as "honour" or "respect," which refers to a broad sense of propriety and conformity with specific behaviours, covering everything from greetings to careful speech, eating to grazing, as well as relationships between genders, in-laws, and age sets (Spencer 1965:26; Rigby 1988:23; Holtzman 2007; Talle 2007; Archambault 2009). Hunter and farmer non-conformity with these ideals, foremost via their livelihoods, for example by scratching the ground to cultivate or chasing game as a source of food, allows the pastoralist to denigrate non-pastoralists as lacking restraint or propriety and as being less worthy of respect. Dorobo (and others) can be seen as a foil for the pastoralist self-image, a "mirror in the forest" (Kenny 1981) in which pastoralist ideals are inverted and a significant "Other" reflected, which simultaneously teaches and reinforces Maasai values and the pastoralist meta-narrative (Trouillot 1991).[9]

The Maa word "*iltorobo*" (sing.: *oltoroboni*), from which "Dorobo" is a derived Anglicization, is not simply an ethnonym applied to foraging peoples in eastern Africa.[10]

9 Galaty develops an extensive analysis of the social and symbolic relations between Maasai and their numerous "Others" in his doctoral dissertation (Galaty 1977); subsequent articles focused on the triangular interactions between herders, hunters, and farmers (Galaty 1982), and among Maa-speakers who diverge from the pastoral image in their practise of "polluting" activities, from hunting and circumcision, to blacksmithing and divination (Galaty 1979).

10 The etymology of "*iltorobo*" is unclear. Galaty refers to an informant who connected it to the Maa word "*entorroboni*" which signifies the Tsetse fly (Galaty 1977:150). Cronk mentions several alternative possibilities, including derivation from the Maa adjective "*dorop*" (short), "a combination of the Maa words for bees, *lotorok* with the word for cattle pen, *bo*, referring to people who keep bees rather than livestock; and the word *darabe:da*, meaning 'forest' in the language of the Datog of Tanzania" (Cronk 2004:64). Dorobo at Enoosupukia explained to me that "iltorobo" is simply the ethnonym given "by God."

Rather than carrying a literal meaning of “poor person” or “person without cattle” as is commonly stated throughout the literature (e.g. Spear 1993b:7; Blackburn 1982:283), the term works as a sign and signifies, to pastoralist Maasai, poverty due to lack of livestock ownership.[11] While the term can be extended to describe Maasai who have fallen from grace and become impoverished, a clear distinction is made between those who act like Dorobo (i.e. by hunting) as a result of personal misfortune and those true Dorobo who perform such demeaning acts “as a total way of life determined by tradition and choice” (Galaty 1977:149). Such acts include not only relying on wild game for food, but also living in the forest where livestock generally cannot, as well as gluttony or foolishness, signified by the slaughter and consumption of livestock, especially heifers, acquired in exchange from Maasai (Galaty 1977:178). The origins of these oppositions between essentialized pastoralist Maasai and non-pastoralist Dorobo are explained with reference to Maasai oral history and creation myths in which Dorobo greed or ignorance, or conversely, Maasai wisdom and cunning, resulted in Dorobo exclusion from livestock ownership. One such myth recounts the descent of cattle along a leather rope, a gift from *Enkai* (God) to the people he created: unable to wait patiently for his allocation, Dorobo shot the rope with an arrow, severing it and allowing the descending livestock to scatter into the bush. This myth is told in many variations (Galaty 1977:157-8; Kratz 1994:57), but the cutting of the rope and its implications are well-known: Dorobo lost the right to own livestock, and thus to enjoy high social status, by virtue of their own failings. Social inequality between herders and hunters could, in some cases, be manifested in physical

11 The Maa term collectively applied to neighbouring Bantu-speaking cultivators, “*ilmeek*” (sing.: *olmeeki*) has similar connotations. Ehret suggests that the word is related to a proto-Kalenjin cognate that means “people without livestock” (Ehret 1971). Galaty, however, traces its etymology from the Maa verb “*a-ek*” (to weigh down or burden), and notes the addition of the negative infix *-me-* gives it a sense of people who are not troubled by their burdens, which is “a somewhat pejorative reference to the industry of the Bantu agriculturalists, who are known to carry great loads with little effort, tasks for which the Maasai would enlist the assistance of a donkey” (Galaty 1977:224-5).

confrontation and abuse of Dorobo by Maasai. Galaty notes that “it is said by Torrobo that Maasai used to beat them and force them to perform certain tasks such as slaughtering and preparing a cow, but this practice most likely occurred in areas peripheral to those primarily occupied by Torrobo local groups, involving isolated Torrobo or those in servile relation to the Maasai” (1977:203). As Kratz further suggests, when recounted by Maasai, such stories may do more to bolster the pastoral self-image than to display accurate accounts of actual events (1994:66).

Pastoralist hegemony in the Rift Valley, greatly diminished but still influential today, left little room for open resistance or rejection of Maasai ideals, except by the maintenance of spatial as well as social distance. For Dorobo who resided in the homesteads or neighbourhoods of pastoralist Maasai, this could be particularly difficult, though daily interaction may have dulled the edge of discriminatory language as it appears to have done in the Enoosupukia neighbourhoods in which Maasai and Dorobo live as neighbours. In more distant neighbourhoods where Dorobo are fewer and Maasai more numerous, discrimination continues to bite. One friend mentioned a confrontational experience at Suswa-Empaash trading centre on a market day: after some indeterminate difference of opinion with a number of Keekonyokie Maasai men from the lowlands, he was verbally abused and told to go back home. Increasing the personal insult, the Keekonyokie men openly referred to him as “*endoroboni*,” a feminine, diminutive, and thus pejorative construction of “*oltoroboni*.” Explaining the insult, he told me that their use of the diminutive prefix indicated that they regarded him as a small and insignificant person.[12] The burden of being “Dorobo” was also not easily left behind, even by those

12 I once witnessed a similar pejorative use of the diminutive at Lemek, in the southwestern part of Narok District. Driving along a local road in search of a particular official of the Lemek Maasai Centre, established by Father Franz Mol as a language training centre for Catholic priests and missionaries, I encountered an elder who had recently left a dispute resolution meeting unsatisfied with the outcome. When asked about the whereabouts of the official, he

who did accumulate livestock and cross the boundary to “become” Maasai. “Impure” heritage is long remembered among Maasai and rumours abound, especially about politicians or in local disputes, about any given “Maasai” actually being “Kikuyu” or “Meru” or “Dorobo” on account of an ancestor having been adopted by or assimilated into pastoral Maasai generations ago. Some, however, especially recently, neither try to hide their ancestry nor assert a “Maasai” identity. For example, Julius Ngayami, a respected pastor who had acquired a piece of land at Melili from his father and converted his salary into a herd of merino sheep and cattle, recounted an experience at a meeting in Narok, in which he had self-identified as Dorobo: a Purko Maasai participant in the meeting looked at him and said “*paa, inshiuo*! *Megure ira oltoroboni amu inoto inkishu oo ntare*!” (“but you've healed [as in from illness]! You're not a Dorobo anymore because now you have cattle and sheep!”), to which Julius responded “*mamuei apa*!” (“but I was not sick!”).[13]

Historically, in a pattern common in relationships between African foragers and their non-foraging neighbours, some groups maintained significant autonomy by virtue of their residence deep inside the forest, limiting interactions with non-foragers to seasonal or episodic ones (Kratz 1994; Blackburn 1982, 1996). Even during those interactions, however, foragers may have adopted a subordinate position to their Maasai “friends,” who in turn may have understood or represented such relationships as client relations. Such asymmetrical relations often allowed domination to emerge “in more subtle ways [than aggression or coercion], such as in the use of the Maa language in all interactions” (Kratz 1994:67). However, acquiescence to subjugation by the more powerful in public settings is often complemented by “hidden transcripts” of resistance (Cronk and Dickson

indicated the homestead from which he had departed and stated that the “*impayian*” (feminine construction of *ilpayian* - “men” or “elders”) were still assembled there.

13 Interview with Julius and Jackson Ngayami, Enoosupukia, 30 September 2008.

2001; James C. Scott 1990), which can, like discrimination, take many forms. One friend at Enoosupukia, Simon Ngayami, was fond of using Maasai stereotypes of Dorobo as a source of humour. Whenever we would visit certain local Purko families together, upon being offered tea, he would emphatically demand that it be served without milk, stating that: “we Dorobo don't drink milk you know, it hurts our stomachs!”[14] Resistance in the form of humorous rejections of Maasai superiority can also be found in Dorobo oral literature, specifically in the idiom of trickster stories reproduced through the trope of a lone Dorobo encountering a group of *ilmurran* (warriors) in the forest. These stories, told to me on several occasions, inevitably involve Dorobo outsmarting the murran and escaping with his life, leaving the murran either covered in honey or fighting one another. Another example comes from a well-known song that narrates a conversation between Maasai and Dorobo girls. In the call-and-response song, Maasai livestock from goats and sheep to heifers and oxen are introduced and paired with complementary examples from among the region's wildlife, presented both literally and through metaphorical riddles. Sung by Maasai, the song can be used “to deride Torrobo” (Galaty 1977:191); in the several versions I recorded, sung by Dorobo, an additional line is introduced: “*eji mikirisio, kirisio*!” (“it's said we're not equal, but we are!”), which I initially took to be an appropriate title for the song. When I asked a group of elderly women to sing the song and explain it to me, one of them produced the following summary, emphasizing the assertion of equality despite difference: “The Maasai have livestock, but we have wild animals. They have milk and we have meat. It's said [by Maasai] that we're not equal, but

14 Galaty identifies Dorobo aversion to milk as a symbolic marker of distinction between hunters and herders, with each rejecting the other's preferred food. Tea with milk and sugar has largely supplanted fresh or sour milk as a gift of hospitality to visitors at Maasai homes at Enoosupukia and elsewhere. Among Dorobo, tea with milk and sugar has replaced honey, which I was lucky to be given on only three occasions, all of which involved visits to distant relatives of the Ngayami family, outside Enoosupukia.

we are!"[15]

Territorial and political autonomy

While the Maasai enjoyed a degree of cultural hegemony throughout the pre-colonial Rift Valley system, their relationships with ethnic others – hunters and farmers – were neither purely hierarchical nor rigidly exclusive. Individuals and groups could move across ethnic, economic, and territorial distinctions, even if only temporarily, and yet "synthesis through exclusion" provided a cultural-political framework that helped to maintain the salience of categories and the boundaries between them. Pastoralist assumptions of superiority were met with ambivalence: some hunters or farmers actively sought to become Maasai by accumulating livestock, assimilating to pastoralist life after significant co-residence and adoption; others maintained their way of life and livelihood, sometimes asserting their inherent value through hidden transcripts, reproducing distinct traditions and communities, and occupying a marginal position in the region only from the perspective of their distinct "Others." Exchange relationships between individual members of different ethnic groups were entered into relatively freely and cultivated over time, notwithstanding Maasai assertions of patronage or early European interpretations that hunters, for example, were connected to pastoralists in a form of servitude.

Beyond the level of individuals and idealized ethnic categories, the region was a site of interaction between socially and economically connected, yet politically and territorially autonomous entities, such as the Maasai, Dorobo, and Kikuyu. Each of these groups can be placed in the ethno-economic categories of Maasai ethnosociology, and each occupied both conceptually-distinct spaces – plains, forests, and fields, respectively – and recognized geographical places. Seasonal or situational conditions could drive

15 Kumarrarr ene Ngayami; Interview with Dorobo elders at Moi Ndabi, 3 November 2008.

temporary co-residence, for example when pastoralists moved into dry season grazing areas at forest margins or in highland areas or when hunters moved to hunt on the plains while following seasonal migrations of bees or avoiding highland cold seasons, yet each group maintained and defended distinct home areas. While these groups were interpreted by early European interlopers as distinct "tribes," none of them were highly centralized polities. Rather, Maasai, Dorobo, and Kikuyu are all ethnonyms, often self-ascribed, that represent collections of culturally and economically similar groups, historically and culturally related operating as locally distinct and relatively independent units. While interactions could be abstracted as involving "Maasai" and "Dorobo," organized through a broad cultural framework, and negotiated in terms of synthesis through exclusion, in fact the larger region was divided into local manifestations of the idealized tri-partite model, in which members of particular Maasai sections interacted with members of specific local groups of hunters. The decentralized nature and internal diversity of groups identified with particular ethnic categories compounded the complexity of inter-group social and spatial relations, and would further complicate colonial interpretations and subsequent attempts to demarcate boundaries between them and establish indirect rule.

The Maasai who came to dominate the Rift Valley by the eighteenth century were not a homogeneous group, but rather constituted of a number of relatively autonomous political and territorial units called *iloshon* (sing.: *olosho*), or "sections."[16] Including other Maa-speakers like the Samburu, Parakuyo, and Arusha who did not necessarily self-identify as Maasai, Sommer and Vossen (1993) list a set of twenty-two sections that claim distinct identities, while sharing cultural similarities and closely related dialects.

16 *Iloshon* is variously glossed as "sections" or "divisions," but is also used by Maa-speakers to refer to nations, both in socio-political and territorial senses. In conformity with standard usage, I will use "sections" as the English translation of "iloshon."

These numerous sections occupied distinct but largely contiguous portions of the overall Maasai territory. Sections could sometimes unite in alliances against common enemies – often other sections or alliances – especially during the period of the so-called *Iloikop* civil wars during the nineteenth century (Galaty 1993a; Jennings 2005) – but they also remained locally opposed in contesting residence and resource access, and each initiated and maintained its own warrior age-sets that defended access to distinct, but not rigidly demarcated, territories, and especially key resources. In principle, all members of a section could gain access to any resources inside the section's territory by virtue of initiation into the sectional age-sets, and it was sometimes difficult to deny access to members of other sections, especially during periods of hardship such as droughts (Mwangi 2007:35). The number and size of, as well as the territorial extent and resources controlled by, each section varied over time, especially due to military confrontation resulting in the political annihilation of the defeated party and dispersal or absorption of its members (Sobania 1993). Of the smaller number of core pastoralist Maasai sections, two are of particular interest in this thesis: the Purko, the most numerous of the present-day Kenyan Maasai and the politically-dominant section in Narok District, and the Keekonyokie, a smaller, but still influential section whose territory inside the colonial reserve encompassed the highlands of Enoosupukia.

Maasai sections, like the Maasai as a whole, were further sub-divided into progressively smaller units, with each section including several named localities, each of which included multiple neighbourhoods composed of numerous homesteads (Mwangi 2007:35-40; Jacobs 1965). The Maasai homestead (*enkang*, pl.: *inkangitie*) typically consists of multiple houses arranged around a central cattle pen and enclosed by a fence. Homesteads, the fundamental unit of Maasai economic organization, are typically

known by the name of their most senior or prominent male resident, and may include his brothers or sons and some or all of their wives, as well their herds, which are often managed in cooperation. Despite their relative independence, homesteads tended to be clustered together in neighbourhoods (*ilatiaritin*, sing.: *elatia*) fostering both security and cooperation, and neighbourhoods were often dispersed across small areas (*imurua*, sing.: *emurua*) in wider localities (*inkutot*, sing.: *enkutoto*). Localities formed the basis of the Maasai herding system, and they generally included diverse terrain, allowing for seasonal movements between lowland, wet season grazing, and highland, dry season grazing. Further, the age-set system, common to all Maasai, was also based at the level of the locality, and each locality had its own age-set spokesman (*olaiguenani*, pl.: *ilaiguenak*) and council of elders which managed resources and settled disputes. While similar bodies existed at the level of the section, "the bulk of political activities were organized and carried out by local age sets without recourse to the approval of the sectional council" (Mwangi 2007:37). Among present-day Keekonyokie Maasai, for example, at least three localities are recognized – Oikei, Ewuaso, and Kaputiei – each associated with and named after a geographical sub-region of the Keekonyokie territory, their residents identifiable to others as *ilkeekonyokie le wuaso*, or *le kaputiei*, or *li oikei* (Keekonyokie of Ewuaso, etc; or Ewuaso Keekonyokie). Of the Keekonyokie localities, a considerable portion of Oikei is contained inside Enoosupukia location, including the semi-arid plains north and west of Mount Suswa and the southern and eastern slopes of the Mau Escarpment, the plateau of Nairagie Enkare and the lower extent of the Enoosupukia highlands.

Hunters in the Rift Valley system likewise constituted not a unified "tribe" but rather a number of distinct local groups who shared cultural and institutional similarities

while maintaining distinct local identities and communities and sometimes speaking distinct primary languages. Notwithstanding linguistic differences and occupation of widely dispersed forested areas, the various foraging groups within or on the borders of Maasailand came to be officially classified as “Dorobo,” an Anglicization of the Swahili version of the Maa conceptual category “*iltorobo*” (Distefano 1990). So-called Dorobo communities occupied many of the forested highlands of Kenya's interior, including the Mount Kenya and Aberdare forests, with probably the largest number residing in the Mau Forest Complex atop the western escarpments and plateaux. Of these Mau Forest hunters, most self-identify as Okiek and speak Kalenjin dialects related to those of Kalenjin-speaking non-foragers like the Nandi and Kipsigis (Blackburn 1976), while at least one group, the Omotik, speaks an even more distantly related south Kalenjin dialect (Kratz 1980; Ehret 1971). Others, especially at the southeastern end of the Mau, including those at Enoosupukia, and in the forests of Oldoinyo Eburu north of Lake Naivasha tend to speak Maa and self-identify as Dorobo. This linguistic and nominal distinction is likely a result of several interrelated historical processes and a reflection of relationships with distinct neighbouring non-foragers both in space and through time.

While the Rift Valley plains, from the shores of Lake Turkana through the central bottleneck and down to the steppes in Tanzania, have experienced successive migrations of linguistically and culturally distinct people over the past 5000 years, forest-dwellers have been comparatively rooted in place, maintaining occupation and use of forest territories while engaging in varied relationships with their neighbours (Lamphear 1986). Through long-term interactions organized on the basis of “synthesis through exclusion,” forest hunters and plains pastoralists exchanged linguistic and cultural features, often leading to the eventual linguistic and cultural assimilation of hunters who

nevertheless maintained economic, political, and territorial autonomy.[17] When subsequent incursions by new migrant populations and movements like the emergence of the pastoralist Maasai displaced previous rangeland occupants, forest-dwellers entering into relationships with newcomers may have maintained linguistic and cultural distinctiveness and gradually appropriated new dialects, languages, and practices (Kratz 1980, 1994). Social change among foragers may have been further facilitated by the migration of forager families or groups along with their non-foraging partners; whereas non-foragers would tend to occupy rangelands or perhaps forest margins, associated foragers, sharing cultural elements and perhaps an ancestral language with foragers in the new area, may have been able to gain access and adoption into local groups, subsequently acting as brokers between hunters and non-hunters. Among Mau Okiek, and especially Dorobo on the southeastern Mau, numerous families can trace their origins to areas further north and their migration into their present home areas to either the time of the Laikipiak defeat by Maasai or to the colonial-era Maasai moves (Blackburn 1976, 1996).

Social and political organization among Okiek and Dorobo in the Mau forests was even more decentralized than that of the Maasai. Here, the primary socio-political unit was the local group, each of which had a definable forest territory and was identifiable by a distinct name (Blackburn 1971:47-50). Each local group consisted of members of several patrilineages, each of which owned distinct sub-territories within the larger forest area, which may have been further sub-divided among lineage members (Blackburn

17 The nature of such relationships and the ability of foragers to maintain autonomy through long-term interactions and marked inequality with non-foraging neighbours has been subject to extensive research and theorization (e.g. Huntingford 1931; Woodburn 1988; Stiles 2001). Cultural-political processes like “synthesis through exclusion” may serve to both reinforce hegemony and maintain the autonomy of apparently subjugated peoples, especially in situations of complementary economic production and exchange (Galaty 1986; Lamphear 1986; Solway and Lee 1990).

1986; Huntingford 1942, 1951, 1954, 1955). Each local group was a relatively autonomous unit, but they were also part of larger social and territorial regions that included several local groups, similar to but less rigorously unified than Maasai sections and lacking an indigenous conceptual classification like "*olosho*." Dorobo at Enoosupukia recognized at least three such regions, including their own, known as Saleita, one encompassing the groups residing on Eburu, and another identifying the groups in the western Mau forests of Narok District, which those at Enoosupukia identified as "Pailagilag," a Maa word for witch-hazel, which is apparently common in those forests. While social relationships, for example marriage and close friendships, tended to be locally-focused, that is between members of a locality or of distinct local groups in a region, more distant connections were also made and maintained through both long-distance visiting and exchange (Kratz 1994:64). Older residents of Enoosupukia recall a few marriages between Saleita Dorobo and other forager groups both further west on the Mau and on Oldoinyo Epuruo (Eburru) north of Lake Naivasha, and some recall travels across the Rift Valley to interact with Dorobo living in the forests on and above the eastern escarpments, known as Kinare and more closely associated with Kikuyu than Maasai (Blackburn 1996; Leakey 1977). Members of local groups could sometimes come together with those of the rest of their particular regions for various purposes, for example age-set ceremonies or political meetings, but it does not appear that the regions were connected into any sort of larger political unit. Further, despite periodic ceremonial connections, it appears that local groups operated in a manner similar to Maasai localities, managing local resources, political affairs, and interactions with neighbours independently from other local groups.

As a Dorobo locality and local group, Enoosupukia was part of the larger region known locally as Saleita, which includes the forested highlands stretching from near Nairagie Enkare in the south, to Sakutiek in the north, as well as the southern portion of the longer forested Melili ridge across the Enesampolai stream to the west. Saleita included at least three distinct Dorobo local groups, Enoosupukia, Lorkumi, and Lesinoni, which could be collectively referred to as *iltorobo le saleita* (Saleita Dorobo, literally, Dorobo of Saleita), as they were by Wakefield in 1870 (Waller 1985b:148; f.n. 149), in later colonial documents (e.g, Narok District Annual Report 1925:3), and in more recent anthropological work (eg Blackburn 1976, 1996).[18] The spatial extent of these localities and the boundaries between them are not perfectly clear, especially that between Enoosupukia and Lorkumi. While Enoosupukia is generally identified as including the highest of the highlands east of the Enesampolai stream, Lorkumi has variously been described to me as specifically referring to the lower hills just south of Enoosupukia, or as the entirety of the hills east of the Enesampolai, and there are no clear geographical features separating the two. Lesinoni, on the other hand, is more clearly distinct, located on the long, north-south ridge to the west of the Enesampolai stream, the western side of which gradually slopes in the much less broken terrain of the Mau plateau, toward Ntulele and Narok. In addition to ownership of forest territories (*inkindong'i* - "apiaries," the plural form of *enkidong*, which denotes man-made beehives and alludes to the

18 As mentioned above, "Enoosupukia" derives from the the Maa "*osupukiai*." Likewise, *Lesinoni* suggests the prevalence of a particularly fragrant, flowering shrub in the area (according to Franz Mol, a species of *Lippia*. According to Dorobo at Enoosupukia, "*Lorkumi*," sometimes also identified as *Lorkumi le Saleita*, alludes to a strap of some sort, like a belt, perhaps metaphorically describing the ridge that runs perpendicular to the rest of the hills, at the lowest end of Saleita. According to everyone I asked, Lorkumi does not, however, derive from *enkume* (nose; pl., i*nkumeishin*), as I had initially suspected when beginning to learn Maa. Franz Mol identifies "*olkum*" (pl. *ilkumi*) as a species of tree, also known as *olgum*, and a Keekonyokie locality on the northeast slopes of Mount Suswa is known as *Olgumi*. The etymology of "Saleita" was unclear, and the answer to my question about its meaning was that it is "just a name" (*enkarna ake*).

placement of many hives in an family-owned territory),[19] each local group within Saleita was oriented towards distinct lowland hunting areas. Individuals, families, and sometimes whole groups undertook journeys, including seasonal migrations to take advantage of honey availability or engage in hunting outside their primary forest homes. According to older Dorobo I interviewed on the subject, Lesinoni typically moved southwest onto the plains around and below Ntulele, while Enoosupukia and Lorkumi moved south and east onto the Suswa plains, though, as in the highland forests, hunting areas were neither exclusively "owned" nor well-defined.

It was mainly during these seasonal movements to the forest margins and beyond that Saleita Dorobo came into interaction with pastoralist Maasai. While the Suswa plains and the rangelands south of Ntulele are today associated with Keekonyokie and Purko Maasai respectively, whose claims were reinforced by the colonial demarcation of sectional boundaries inside the Masai Reserve, these territories or parts of them were likely occupied by the Damat Maasai in the late pre-colonial era. Prior to inter-sectional conflicts in the late nineteenth century, the Damat were allies of the Purko and Keekonyokie, who occupied northern and eastern portions of the central Rift Valley between the two escarpments and around Lakes Naivasha and Nakuru (Waller 1985b:99). Damat territory appears to have included the slopes of the Mau Escarpment west of Naivasha and wrapped around the highlands to the plains south of the western Mau forest inside present-day Narok District. In this period, individual Damat Maasai likely interacted with members of numerous local groups of Dorobo and Okiek in similar patterns: describing interactions between Kipchornwonek and Kaplelach Okiek

19 The "forest tenure" system historically in operation at Enoosupukia is nearly identical with that described by Blackburn (Blackburn 1986) and Huntingford (Huntingford 1929, 1955) for Kalenjin-speaking Okiek groups elsewhere, though the Dorobo at Enoosupukia do not use Okiek linguistic concepts to describe the system. This system and its implications in terms of tenure transformation will be discussed in more detail in the following chapter.

and their Damat Maasai neighbours in the late nineteenth century, Kratz writes that encounters between them were “most common in low, open forest where Okiek spent four or more months a year for honey seasons and il Damat grazed cattle in dry seasons. Okiek and Maasai used different resources in the area – forests and fields – with no inherent conflict of interest” (Kratz 1994:65; see also Blackburn 1982). In the turmoil of the late nineteenth century, when inter-sectional warfare followed the human and livestock decimation of ten years of epidemics (Waller 1988), Damat were nearly annihilated and their territory greatly diminished after retaliatory attacks from a combined force of Purko and Keekonyokie. Having been thoroughly defeated, Damat were either displaced by or absorbed into the communities of the victorious Purko, or took refuge among Dorobo friends in Eburu and Saleita. Over a period of twenty years, in response to both the spatial displacements of colonial encounter and the vacation of lands by the defeated Damat, Purko and Keekonyokie replaced the Damat in territorial proximity and social connection with Saleita Dorobo and Okiek groups further west.

Close relationships between members of particular Dorobo local groups and particular Maasai sections or localities, combined with the contiguity of their recognized areas of territorial control, may be behind assertions that a given Dorobo local group “belonged” to a given Maasai section, resulting in their identification as Keekonyokie or Purko Dorobo (*iltorobo loolkeekonyokie*, or *iltorobo loolpurko*; literally: Dorobo of Keekonyokie or Dorobo of Purko). Such claims were not simple assertions of inclusiveness placing Dorobo within a given section on equal social footing; rather, these were, and are, assertions of patronage and inequality that described Dorobo-Maasai relationships from the pastoralist Maasai perspective, voiced in terms of the dominant cultural-political framework in which these ethnicities continue to exist. Further, such

statements were aimed not only at Dorobo, but also at other Maasai sections, and constitute claims of both affinity and territorial rights. In the colonial and post-colonial eras, Enoosupukia has been a site of contestation between Purko and Keekonyokie Maasai, who not only challenge one another's claims of rights in land, but also affinity with the Dorobo local group, recognized by all as the first inhabitants of the highland locality in question. Today, the importance of these relationships is not limited to possibilities for exchange or access to resources for specialized economic production. Whereas Dorobo maintained political and territorial autonomy as distinct local groups along with unequal affiliations with pastoralist neighbours in the pre-colonial Rift Valley ethno-economic system, their incorporation into structures of governance established in the colonial era and transformed since independence into Kenya's current political-economic system of patronage has reduced local autonomy in relation to the Purko and Keekonyokie who dominate the location and the District and who enjoy more secure connections to the national elite through Maasai Members of Parliament.

Establishing “indirect rule”

Towards the end of the nineteenth century, the Rift Valley region dominated by pastoralist Maasai became subject to radical transformations due to a remarkable historical convergence of internal and external forces. After more than a century of military and cultural expansion, marked by decades of “civil war” among Maa-speakers through the middle of the nineteenth century (Galaty 1993a; Jennings 2005), the entire region was beset in the 1880s by a triple disaster of rinderpest, bovine pleuro-pneumonia, and smallpox. Known among Maa-speakers as “*emutai*” – from the Maa verb *a-mut*, to wipe out or finish completely – (Waller 1988), these epidemics decimated both livestock and human populations, weakening the Maasai and threatening their

regional hegemony. Devastated by the disasters, pastoralist Maasai took refuge with neighbouring peoples, activating personal and affinal relationships as a safety net to "become" Kikuyu or Dorobo, if only temporarily, while they worked to rebuild their herds and the concomitant social and economic status (Waller 1985b; Galaty 1993b). This period of pastoralist decline coincided with increased British interest in securing territory in the East African interior during the "scramble for Africa" and their subsequent establishment of a Protectorate encompassing present-day Kenya and Uganda. The arrival of early British colonial forces and administrators provided additional sites of refuge for impoverished Maasai, from which they built alliances with administrators keen to establish control of the interior to facilitate construction of the Uganda railway between Mombasa and Kampala. The Maasai and the British formed a mutually beneficial alliance: devastated stock owners and their families took up residence around British outposts, where they could securely acquire relief food; meanwhile, hundreds of warriors were hired as auxiliaries to assist in British punitive expeditions, their wages paid in raided stock, which allowed many to rebuild lost herds and return to the rangelands relatively quickly (Hughes 2006:16; Waller 1976).

The East African Protectorate was not initially intended to be a settler colony, but pressure from the metropole to make the territory economically self-sufficient after the expensive construction of the railway, along with the abundant and apparently underexploited agricultural resources of the highland interior led to the opening of the central Rift Valley and nearby highlands for concessions to European individuals and companies. The possibility of gaining vast wealth in land, and the ease of manipulating rules designed to prevent individual accumulation and facilitate the development of an agricultural economy to provide tax revenue for the administration, led to an influx of

speculators and land grabbers from England, South Africa, and elsewhere. In early years, speculation led to considerable absenteeism and underdevelopment of land, as well as the emergence of an underfunded and "institutionally incoherent" state (Hughes 2006:17; Berman and Lonsdale 1992). In the process a small number of Europeans were able to gain rights to thousands of acres as well as increasing political clout in the Protectorate,[20] creating an influential landed elite empowered to lobby for the implementation of a legal framework governing property that served their interests, especially against African claims to expropriated lands. In effect, as Sorrenson (1968:225) convincingly describes, colonial encompassment of African populations and territories in Kenya was more a result of settler efforts to accumulate and protect their holdings than a manifestation of a paternalistic sense of European obligation towards African subjects, and the eventual policy of creating exclusive Reserves for different African "tribes" can be interpreted as actually creating a European Reserve in the so-called White Highlands of the interior.

Increasing demand for high potential lands for commercial ranching and plantation agriculture, and European impressions that nomadic Maasai pastoralists were in possession of far more land than they could productively use, converged in the rangelands among the central Rift Valley lakes. Initially, local administrators proposed a policy of interpenetration of European holdings and recognized Maasai areas, on grounds that it would respect Maasai territorial rights while also facilitating assimilation and transformation of the Maasai into commercial producers.[21] This tentative policy of

20 Hughes notes that Lord Delamere, who would become the de facto leader of the settler community "was the first individual to apply for a major land grant in the Rift, which was refused on the grounds of Maasai rights [in land]. He kept trying, and by November 1903 he was given a 99-year 100,000 acre lease at Njoro, west of Nakuru, the first of several concessions" (Hughes 2006:27-8).

21 It was also likely considered a potentially effective means of gaining governmental control over the nomadic Maasai population. Natives, especially transhumant pastoralists like the Maasai,

interpenetration proved highly unpopular with the increasingly influential settlers and was shortly abandoned in favour of segregation amidst concerns about the spread of livestock diseases from African herds to European-owned ones, as well as the potential threat of Maasai attacks against whites that would require mounting expensive and difficult punitive expeditions against them.[22] Local administrators thus entered into two successive agreements with representatives of the Maasai that led, in 1904, to the movement of the pastoralists from the central Rift to two separate Reserves, one in the semi-arid lands to the south of Mount Suswa, and one on the Laikipia plateau in the north. Continuing European demand, along with their disinterest in lands southwest of the Mau and their envy for the potential of Laikipia led to a second agreement, this time arranged against the wishes of the Foreign Office in London amidst considerable intrigue between local administrators, influential settlers, and factions within the Maasai (Hughes 2006; Sorrenson 1968). The second Anglo-Maasai agreement abrogated the first, which had pledged to ensure the exclusive enjoyment of the northern and southern Reserves by the Maasai for as long as they continued "to exist as a race," and led to the now infamous "Maasai move" of 1911-13, in which occupants of the northern reserve were compelled to migrate to an extended southern reserve.[23]

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had presented a challenge to governmental control, and early proposals focused on ways to hem them in and bring them under regulation. Hughes cites one administrator, John Ainsworth, proposing a solution for the difficulties of subjecting them to control: "After a time when our Military forces are more organized and our Administration is more extended we shall be more able to edge in these nomad tribes and by degrees make it impossible for them to wander about without our permission, we could then clearly define the Masai-lands and see that the limits were kept. A policy of gradually bringing these people under our complete control is better than one of using absolute force at once" (Hughes 2006:24-25).

22 Conversely, British administrators also harboured "growing fears of settler belligerence towards Africans, particularly from growing numbers of 'white roughs' from South African who were believed to be racist" (Hughes 2006:29).

23 The fascinating history of the political intrigues around the creation of the Maasai reserves has been covered with a progressively critical eye by Sandford (1919), Sorrenson (1968), and most recently Hughes (2006, 2005). Hughes in particular presents a detailed and compelling analysis, incorporating both new archival evidence and oral testimonies from numerous Maasai informants. A detailed review of this period is beyond the scope of this thesis.

The socio-spatial reorganization of the Rift Valley in the early colonial encounter has had significant, lasting impacts on the politics of Kenya ever since, and grievances about land lost to European settlement continues to drive Maasai political activism as well as fuelling ethno-political strife that tends to recur during highly contested elections (Ajulu 2002; Klopp 2001; Mueller 2008; Lonsdale 2008). Enoosupukia, while never alienated for European occupation, has been a central site of conflict over rights in land between Maasai, Dorobo, Kikuyu, and both local and national government, largely because of the ways it was encompassed and incorporated into the wider political-economy of the colonial and postcolonial state. Enoosupukia's inclusion among the lands “permanently” reserved for Maasai under the auspices of the 1911 agreement is one of the factors driving these conflicts. Perhaps more important than the erection and protection of boundaries around officially recognized Maasailand, colonial efforts to establish indirect rule inside those boundaries through the demarcation of internal divisions and the re-invention of traditional systems of leadership and decision-making as legally empowered Native Authorities laid the groundwork for the present-day predicament of Enoosupukia and the marginalization of its Dorobo inhabitants.

Locating political authority

After 1911 and the second Maasai move, colonial governmental attention turned to the administration of the Masai Reserve, notwithstanding a few later relocations of various Maasai sections, like the Uas Ngishu and the Mumonyot, or those who had returned to Laikipia, sometimes disguising themselves as Dorobo to avoid eviction (Cronk 2004). In addition to a range of improvement schemes – from public works like construction of dams to deal with a paucity of water in many of the lowland areas of the Reserve, especially south of the Mau, to efforts to deal with veterinary diseases, promote

education, and bring murran under administrative control, as well as typical governmental projects of census and taxation – considerable administrative time and energy were spent in efforts to adapt the emerging British colonial framework of “indirect rule” to suit the particular social organization of the Maasai. In part a solution to the difficulty of governing large territories and populations with insufficient staff and resources, the indirect rule policy sought to graft colonial administration and state functions on to pre-existing African political structures and to decentralize responsibilities for tax collection, conscription, and policing (Mamdani 1996). In practice, indirect rule constituted a form of “colonial governmentality” (David Scott 1995), through which African political geographies were interpreted and re-invented, by both European colonial administrators and African subjects, empowering local leaders to degrees previously unknown, and creating new social and political units, often in the form of “tribes” (Ranger 1983; Iliffe 1979). In the Maasai case, such inventive encounters resulted in both the reorganization of social and spatial relationships among Maasai and between pastoralists and their neighbours and the emergence of an increasingly powerful elite through the demarcation of territorial boundaries and construction of official decision-making bodies.

The structures devised to govern the Masai Reserve represent a compromise that sought to balance efficiency for European officials with interpretations of local social and spatial realities filtered through European understandings of African political organization. Faced with managing an extensive territory, colonial officials debated several proposals on how to sub-divide the reserve, where to place stations and officers, and how to interface with the decision-making bodies of the Maasai. Early proposals suggested the creation of one central administrative station and several outposts

throughout the Reserve, each of which would host resident officials and provide accommodation for the senior officer on his regular tours of the area, so that “economy and mobility would be combined with efficiency” (Sandford 1919:51). The Provincial Commissioner for Naivasha, under whose jurisdiction the Reserve fell, considered one central station to be insufficient for such a large territory, and proposed instead to divide the Reserve into two Districts, each with a central station and multiple outposts, which led to the eventual division of the Reserve into Kajiado (then “Ngong”) and Narok Districts, the latter of which also included present-day Trans Mara. The first boundary between these two Districts, proposed in 1913, was to commence “at the source of the Sakutiek River on the Mau, running thence in a straight line in a south-westerly direction to the junction of the Rivers Narok and Nyiro, thence following the Uaso Nyiro [Ewuaso Ng'iro] to the German boundary” (Sandford 1919:53), placing Enoosupukia and most of the rest of Saleita in the Ngong District, to the east of the boundary. By early 1915, the officer-in-charge at Narok petitioned for the formation of a third District, encompassing much of southwestern Narok as well as the Trans Mara area, and for the relocation of the boundary between Narok and Ngong, “so that former would comprise the eastern Loita plains and hills, the Mau Escarpment, Il Melili, and would extend in an easterly direction as far as the Kedong Valley” (Sandford 1919:53), which would reduce the Ngong District by around 1,500 square miles (nearly 4000 square kilometers) and allow the DC there to shift his administrative attention towards the Loitokitok Maasai on the slopes of Kilimanjaro. While neither the new District nor the boundary revisions were immediately gazetted (and the proposed third District would later be abandoned and reincorporated into Narok District), they were accepted as working arrangements, placing Enoosupukia, and all of the Mau Forest, under the jurisdiction of Narok District.

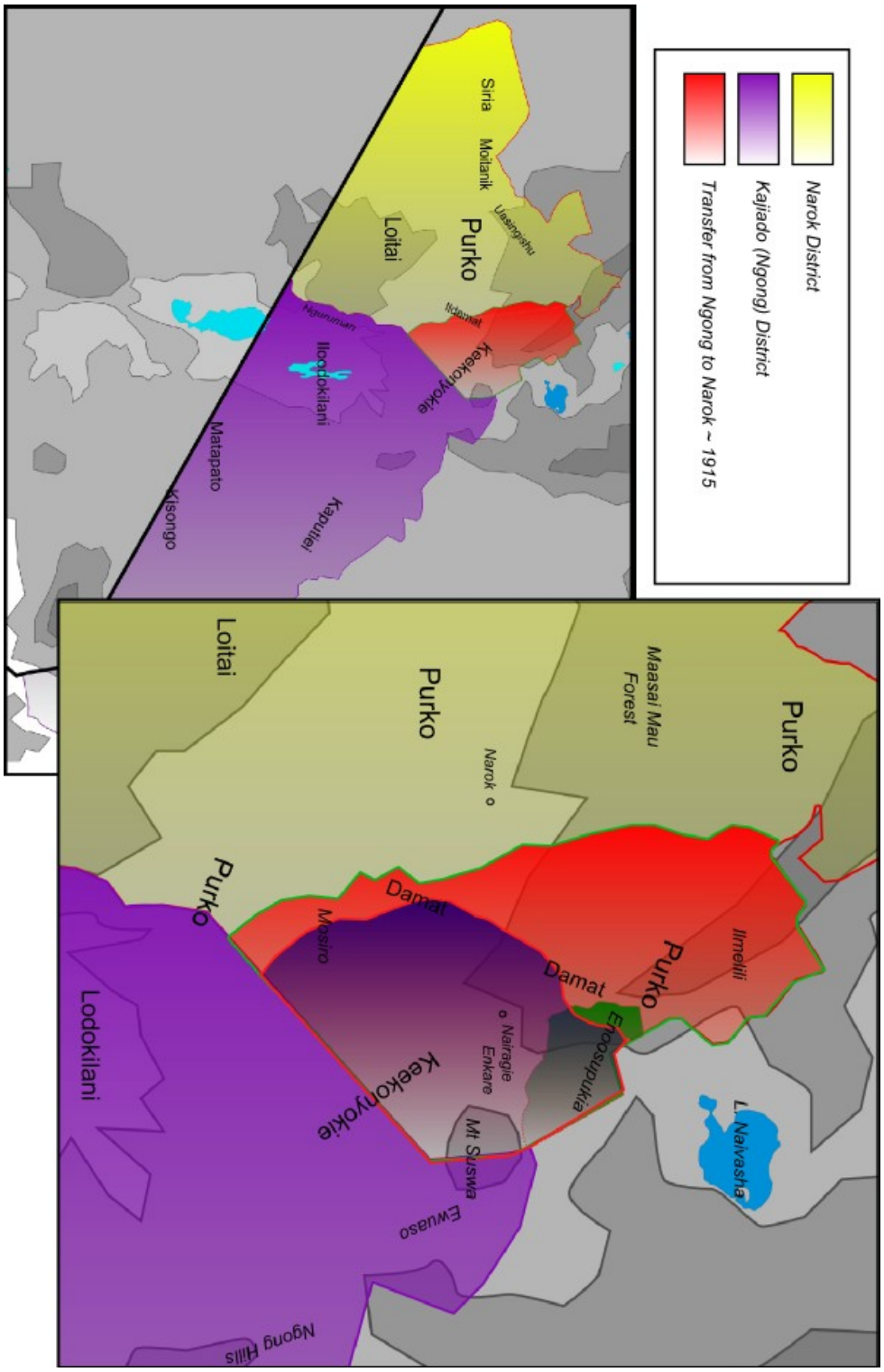

Figure 2.2: Territorial Frictions in the Masai Reserve.

Within these boundaries, colonial governmentality encountered Maasai political organization, which was not well suited to the straightforward application of indirect rule. In its ideal form, indirect rule was best applied in situations where the local equivalent of a monarch – in the parlance of the time, a "paramount chief, with some administrative machinery at his disposal" (Mamdani 1996:79) – governed a unitary polity. Maasai social organization, however, diverged from this model, and necessitated the implementation of adapted structures: while the Maasai were recognized as "all of one tribe" (Sandford 1919:5), they were also an acephalous society, governed not by a single authoritative figure but through a number of institutions and subdivided into smaller political and territorial units. Excluding Maasai and Maa-speakers beyond the boundaries of the Reserve, such as the Kisongo in Tanganyika and the Samburu far to the north, colonial officials recognized fourteen sections "for the purposes of the administration of the tribe" (Sandford 1919:6). Lacking a centralized political authority through which to govern, colonial administrators instead chose to adapt indirect rule to the Maasai situation, as described by Sandford (1919:5-6):

> Whatever may have been the original system on which these divisions were formed, it appears that there is a really marked clan feeling between them, and several incidents are recorded which disclose the presence of mutual distrust and strained relationship between the divisions, while interference by one division with another is keenly resented. These divisions form the basis of the tribal organisation of the Masai as it exists to-day and each division has its own Council of Elders. In the recently constituted "Masai Council," one elder, or more, has been chosen to represent each division and the Council so formed that the division system presents an admirable method of dealing with the tribe, closely allied to the location system employed in other Native Reserves in the Protectorate, and has enabled unrest or crime to be so localized as to limit the ability of the offences committed to certain definite sections of the Masai. Nevertheless, there is not sufficient difference in the behaviour or customs of the members of each division to necessitate or render advisable a departure on their behalf from the general policy to be pursued in dealing with the tribe as a whole.

While devolving administration to the sections presented a means of localizing management of “any trouble which might arise” (Sandford 1919:51), defining the boundaries around sections and confining their members to discrete territories required considerable transformative intervention. By 1919, several years after the demarcation of the Reserve, Sandford (1919:5) wrote that:

> The Officer-in-Charge of the Masai reserve is endeavouring to confine the members of each division to certain areas set apart for them as locations, and this step will have the effect of reconciling the name given to a division with the locality in which it is found, thus tending to perpetuate a convenient form of nomenclature.

Carrying out this task took time, and as in other parts of Kenya, “occupied at one period much of the time of Administrative Officers” (Hailey 1950:92).

The inconvenience of territorial disorganization within the Masai Reserve was, in part, a product of spatial dislocations brought about by colonization. In the first Anglo-Maasai agreement of 1904, representatives of the major sections agreed to vacate the central Rift Valley by moving into either the northern or the southern Reserve. While the Kaputiei, Matapato, Loodokilani and Sikirari sections generally complied and occupied the southern Reserve, there was resistance among the Purko, Keekonyokie, Loitai, and Damat who were supposed to move north (Hughes 2006:34-5). Rather than moving north, up to one quarter of the Purko either remained in the southern Reserve or occupied land between the Mara and Ewuaso Ngiro rivers, the Keekonyokie took up residence around Il Melili and the southern slopes of the Mau, the Loitai remained in the Loita Hills and Plains, and the Damat took over the lands watered by the Ewuaso Ngiro and its upland tributaries (Sandford 1919:26). The introduction of tens of thousands of people, along with up to 200,000 head of cattle and perhaps 2,000,000 head of small stock (Sandford 1919:32), to these areas via the second move led to both territorial

overlaps and new frictions in the extended southern Reserve. Those who had occupied the area against official orders came to resent the newcomers arriving on lands they regarded as their own; likewise, the newcomers “were displeased to find the best grazing grounds already taken up” (Sandford 1919:36). Governmental efforts to regulate belonging through demarcating the boundaries between sections, the placement of administrative boundaries between Districts, and shifts in the association of sections with a particular District exacerbated tensions around differential access to resources unevenly distributed throughout the Reserve.

The long boundary between Narok and Kajiado Districts has been a zone of repeated conflict between Purko and Keekonyokie. In general, the Purko are associated with Narok District, where they form the largest portion of the Maasai population and are politically and territorially dominant. While the Keekonyokie primarily reside in the northwest portion of Kajiado District, their administratively recognized territory extends north and west into Narok District. In the initial demarcation of sectional boundaries, the Keekonyokie location within Narok reached as far as the peak of Ilmelili, on the Mau, its boundary running south along the River Siabei, a tributary of the Ewuaso Ng'iro, to the latter and then on to Mosiro before turning east and north to traverse the summit of Oldoinyo Nyokie (Mount Suswa) and join the boundary between the Reserve and Naivasha (Narok District Annual Report 1916-1917). This described Keekonyokie location in Narok was the same as the area transferred from the original Ngong (later Kajiado) District to Narok in 1915, described above, and completely encompassed the forests of Saleita, including Enoosupukia. The Keekonyokie location was gradually reduced in extent as Keekonyokie were pushed and pulled to the southeast in the first two decades after the formation of the Reserve, and today the recognized Keekonyokie

territory in Narok is limited to the locality known as Oikei, of which Enoosupukia and a small number of other contiguous, present-day administrative locations are a part.

Keekonyokie minority “outsider” status in Narok in relation to the dominant Purko majority has been repeatedly reinforced over time, beginning in1926, when the Officer-in-Charge of the Reserve moved from Narok to Ngong, taking over administration of the Keekonyokie Location in the process on the grounds that the Keekonyokie had much better access to Ngong than Narok (Narok District Annual Report 1926:2). In the years following this administrative shift, the western and northern Keekonyokie boundaries came under increasing pressure from Purko expanding to the east and south. This general Purko expansion from their Narok District strongholds has been a factor in repeated inter-sectional violence: In 1929, the Narok District Commissioner reported a particular case of conflict narrowly averted when he discovered a party of Purko warriors preparing for a fight with Keekonyokie over the construction of a new dam at Lelong'o, northeast of Nairagie Enkare and he subsequently cut the dam, “removing the casus belli” (Narok District Annual Report 1929:17). The DC further noted that tensions between Purko and Keekonyokie had been high as the former had been attempting to drive the latter from well-watered grazing areas east of Ntulele, well inside the area officially recognized as belonging to Keekonyokie. Subsequent Purko movement across the District boundary, especially in the late 1950s (Narok District Annual Report 1957:4), has resulted in their present-day occupation of pockets inside Kajiado District, notably north of Nguruman on the Olkiramatian Group Ranch and at Mosiro, southwest of Oikei but inside Kajiado District, each of which has been a site of violent clashes, the former between Purko and Loodokilani in the 1970s, the latter between Purko and Keekonyokie between 1994 and 1996 (Galaty 1997:115-116). Enoosupukia has similarly been directly

affected by these frontier dynamics: since at least the late 1960s and perhaps earlier, Purko have been expanding from the west and north into the highlands of Enoosupukia, once recognized as the northernmost extreme of Oikei and Keekonyokie territory. As will be discussed in subsequent chapters, tensions between Purko and Keekonyokie over belonging at and ownership of Enoosupukia have manifested in disputes over the processes of tenure transformation surrounding official land adjudication and in the unofficial occupation of the area in the aftermath of violent conflict between Maasai and Kikuyu in 1993. Dorobo at Enoosupukia, without an officially recognized territory of their own (see below), have been rendered pawns in these struggles, despite being recognized by both Purko and Keekonyokie as the original inhabitants of the area.

As indicated in the quotation from Sandford above, the configuration of boundaries around administrative spaces to be occupied by the various Maasai sections was combined with the elevation of Maasai institutions of authority into official bodies, which involved the reinvention of both Maasai leadership and offices created elsewhere under indirect rule. This resulted, by 1918, in the creation of three novel institutions, “a Central Masai Council, a series of 14 Native Councils each representing a different tribal Section, and Headmen, created as far as possible on the model of the Location Headmen found elsewhere in the Colony” (Hailey 1950:171). The fourteen local Native Councils were “designed to take the place of informal Councils of Elders [and] recognized as tribunals exercising powers under the Native Tribunal Rules of 1913” (Hailey 1950:171). These Councils were composed of the age-set spokesmen (*ilaiguenak*; sing.: *olaiguenani*) of the several age-sets found in each Maasai section, as well as wealthy or influential individuals, and the presidents of the Councils were chosen by the members themselves. The formation of a Central Maasai Council, composed of

the presidents of each of the fourteen recognized sectional councils, was primarily a matter of convenience stemming from the promise in the second Anglo-Maasai agreement (of 1911) to gain “the sanction of the paramount chief and the representatives of the Masai tribe” (Sandford 1919:58) before granting land leases to non-Maasai within the Reserve, for example for allocation of trading centre plots. Recognizing that the office of “paramount chief” had been based on a misinterpretation of Maasai political organization, officials opted to substitute the paramount chief and ill-defined consultative body of representatives with an officially recognized and appointed council. For administrative expediency, they further proposed that these leaders be assembled periodically, rather than requiring officials to tour the Districts to obtain the approval of each independently. By April, 1918, the first Maasai Council had been convened, at which the selected elders “agreed to attend to all matters affecting the tribe, and also to settle cases which the local sub-councils had been unable to decide” (Sandford 1919:58). By 1930, the Central Masai Council and fourteen Native Councils had been replaced by two Local Native Councils, at Narok and Kajiado, and these were legally constituted under the Native Authority Ordinance of 1937, giving the Councils powers of subsidiary legislation to pass resolutions that had the force of local bylaws (Hailey 1950:172).[24] In principle, the Councils were to be composed of a mix of nominated and

24 After a period of decline, sectional councils were reestablished in 1954, once “the Administrative staff position allowed adequate supervision” (Narok District Annual Report 1955:22): “These Councils meet once a month under their Divisional Officers. The members of the Council vary in number from place to place and are normally determined by the population density in the area concerned and the size of the area from which the delegates are chosen. Two thirds of the members of each Sectional Council are chosen by the Elders themselves and the remaining one third is chosen after consultation with the Elders by the District Officer concerned. This is to enable the educated Masai element to obtain at least the minimum representation which it is desirable for them to have at this level of local government.” The implementation of these bodies was in its early stages and they were not yet functioning well as consultative bodies in 1955, however, in the minds of administrators, “as was said in the 1954 annual report, there can be no doubt about the part these councils can play in the development of the District.”

elected members, though in practice, all were “selected by the District Commissioner after consultation with different Headmen and other representatives of the different Sections” (Hailey 1950:172-173).

While the Councils were recognized as consultative and legislative bodies, significant influence was situated amongst the Headmen rather than the Councils. Headmen were chosen from among the wealthy and influential members of each section. According to Hailey: “in 1918 the Headmen numbered 46, of who 28 were unpaid, and 18 received pay ranging from [six to thirty-six pounds] a year... . Fourteen of the 18 paid Headmen were presidents of the Native Councils, and following the custom adopted in many other parts of Kenya, they were given the courtesy title of Chief” (Hailey 1950:172). By 1950, the position of Headmen had been divided into two distinct grades, Headmen and subheadmen, with the former retaining the unofficial title of Chief and the latter operating under the Chief's delegated authority. These influential figures were “the executive agency of the District administration and of the Local Native Councils, and they [were] in addition charged with the collection of the native Poll Tax” (Hailey 1950:172), not unlike the “decentralized despots,” backed by colonial power and only minimally accountable to subject populations, described by Mamdani (1996). Both of these institutions, the Local Native Councils and the Headmen, remained central to governance after independence. Further, they would become key avenues for the operation of patronage, and leaders at the national level, including those at the head of rival factions within the Maasai, struggled to maintain influence with those elected and nominated to serve as County Councillors, as well as to retain the power to appoint their clients to both Council and positions within the administration, such as Chiefs. Sectional affiliations, brought to the fore by the colonial adaptation of indirect rule to fit the Maasai,

have remained important both in the election of councillors by their constituents, and the negotiation of the moral economy of patronage, as will be discussed in subsequent chapters.

The Dorobo problem

While the majority of administrative attention was focused on governing the Maasai in a Reserve promised for their exclusive use in perpetuity, they were not the only ethnic group residing within its borders. According to Sandford, the Dorobo population within the Reserve was estimated at “probably not less than three or four thousand” (Sandford 1919:7), almost all of them inside Narok District. Of these, approximately 1,000, living in the southwestern portion of Narok, were said to “possess considerable herds of cattle, and live the life of ordinary Masai, from whom it is difficult to distinguish them” (Sandford 1919:7). The larger proportion lived mainly in the Mau, and were said to “possess little or no live-stock, and subsist almost entirely upon wild animals and honey” (Sandford 1919:7). Taken together, this Dorobo population would have constituted the third largest section of Maa-speakers at the time, outnumbered only by the Purko (16,500) and Loitai (5,000), and rivalled by the Keekonyokie (3,500). As a collectivity, however, Dorobo were more an ethnic category than a community, and they were neither politically united nor resident in a contiguous space. Combined with prevailing European notions of the backwardness of foragers, which mirrored the prevalent discourse of the pastoralist-dominated Rift Valley ethno-economic system, these facts of Dorobo social organization helped to preclude them from official recognition and representation under indirect rule.

The first extensive mention of Dorobo in the annual reports of Narok District came in 1925, when the DC provided an overview of their social divisions and relationships

with neighbouring groups, as well as contemporary perspectives on their origin. Identifying them as “a number of small peoples known collectively as Wandorobo or il torobo” he explained that “they are mainly outcast Masai and Lumbwa [Kipsigis] but in some sectons especially there are undoubted traces of some other and aboriginal blood” (Narok District Annual Report 1925:3). Leaving aside those who had accumulated livestock and assimilated to a pastoralist Maasai way of life, the report focused on “the forest-dwelling Torobo, who may be divided into two main groups. Each of these has four or five sub-divisions each under its so-called headman, whose people are usually half a dozen families” (Narok District Annual Report 1925:3). Reporting that these forest-dwelling Dorobo subsisted through hunting, apiculture, and consumption of livestock gained in trade for goods and services with Maasai, the account concludes by noting that:

> ... they may be said to be economically useless. Even suggestions of a trade in beeswax, with which they are at present totally unacquainted, does not appeal to them. Little is known of their tribal customs. They are said to be experts in witchcraft and poisons. No section can so far be got to combine under one responsible headman, each little community preferring its own figure-head. (Narok District Annual Report 1925:4)

Subsequent annual reports note that their wide spatial distribution and residence in inaccessible forests made the Dorobo “a very difficult problem” in part because their elusive nature and inaccessible home areas hindered administrators' efforts to remain “adequately informed of their doings” (Narok District Annual Report 1926:8-9). Where those doings were reported, it was often in the form of contrasts between the “Masai Dorobo” of Saleita and the “Lumbwa Dorobo” of Pailagilag, in the western portion of the Mau forest south of the Mau Escarpment. The latter were considered to be oriented toward the Lumbwa [Kipsigis], “with whom they are largely intermarried,” facilitating Kipsigis encroachment into the western side of Narok District and making them “probably

responsible for encouraging thefts of Masai cattle by [Kipsigis]" (Narok District Annual Report 1926:9). The Saleita Dorobo, on the other hand, were routinely noted for their positive disposition toward administrators, peaceful relationships with Maasai, and their "constant state of subdued warfare with the Kikuyu squatters on the [European-owned] farms [in Naivasha]" (Narok District Annual Report 1925:4), the latter being accused of crossing the boundary to raid Dorobo honey-barrels.

Whereas early reports were most interested in the forest-dwelling hunters who possessed few to no livestock and considered them as somehow distinct from the Maasai, by 1928 administrators noted "desirable progress" as "most of this tribe are beginning to settle down and own cattle" (Narok District Annual Report 1928:10). Commenting on this process in 1950, Hailey wrote that:

> ... early records refer to the existence in Masailand of a number of Dorobo, of whom Masai tradition speaks as the original inhabitants of the country. When Europeans first came into contact with the Masai, part of the Dorobo were still leading a primitive life in the bush, while part served the Masai as herdsmen and in some cases had small herds of their own. These peoples have, however, now been absorbed by the Masai and are not readily distinguishable from them. (Hailey 1950:168)

The complete assimilation of Dorobo in Narok was, of course, overstated, and hunting, honey-collecting, and residence in forests separate from Maasai remained important parts of the Dorobo and Okiek way of life into at least the 1970s (Blackburn 1971; Kratz 1986). At the same time, acquisition of wealth in livestock and adoption of small-scale cultivation in Narok reflect a broad trend of livelihood diversification among foraging peoples, in response to multiple factors, from intensified interaction with and appropriation of livelihood practices from non-foragers to enactment of colonial policies intended to encourage their abandonment of hunting and gathering in favour of more agriculturally productive endeavours (Huntingford 1942, 1955; Kratz 1994; Blackburn

1976, 1982).

Dorobo were viewed as an administrative problem by and for more than just the colonial officials in Narok District, and in light of this a committee was formed in 1929 to "consider the future of these people" (Carter 1933:259). While the committee completed its work and presented a report in July 1931, that report was not published, nor were its recommendations enacted, as its project was deemed to fall within the terms of reference of the Kenya Land Commission, headed by Sir William Morris Carter.[25] Outlining the predicament faced by administrators in dealing with Dorobo, the Carter Commission (1933:259) wrote that:

> ... the passing of the game and forest laws interfered with the primitive mode of life led by the Dorobo, and efforts have been made by the Administration with varying success to induce them to become useful members of native society. They have been encouraged to acquire stock and to cultivate, but unfortunately no land has been reserved for their use. They live, for the most part, in forest reserves, but exception is taken by the Conservator of Forests to the presence of native-owned stock in areas under his control. On the other hand, under present conditions they cannot well be expected to continue to live in the forests without stock.

Placing the onus on the Government for resolving the situation, the Commission further recommended that "Government, having encouraged them to abandon their primitive pursuits, should make specific provision for their land requirements" (Carter 1933:259).

The Carter Commission's recommendations on how to provide sufficient land for Dorobo reflected prevalent understandings that they were either impoverished outcasts of larger societies, or remnants of indigenous groups that had become subjugated or assimilated, rather than semi-autonomous local groups in a larger political-economic system. In the Commission's words:

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25 The Dorobo Commission's report is included in the several volumes of evidence published along with the Report of the Kenya Land Commission. I have not yet been able to acquire a complete copy of the evidence, and thus can only refer to the published Carter Commission report.

> ... the evidence and memoranda which have been submitted to us, and the various official documents to which we have had access show that a considerable number of the Dorobo are connected, in a greater or less degree, with the various tribes in the Colony which have native reserves allotted to their use, and the general recommendation of the Dorobo committee is that such natives should be moved to the reserves of the tribes to which they are affiliated. (Carter 1933:260)

For those already resident among the Nandi, Kipsigis, Kikuyu, or Maasai, such as the Saleita Dorobo at Enoosupukia and the Okiek further west in the Mau, no urgent action was needed with respect to their rights in land or their places of residence. Those who could not be easily absorbed into these more numerous and economically productive groups, especially those living more remotely from non-foraging neighbours or in areas claimed by the colonial government for conservation or European occupation, “should be moved to the Chepalungu forest area, in the south-east of South Lumbwa District” (Carter 1933:260), just across the western boundary of the Masai Reserve. Rather than according Dorobo special recognition inside the reserves, they were to be encouraged to learn from and assimilate to the ways of life of their hosts and neighbours. The Commission's recommendations for the internal management of the proposed Dorobo allocation in Chepalungu in relation to the neighbouring Lumbwa [Kipsigis] Reserve reflects the rationale for subsequent actions taken in other reserves:

> We agree with the committee that the Dorobo are more likely to progress and become useful citizens if they live side by side with communities who have already advanced some way along the road of orderly progress, and for this reason, among others, we do not recommend that any part of Chepalungu should be gazetted a special Dorobo Reserve, but that it should be added to the Lumbwa Natve Reserve, and we consider that any Dorobo who may be moved to Chepalungu should be given every opportunity of mingling with the Lumbwa not so much with the object of ultimate absorption in view, but rather that they may learn by example gradually to take an active part in the affairs of the district. (Carter 1933:260)[26]

26 The Carter Commission's recommendations in this respect were not limited to Chepalungu or the Rift Valley Dorobo groups. Regarding Dorobo in or near the Kikuyu Native Reserves, most of whom had already been “absorbed,” the Commission recommended that those who continued to live independently in the adjacent forests be removed from the forests and resettled on a small extension of the Kikuyu Reserve, where they would nevertheless not be

Inside the Masai Reserve, Dorobo were accorded little special recognition, and they were granted neither a separate demarcated territory nor representation as a section unto themselves. Forest territories recognized as their domain in Maasai ethno-sociology were transected by the internal boundaries of the Reserve and the sub-divided pieces officially construed as the territory of various Maasai sections. Saleita, for example, was eventually split between Keekonyokie, Purko, and Damat Maasai, with much of Enoosupukia falling within Keekonyokie. Further, in the Special Districts Act (Cap 105), enacted in 1934, which laid out rules for "maintaining order" in many of the districts reserved for pastoralists, including Narok and Kajiado, Dorobo receive no separate mention of their presence and belonging in Narok District. To be officially considered a resident "tribesman" of a given "special" district, one had to be:

> (a) normally resident in that district or area; and
>
> (b) a member of a tribe, or section of a tribe, the whole or part of which has been declared by the Provincial Commissioner, by notice in the Gazette, to be resident in that district or area. (Cap 105, Section 4)

In the subsidiary Special Districts (Application) Order, which lists the groups declared to be officially resident in the districts, Narok's recognized population includes not only members of seven Maasai sections – Loita, Purko, Moitanik, Uasingishu, Siria, Keekonyokie, and Damat – but also "those members of the Kipsigis, Tugen, Nandi,

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required to reside if they could find adequate accommodation elsewhere (Carter 1933:114). Special consideration was also to be given to a mixed group of Dorobo and remnant Laikipiak Maasai in an area known as Mukogodo, who had been "driven like chaff before a wind of progression" (Carter 1933:223). Sympathetic to their plight, the Commission recommended that Mukogodo be detached from the Kikuyu Reserve and incorporated into the Northern Frontier Province, but that it not be demarcated as a distinct Native Reserve. The people of Mukogodo were "too small a community to be treated in isolation and [the commission is] satisfied that it is a better solution to combine them in one area with the Northern Frontier Province in the manner suggested. The safeguards recommended for the protection of native rights should suffice to give them all reasonable security" (Carter 1933:223). This latter recommendation was subsequently only partially implemented. Regarding the inhabitants of Mukogodo as "true Dorobo" in need of protection from victimization by more influential neighbouring groups, administrators chose to declare the area as the Dorobo Reserve and pursued a policy of local preferential treatment (Cronk 2004:34).

Kikuyu, Luo and Kisii tribes normally resident in the above Sections." Presumably, members of the numerous Dorobo and Ogiek local groups who called parts of Narok District their homes long before the advent of colonial rule were merely subsumed under the Maasai sections who had been allocated their lands, with local leaders made subordinate to appointed Maasai chiefs. For example, in the Narok District Annual Reports, periodic lists of headmen and representatives on the Local Native Councils include only one mention of a Dorobo: the 1925 report identifies "Parsinande ole Leng'ong'u" as an unpaid headman, "subordinate to Keekonyokie headman Rasiti Ololkeri" and recommended that he "should be placed on the paylist if and when funds become available" (Narok District Annual Report 1925:11).[27]

The only special consideration given to Dorobo recorded in the Annual Reports, noted in both 1925 and 1928, was the issuance of three-month permits to kill common wildlife species – wildebeest, zebra, and kongoni – during droughts. Even this was not uncontroversial. Assistant Game Warden F.H. Clarke complained that these permits were being abused "without exception" and that zebra were being hunted only for the sale value of their hides, rather than for relief food. Reflecting an extreme version of the position that Dorobo were backwards or degenerate, Clarke stated that "in my opinion it is a mistake to acknowledge the status of 'Dorobo.' No Government would acknowledge the status of an European vagabond. Why do so in the case of a native?" (Narok District Annual Report 1928:29).

27 As will be further discussed in Chapter 6, this pattern of political representation of Dorobo at Enoosupukia through Keekonyokie elsewhere has continued to the present day, both through administrative roles such as Chiefs and headmen, and elected roles such as County Councillor.

Reproducing territorial tensions

Administrative structures of indirect rule established during colonial era, including both the division of the Masai Reserve into demarcated sectional Locations and the empowerment of sectional councils as authoritative, decision-making bodies, laid the groundwork for postcolonial political structures, while also reproducing "synthesis through exclusion" in ways that emphasized the inequality between herders, hunters, and farmers inside the reserve. At the same time, inscription and enforcement of ethno-territorial boundaries, both between the Maasai on the Reserve and their many "Others" outside, and between distinct sections within the reserve, contributed to re-construction of territorial belonging and reinforced the salience of ethnicity as a key criterion for evaluating claims to rights in land and political recognition and representation. The highlands of Narok District have, in the years since the establishment of the Reserve, been a locus for conflict over access, use, and ownership of land, often between members of ethnically-differentiated groups. Trends of livelihood diversification continue to blur the boundaries between Maasai, Dorobo, Kikuyu, and Kipsigis, formerly marked by the practice of distinct livelihoods and complementary exploitation of distinct ecological spaces. Conflict over rights in land, at times escalating into open violence between ethnically (and politically) opposed groups are most prevalent in the fertile areas of the District where the triangular ethnic, economic, and ecological relationships of the pre-colonial era are breaking down. These conflicts have been exacerbated by the official opening of Narok District after independence and the incorporation of fertile lands within the District into the national political economy and the moral economy of patronage that not only operates at the local level among Maasai, but also connects to the national level and includes powerful patrons and large client-bases from more populous ethnic groups.

Enoosupukia's encompassment into colonial governmental structures as part of Maasailand and subject to rule by an emerging, officially empowered pastoralist Maasai elite reduced the political and territorial autonomy of its Dorobo inhabitants, transforming them from a marginal, semi-autonomous group into a disempowered minority. Nevertheless, Dorobo at Enoosupukia have continued to participate in processes of state encompassment of their lands, even if from a marginal position. The legacy of this institutional disempowerment, as well as the ongoing political and territorial struggles between Purko and Keekonyokie that were similarly amplified through the establishment of indirect rule inside the Masai Reserve, remains visible in the present-day cultural politics of property at Enoosupukia. Official land registration and titling, intended to legally inscribe rights in land and belonging for recognized customary occupants, became a site of competition and conflict between Purko and Keekonyokie, and also between Maasai and Kikuyu, as members of each group sought to stake their claims in various ways. Asserting and establishing social connections of kinship and friendship with members of the Dorobo local group was one means of doing so; perhaps more effective was the establishment and maintenance of connections with Maasai leaders, including those chosen to serve on the committees charged with overseeing and vetting the registration and titling process, who could request, if not necessarily compel, local accommodation of newcomers in the highlands. The next chapter examines the ways in which governmentality, in the form of the ideology and procedures driving land tenure reform, intersected and were appropriated into local cultural politics and struggles over belonging.

Chapter 3

The title deed as shield: land adjudication and tenure transformation

On October 16, 2007, in a much-anticipated public meeting held at Ilkirragarien, a dusty, ramshackle collection of shops nestled in a valley in the middle of Enoosupukia location, the Principal Lands Officer for Narok District, Mr. Laku, announced the official closure of Kipise Adjudication Section. After a lengthy monologue seemingly designed to simultaneously announce the closure and educate the assembled crowd on the next steps to be taken, and including an admonition that despite 2007 being an election year, the closure of Kipise had not been brought about by any political candidate, Laku opened the meeting to questions. Among the first to intervene was an elder named ole Rapio, the chairman of the local committee of elders nominated to adjudicate claims of ownership in Kipise section, who asked whether his committee's work was now complete. In response, barely belying that it had been an afterthought, Laku called on all the members of the adjudication committee present at the meeting to stand, thanked them for their long service, asked the meeting to applaud them, and dismissed them from duty, symbolically effecting a transition from supervised adjudication on the ground to quasi-judicial administration to be carried out by bureaucrats in the District Lands Office in Narok and the Ministry of Lands in Nairobi. People here at Kipise, Laku explained, had

waited far too long for their title deeds, and it was now time to finish the process.

Kipise had been officially opened as an adjudication section under the provisions of the Land Adjudication Act over thirty years earlier, in January, 1977. The Act sets out official procedures for determining and registering rights of ownership of lands officially held under local “customary” tenure and in Trust by local authorities on behalf of residents under the provisions of the Trust Land Act. Adjudication had taken an inordinate amount of time at Enoosupukia, for reasons that will be discussed in the following two chapters, and closure of the adjudication phase was still not the end of the process. Now considered provisionally complete, the adjudication register, in which the names of all beneficiaries and the details of their holdings are recorded, would be opened to public scrutiny for a period of sixty days, during which objections and complaints could be filed with the District Lands Office. Only once all objections have been resolved can title deeds be issued to complete the official transformation from 'customary' tenure to privately-held property, creating a new set of freehold landowners. Nearly three years after Kipise's official closure, objections are still being heard in Narok, and while they are confident that titles will eventually be issued, expectant landowners remain officially unrecognized.

Since my first visit in 2003, friends and informants have repeatedly told me that completion of titling was of critical importance to enhance the security of local residents, to ensure recognition of their rights in land and belonging at Enoosupukia, and to enable them to pursue “development” (*maendeleo*). In the weeks before the meeting at Ilkirragarien, I interviewed several dozen people, mostly men, about the value of titling and title deeds. Their responses to my questions were remarkably consistent: interviewees explained that completion of titling would give them a sense of security and

freedom from intervention, which in turn would allow them to invest in their land, build permanent houses, erect fences, plant trees, and pursue more commercially-oriented small-scale agriculture, including cultivation of wheat or pyrethrum and zero-grazing dairy production with grade cattle. In many cases, these examples of "development" were further linked to the use of title deeds as collateral for bank loans to finance investment and improvement, such as for the purchase of agricultural inputs like seeds, herbicides, pesticides, and fertilizer, or the acquisition of grade cattle, reproducing a well-worn narrative in which agrarian development is to be facilitated by land tenure reform. Further, in these interviews as in countless less formal conversations during my field research, development was generally presented as an inversion of the current situation at Enoosupukia, characterized by hardship (*osina*). Hardship, however, was not considered to be a consequence of the inherent insecurity of "customary" tenure or of limited access to investment capital, but rather a result of "outside" interference and competing claims to rights in land, which had manifested most recently in the government-organized and executed evictions of 2005.

Security through titling was not presented as an abstract or theoretical argument in these interviews. Rather, respondents compared their situation with that of people in neighbouring communities where titling had long-since been completed. For example, as one man explained during a group interview:

> ... we've seen through experience why title deeds are so good. We've learned about these things because of the troubles we've had here. For example the evictions and the burned houses and cattle which have died as a result have shown us that if we had title this wouldn't happen. All of the neighbouring areas, like Sakutiek and Nairagie Enkare and Enooseyia and Melili, have titles and have not seen the same problems.
>
> When I see other people who have title deeds, I see people who have joy and strength. And things can be sold for their real prices if they want to sell. Here at Enoosupukia people would sell [land] for 18, 15, or even 10,000 [Kshs an acre],

but in Sakutiek or Nairobi people sell for 300,000 because title gives strength. With title deeds we won't lose hope because we will have something real.[1]

In many of these interviews, as in less formal conversation throughout my time at Enoosupukia, the security value of titling and title deeds was also frequently conveyed metaphorically. One example is representative and employs an image that I heard from many others: Sitting on a bench outside his home, I asked Sankale Kurrarru, commonly known around Enoosupukia as "ole Nkonyi," an elder of the *oseuri* age set (approximately 65 years old in 2007) and member of the official land adjudication committee, one of my standard questions: "*kainyoo teipat eeta ena toki naji 'title deed'?* (what is the value of this thing called a 'title deed'?)" Ole Nkonyi paused a moment before responding in his deep voice: "*Ore esipata e title deed, ninye elongo olshamba lino* (The true value of the title deed is that it is the shield of your land)."[2] The image of the title-deed-as-shield communicates both legitimacy and protection from danger; a defensive tool, the shield protects its bearer from violent aggression, here implied to be illegitimate interference with a landowner's claimed rights in land and physical occupation and use of his property. The (probably unintentional) irony of this metaphor derives from the fact that land adjudication has acted as a double-edged sword, and the title-deed-as-shield has become particularly necessary because of the ways that official tenure reform has facilitated Enoosupukia's further incorporation into a wider political-economy of land and politics of belonging.

Impending official tenure reform inspired unofficial tenure transformation, in which locals and non-locals alike engaged in a range of anticipatory dealings. Acting on the advice of various leaders, residents of Enoosupukia began to unofficially demarcate

1 John Mebarni, group interview at Mpeuti, Enoosupukia, 1 October 2007.
2 Interview with Sankale Kurrarru (ole Nkonyi), at Enoosupukia, 3 October 2007.

individual holdings in the late 1960s or early 1970s with the expectation that their work would quickly be made official. The imminent adjudication of Enoosupukia also incited a land rush in which non-local Purko and Keekonyokie Maasai, as well as Kikuyu, drawn by the prospects of acquiring legal title to fertile land, sought to stake their claims by manipulating the transformational potential of tenure reform in several ways. Whereas some outsiders, especially Maasai, were able to gain access on assertions of ethno-territorial belonging – Enoosupukia had, after all, become Maasailand in the colonial era – and through activation of social links of clanship and kinship with Maa-speaking Dorobo autochthons, others, in particular Kikuyu, negotiated access through transactions with expected beneficiaries of adjudication, including both Dorobo and Maasai. The high stakes of these processes – in particular, the potential acquisition of legal ownership of land and thus officially recognized belonging – intensified the cultural politics of property. Conflicts over both the outcome and control of official adjudication have been animated by territorial tensions between Purko and Keekonyokie Maasai; most spectacularly, struggles over belonging converged with national politics and shifts in patronage networks to produce the explosion of violence that resulted in the displacement of thousands of Kikuyu from the area in 1993.[3] More subtly, but just as significantly, these official and unofficial processes effected a reconfiguration of the local social field of property, from a “bundle-of-rights” system of forest tenure enmeshed with notions of ethno-territorial belonging to one of exclusive individual freehold ownership of land, albeit officially unrecognized pending the completion of land adjudication and titling.

This chapter examines the implementation of official procedures of land tenure reform at Enoosupukia and shows how these have become entangled in local struggles

3 The dynamics of the extralegal land market and the struggles over belonging that culminated in the clashes will be discussed in Chapter 4.

over belonging, resulting in the emergence of tenurial ambiguity, characterized by a disjuncture between the official legal status of land and residents and the unofficial principles and practices through which belonging is negotiated and contested. Further, this chapter shows how the locally predominant sense of unofficial freehold ownership has emerged through interconnected processes of official and unofficial tenure transformation. I begin by contextualizing tenure transformation at Enoosupukia historically, with a discussion of the invention and subsequent problematization of "customary" tenure in Kenya, and the generation of land tenure reform as a development solution to the emerging late colonial political-economic crisis. I then present an ethnohistorical account of tenure transformation at Enoosupukia brought about by the articulation of the ideology and practice of tenure reform with local and translocal struggles over belonging to show how the dynamics around land adjudication have introduced new ways of claiming and contesting rights in land, as well as new means of acquisition and dispossession. In short, this chapter shows how the local field of land tenure has evolved in response to the official state program of tenure reform. The consequences of these changes, including conflict and insecurity, will be discussed further in subsequent chapters.

The problematization of African "customary" land tenure

Debates about the relationship between private property and agricultural productivity, especially as made possible through enclosure and exclusion of others from individually-owned lands, date at least to the writings of John Locke (1988[1690]) and Jean-Jacques Rousseau (Rousseau 1987[1754]), both of whom assert a positive relationship while also recognizing that enclosure and exclusion are at the root of economic and political inequalities. As the dominant paradigm in Europe after the

Enlightenment, it was perhaps inevitable that policies and laws creating and protecting private property would be exported around the world during the era of colonization. With the ascendancy of the development age towards the end of the first half of the twentieth century, land privatization became a central pillar of efforts to "modernize" underdeveloped agrarian economies (Basset 1993), rising to the level of orthodoxy in the latter half of the century (Bromley 1989).[4] The central position of land privatization in approaches to agrarian development has made "land tenure," and tenure reform in particular, a topic of innumerable studies in African history, ethnography, and economic development. A significant number of recent works have investigated the relationships between privatization and land tenure security (Dickerman et al. 1989; Bruce and Migot-Adholla 1994), agricultural productivity and agrarian development (Migot-Adholla et al. 1991; Bassett and Crummey 1993), and ecological conservation and degradation (Juma and Ojwang 1996). Further, a number of scholars have examined the reformist assumption that indigenous tenure systems will only change in response to external intervention, resulting in a body of work outlining an "evolutionary theory of land rights" (Platteau 1996, 2000). In general, these studies have shown that systems of land tenure across Africa have responded to population growth and agricultural commercialization with increased concentration and individualization of ownership, more monetized transactions involving agricultural land, and increasingly direct inheritance (e.g. Berry 1988, 1993; Bassett and Crummey 1993; Downs and Reyna 1988). Despite a substantial body of literature questioning whether privatization is a development panacea or even a necessity, and the emergence of theoretical and empirical studies outlining the value of

4 Calling this orthodoxy into question, Bromley points to the problem that privatization's self-evidence derives from its central place in Western culture and society: "The often passionate interest in privatization of public domain lands requires careful consideration within the development community for the obvious reason that the idea of atomistic control of economic resources is so embedded in Western economic and social thought; it is so much a part of our logic and culture that to demur is often thought to be blasphemous" (1989:868).

common property systems for certain situations (e.g. Ostrom 1990), land tenure reform – most often in the form of determination and registration of individual rights – remains a potent theme in global policy debates and polemics (e.g. de Soto 2000).[5] In this chapter, rather than evaluate economic outcomes of tenure reform, I seek to examine tenure reform as an encounter between governmentality and complex local reality and to explore the ways in which official principles and procedures have been appropriated and transformed in local struggles over belonging.

The widespread faith in the value of individualized private property in Kenya has its roots in the late-colonial project of land tenure reform, initiated in the 1950s and greatly expanded in the first decades after independence. Tenure reform, in both its late-colonial and postcolonial iterations can be understood as a governmental project of "vertical encompassment" (Ferguson and Gupta 2002), by which the Kenyan state has tried to integrate its claimed territory into bureaucratic structures of rule, and to render land and population legible and subject to intervention (James C. Scott 1998), though the articulation of these official projects with local realities has resulted in unintended consequences, including increased insecurity and the emergence of land tenure plurality. Kenya's program of land tenure reform resulted not from direct importation of English property law at the moment of colonization, but rather from the "problematization" (Foucault 2001:172)[6] of African "customary tenure" amidst a worsening political and

5 However, as Peters (2004) has noted, scholarly work has had some impact, for example in official shifts at the World Bank and among other donors towards a kind of pro-poor, "post-modern liberalism" that propose greater flexibility in state interventions in land tenure.

6 Investigating the "process of problematization" is central to Foucault's work and has been taken up by many others. In his own words, this involves examining "how and why certain things (behavior, phenomena, processes) become a problem" (Foucault 2001:172), that is, "an object of concern, an element for reflection, and a material for stylization" (Foucault 1990:23-24). Once a thing is "problematized," it becomes a site of intervention, whether by governmental authorities, disciplined subjects, or both, though governental interventions are rarely uncontested and often reshaped in the friction of implementation in local contexts (Agrawal 2005; Escobar 1995; Ferguson 1990; Li 2007; Tsing 2005).

economic crisis in the colony after the Second World War. This problematization, and the subsequent proposals to encourage and bureaucratize individualization of rights in land, amounted to a reversal of earlier colonial policy in which officials had tried to institutionalize collective rights inside defined, ethnically-exclusive territories. Faced with increasing anti-colonial dissent and political agitation throughout the colony, believed by officials to be tied to low agricultural productivity in the native reserves, tenure reform was intended to simultaneously stimulate agricultural production and create a politically-stable African peasantry, both of which were expected to help perpetuate the colonial political-economy and forestall Kenya's independence and African self-government (Sorrenson 1967; Leys 1975; Okoth-Ogendo 1976; Haugerud 1989; Mackenzie 1989; Berman 1990). After independence in 1963, the land reform program was extended throughout much of the country on the grounds that it was necessary to drive the growth of Kenya's economy, which remained heavily dependent on agriculture. This section examines these historical shifts, from the invention and reinforcement of “customary” tenure and official ethno-territoriality (Colson 1971; Chanock 1991), to the late colonial projects by which officials hoped to reform or substitute African land tenure systems with a bureaucratic regime of individual rights in land rooted in English property law.

Inventing “customary” tenure: Crown lands, Native lands, and Trust lands

As described in the previous chapter, early colonial land policy in Kenya was a product of intense political dynamics between increasingly influential European settlers, colonial administrators both locally and in London, and numerous African populations. Bowing to pressure from aspiring settlers around the turn of the twentieth century, local administrators and the British Foreign Office had first agreed to declare all “waste and unoccupied lands” in the interior to be Crown Lands, that is, under the jurisdiction of the

British sovereign, and to grant the Commissioner in the protectorate the power to dispose of such lands by allocating them to European individuals and companies for development (Okoth-Ogendo 1976, 1991; Sorrenson 1968). Such allocations took the form of concessions, granted on a leasehold basis for fixed terms, subject to conditions such as the mandatory “improvement” of a certain percentage each year and revision of rents on a regular basis in line with the increased value of productive agricultural lands. Unsatisfied with these rules, settlers pushed for better terms, and succeeded in convincing officials to concede both inordinately long leasehold terms (in some cases up to 999 years) and the possibility of gaining freehold ownership to land through purchase at low rates per acre (Sorrenson 1968). While this established a legal framework based on English property law that would protect individual ownership of large estates and allow for the development of an almost unregulated land market among Europeans, settlers demanded still more security and room for expansion, and they called for the reservation of “all land considered or likely to be 'suitable' for European settlement ... for their exclusive occupation and use” (Okoth-Ogendo 1976:155). This was carried out through the invention of African land tenure systems in which officials decided “that no native has any individual title to land and that the land is the commonwealth of the people. A native's claim to land is recognised even according to native custom only as long as he occupies beneficially” (Okoth-Ogendo 1976:155; see also Colson 1971; Basset 1993). In practice, this meant that any land not currently under cultivation or occupation by Africans was subject to the jurisdiction and powers of alienation of the Crown, allowing officials to expropriate lands and allocate them for future European use and settlement, and laying the foundation for the colonial political-economy and policies of separate development for European and African residents.

Within two decades of claiming responsibility for the Protectorate of British East Africa, colonial officials had reluctantly established a system of reserves and designated distinct areas for European settlement and African occupation. In these early years, the colonial administration served to not only establish a *Pax Britannica*, but also to implement rule and policies that would favour the development of European settler agriculture to increase revenues and help make the Protectorate economically self-sufficient. As late as 1913, this had been relatively ineffective, and African production accounted for up to three-quarters of export earnings (Berman 1990:54). However, this began to shift during the First World War when officials started to implement policies that privileged European farming in efforts to stimulate overall economic growth through the investment of private capital. Among these policies were measures aimed at guaranteeing a sufficient supply of cheap and dependable labour for inexperienced and ill-equipped Europeans, including the imposition of hut and poll taxes, a system of employment registration, and enforcing the ethnic exclusivity of native reserves, all implemented through the emerging framework of indirect rule (Okoth-Ogendo 1976:155; Berman 1990; Leys 1975; Mamdani 1996).

In addition to these coercive and exploitative structures of indirect rule, colonial provision of labour for the settler economy was facilitated by policy and laws with respect to land tenure in areas reserved for African populations. By 1915, a revised Crown Lands Ordinance had extended official jurisdiction and powers of alienation to “all land in the Protectorate” including those occupied by and reserved for the use of natives (Okoth-Ogendo 1991:41). The definition of all native reserves as Crown Lands was controversial in London, but it was justified by the Committee of the Legislative Council in the colony as actually protecting African rights in land. In the Committee's opinion:

> ... it must be remembered that many if not most of the native tribes have no individual or even tribal tenure of land as tenure is generally understood in England, and it is of the utmost importance that the land in the reserves or occupied by native tribes should be definitely vested by statute in the Crown, thereby giving the Crown power to afford the natives protection in their possession of such land. ... If such lands are vested in the crown it will be possible for the Crown to regulate their occupation in the interests of the natives and finally to evolve a system of tenure for the natives thereon giving them real and indefinite rights to the land. (in Okoth-Ogendo 1991:53)

Subsequent moves showed that the colonial administration had little interest in developing “a system of tenure for the natives,” and in fact their status as “tenants at the will of the Crown” was reaffirmed by the colonial courts, practically rendering African claims of rights in land meaningless should authorities decide that the land in question could be better used by European settlers (Okoth-Ogendo 1991:54).

The colonial political-economy was successful in that the expropriation of lands and enforcement of labour policies compelled many residents of the reserves to join the commercial agricultural economy in a marginal position, allowing settlers to make substantial gains. Inside the reserves, the colonial encounter disrupted institutions of both land tenure and authority, and produced significant frictions. The incorporation of appointed officials, such as chiefs and members of the Native Tribunals, as well as an educated minority, into the monetary economy exacerbated land scarcity inside the reserves as they used their wages to acquire more land, displacing their poorer and less powerful neighbours and kin (Leys 1975:66; Okoth-Ogendo 1976). This represented an important evolution of precolonial practices. Among the Kikuyu, for example, acquisition and development of new estates by individuals through purchase or other means, and the subsequent founding of a new lineage and lineage territory was a source of great prestige (Sorrenson 1967; Kenyatta 1938; Leakey 1977; Bohannan 1963). Newly founded lineage territories were understood to be the private estate of their founder, and

were inherited by his descendants, the members of his lineage, after his death. Exclusive individual and lineage ownership was complicated to a degree by the claims of more distant kin who could be afforded usufruct rights, especially in times of dearth or in case of landlessness, sometimes leading to renegotiations of lineage belonging. Further, non-kin from outside the local area with no apparent claims to the lineage territory could also gain rights of occupation and use through acceptance as tenants of the lineage owners. Thus, exclusion was tempered with a moral economy around land that both provided a subsistence guarantee for the less well-off members of Kikuyu society and maintained inequality by enhancing the prestige of lineage founders and members who could support larger numbers of kin and tenant clients (Scott 1976; Hyden 1980, 1983). The establishment of the reserves constrained this process and limited the possibility of external expansion onto new lands, leading to worsening inequalities, narrowing access to land around individuals and families, and increased landlessness, as well as internal disputes about the meanings and uses of “customary” tenure rules (Mackenzie 1996). Population growth exacerbated these problems, creating friction between lineages and lineage members and leading to fragmentation of holdings and “incessant land disputes in these areas, as clans, families, and family members sought to retain rights of access to ancestral lands” (Okoth-Ogendo 1976:158).

Settler demands for more labour, along with underdevelopment of their holdings in comparison with their potential, provided some relief for these pressures. Dispossessed and impoverished young men, required to pay taxes in their home reserves gained cash income as wage-labourers on settler farms. Wage-labourers were often accompanied on their moves by family members who took up residence with them, and who were able to cultivate small fields on unused portions of, or in the interstices

between, white-owned farms. Like the reserves themselves, these “squatter” settlements helped to subsidize the colonial economy by providing subsistence crops for the dependants of wage-labourers, allowing settler employers to pay wages high enough to supply tax revenue to the administration, yet low enough to maximize settler earnings (Leys 1975). But squatter presence in the so-called White Highlands threatened the Europeans, who feared potential African claims of rights in land outside the reserves after they had invested so much in trying to exclude that possibility. These fears were well-founded, as Kikuyu especially held notions of acquiring permanent rights in land akin to Locke's labour theory of property, whereby they could stake their claims by working previously unoccupied lands (Lonsdale 2008; Leakey 1977). Insecurity of African rights in land, institutionalized through the negation of all but collective claims inside the reserves and the exclusion of Africans from acquiring legal rights outside the reserves, led to a nascent anti-colonial movement and demands for repatriation of lost lands and allocation of underused ones to growing populations of African farmers by both Rift Valley squatters and elites in the reserves (Sorrenson 1967; Leys 1975; Berman 1990).

Growing tensions in the colony emerging out of African demands for more land and European demands for enhanced tenure security against potential African claims led to the appointment of the Kenya Land Commission, led by William Morris Carter, in early 1932. The Carter Commission, as it has become known, was tasked with investigating a broad range of interrelated issues, from ascertaining the present and future needs of native populations in terms of land, to evaluating African claims to lands in the White Highlands, reviewing the workings of contemporary official land laws and policies in the reserves, as well as establishing the boundaries of the reserves and considering alterations for the future. While the Commission did determine and fix reserve

boundaries, as well as identifying additional areas for potential extensions, including through leaseholds on Crown Lands, it also made a number of policy recommendations with respect to land tenure inside the reserves. The Commission identified two legal and policy positions as particularly problematic: the guarantee of ethnically-exclusive, collective rights to defined territories, which fixed the relationship between "tribes" and reserves and limited the possibility for population movements from more to less densely populated reserves, and the official neglect of private rights inside the reserves, especially where those had historically existed but been overlooked in "customary" tenure, both of which were reinforced in the Native Lands Trust Ordinance, introduced in 1930. These provisions were believed to be exacerbating several underlying problems, for which the Commission proposed a series of solutions.

Rather than entertaining demands for allocation of Rift Valley lands to Africans, the commission saw gradual redistribution of population between the different reserves as a possible solution to overcrowding, especially prevalent amongst agricultural communities (Carter 1933:351-353). However, rather than advocating top-down redistribution and resettlement into less populated reserves, the Commission favoured "tolerance" of peaceful "penetration by individuals:"

> By this means, surplus members of a congested tribe may be able to find some relief by going to live as tenants in the territory of another tribe, into which they will eventually be absorbed. But it is clear that even this method has its limits, since no tribe will be willing to receive strangers in such numbers as to threaten its own integrity, and one is forced back to the conclusion that, although these facilities may be very useful, the primary task of every tribe is to develop its own territory to its own advantage. (Carter 1933:353)

Passive resolution of the problem of overcrowding, however, was unsatisfactory, not least because it could take many years and easily become a source of political conflict or even violence. As an alternative to either tolerance of interpenetration or more active

efforts to redistribute populations, the Commission focused on agrarian development inside the reserves. Landlessness was seen to be a growing problem, exacerbated by the fact that “alternative means of employment cannot readily be found in the reserve, and at least a temporary limit has been reached to the capacity of the European area to accommodate more labourers” (Carter 1933:356). As a first step, a program of general development was proposed, including both the construction of roads, schools, and other infrastructure to provide at least temporary wage labour for landless residents, and the introduction of more valuable commodity crops to encourage agricultural intensification and more economically productive land use.

But, underlying the need for agrarian development within the reserves, the Commission pointed out that “the question of distribution and the correct method of holding land is the outstanding problem in these areas” (Carter 1933:356). In this, the Carter Commission identified both a central problem and a site of productive intervention by governmental authority, on the grounds that

> ...history does not lead us to expect that the land problems of any people can be settled by a spontaneous evolution of custom, and some direction by authority is necessary. Very naturally and properly, the tribal elders and native councils will be reluctant to enter upon innovations of which they have no experience, and will turn a deaf ear to advice of which they have no means of judging the value. We do not subscribe to the doctrine that in such circumstances Government should never intervene; we hold that Government should take and use the powers to make rules. While the system of land tenure should be based on native custom, it should be built up by forethought and planning, and regulated by rule. Nobody has ever disputed the propriety of Government making rules to protect the soil against exhaustion or to provide adequate safeguards for economic crop production or to order the destruction of noxious weeds, and we can see no reason why, after adequate study, Government should not regard itself as equally free to guard against the still more insidious, because less obvious, evils which arise from an uneconomic fragmentation of the land or from an unjust method of dealing with tenants of from any other maladjustment in the system of land tenure. (Carter 1933:359)

Its recommendation in this respect was, short of immediately replacing local tenure systems with the kind of property law in operation in the White Highlands, that the land tenure systems in each reserve should be re-built "on the basis of the native custom obtaining therein, but that it should be progressively guided in the direction of private tenure, proceeding through the group and the family towards the individual holding" (Carter 1933:420).

While the Carter Commission did not lay out a detailed plan for this program of directed tenure change, it did recommend that the first amendment to colonial land law and policy should address the perceived – and legal – insecurity of native land rights inside the reserves. As mentioned above, the Crown Lands Ordinance and subsequent court judgements had established that African subjects in the Kenya Colony were "tenants at the will of the Crown," even on their ancestral lands. This was a sore point for many of the African witnesses, and especially Kikuyu, who testified before the Commission, who demanded instead that reserve lands should be recognized as belonging to the residents and not the Crown. Agreeing with this, while also pointing out that "conveyance of the land in freehold or otherwise to the natives would cause great complications" (Carter 1933:420) – for example, making it difficult to distinguish between the rights of the group as a whole and the rights of individual members – the Commission recommended that the reserves be redefined as "native lands" and that

> ... the native lands as a whole ... be not styled Crown lands but Native lands, the nuda proprietas being deemed to lie with the native population generally, but vested in a trust and subject to the sovereignty of the Crown and its general powers of control. The rights of particular tribes, groups, families and individuals should be covered by a declaration that they shall have all the rights and powers in respect of land which they have under native custom (as it is, or as it may become), in so far as they are not repugnant to the Lands Trust Ordinance or rules under it, or any other law or ordinance of the Colony. (Carter 1933:418)

The Commission was unequivocal, however, in maintaining that this must be done carefully in order to safeguard the rights of the Crown to control and dispose of these lands, and “that it must be made perfectly clear to the natives that the Crown has these rights” (Carter 1933:420) in order to prevent them from conflating native ownership with native sovereignty.

The Carter Commission's findings and recommendations would eventually be implemented in various ways in the late colonial and early postcolonial periods, but in the immediate aftermath of the report administrators were slow to respond and in some instances pursued paths contrary to those recommended by the Commission. For example, colonial officials made no significant efforts to encourage individualization of tenure before the mid-1950s, and in fact first attempted to reinforce communal ownership of native lands (Sorrenson 1967). Likewise, rather than accepting interpenetration and relaxing the ethnic exclusivity of the reserves, administrators were legally empowered in the early 1940s to more strictly enforce segregation and to “repatriate” natives found outside their home areas without permission (Okoth-Ogendo 1991). On the other hand, the Commission's proposals to slightly revise the boundaries of the native reserves and the “settled areas” alike were accepted, and these were finally officially inscribed with their promulgation through an Order in Council in1939. The Commission's recommendations with respect to land inside the reserves, now officially redefined as “native lands” or “native land units,” was similarly enacted and the legal status of lands inside the reserves changed from Crown lands to native lands held in trust by the government. The counterpart to this recognition of boundaries and native rights in land, however, was the legal extinguishment of claims outside those areas. As several authors have explained, these reforms, ostensibly recognizing the legitimate rights of African

populations – though not necessarily individuals – to clearly identified lands in Kenya, overwhelmingly served European rather than African interests, enhancing security of tenure for settlers and perpetuating unequal development (Okoth-Ogendo 1991:55; Sorrenson 1968; Leys 1975).

Despite official recognition that Africans had certain rights in land within the reserves, reflected in the nominal change from “Crown” to “Native” lands, the subordinate status of those rights was preserved through the Native Lands Trust Ordinance, which established administrative structures by which colonial officials could “manage and control the reserves” (Okoth-Ogendo 1991:57). In its first iteration in 1930, the Ordinance set up a hierarchy of management boards. At the top of this system was the Native Lands Trust Board, composed of the Governor of the Colony and ten members, half of whom were drawn from the executive council and half of whom were non-officials, including one African representative, “if a suitable one could be found” (Okoth-Ogendo 1991:56). At the local level, subordinate boards responsible for each native reserve were created, each of which was chaired by the relevant Provincial Commissioner and included the District Commissioner for the reserve, one European non-official and one African member appointed by the Governor. One of the effects of this system, if it operated as outlined in the Ordinance, would be to limit the freedom of individuals inside the reserves to develop their lands without prior consultation with the Land Boards (Carter 1933:438), though it is not clear that rule was ever so effectively insinuated into life in the reserves. These structures further served to extract revenue from native land users, as they were empowered, along with Local Authorities, to establish rents and fees for all sorts of land use and resource extraction, from grazing to timber harvesting, which complemented the role of the administration in securing labour

for the colonial economy. With the revision of the Ordinance in 1938, in a belated response to the Carter Commission's report, these structures remained practically unaltered, except for the composition of the Native Lands Trust Board, which would thereafter be chaired by the Chief Native Commissioner and include one elected European and three African representatives (Okoth-Ogendo 1991:60).

Inside the reserves the Ordinance enshrined, without clear definition, customary law as the substantive legal framework governing land. Officially, the Ordinance stated that “in respect of the occupation, use, control, inheritance, succession and disposal of any land situated in the native lands, every native tribe, group, family and individual shall have all the rights which they enjoy or may enjoy by virtue of existing native law and custom or any subsequent modification thereof” (in Okoth-Ogendo 1991:64). In theory, this meant that it fell to the Native Tribunals in each reserve to make determinations about what exactly constituted customary law and to rule on disputes within each community. In practice, the room left in the statute for the evolution of local customary law was an opening for colonial administrators to guide change in the direction of increasing individualization and the concentration of land in fewer hands over time (Okoth-Ogendo 1991:64). However, despite trends towards increasing individualization and narrowing of tenure in certain reserves – especially in the Kikuyu Land Unit – the Ordinance undermined legal recognition of individual rights by emphasizing instead the generalized rights of whole communities to defined territories, which the Carter Commission recognized as an impediment to resolution of the problems of land scarcity and tenure insecurity. This contradiction would drive the worsening political and economic crisis after the Second World War, leading eventually to the introduction of more significant reforms.

Despite subsequent reforms promoting individualized, private landownership and postcolonial efforts to build a sense of nationalism, in part through the opening of formerly "closed" reserves to settlement by members of other communities, the Native Lands Trust Ordinance, with its affirmation of ethno-territoriality and "customary" tenure, has had a lasting legacy in Kenya. While this is due in part to the local appropriation of ethno-territoriality as a framework for making and challenging claims to rights in land, it is also because the Ordinance continues to apply in much of the country under a new name. The Trust Land Act, which superseded the Native Lands Trust Ordinance at independence in 1963, practically reproduces the Ordinance, providing a similar nationally harmonized framework for land administration while maintaining the status of locally relevant "customary law" on all lands where the Ordinance still applied.[7] Administrative structures were again slightly revised, and jurisdiction over Trust lands is now vested in County Councils, the postcolonial descendants of the African Native Councils established as consultative and legislative bodies under indirect rule. As had the colonial administrators, County Councils act ostensibly as Trustees, managing Trust lands on behalf of "ordinary residents" who are considered beneficiaries of the Trust rather than owners of the land (Kenya Human Rights Commission 1997; Wanjala 1990). Under the Trust Land Act, councils retain the powers of regulating land use, including the levying of fees, and issuing of permits and licenses, for various types of use. Further, the councils have powers of limited alienation and may "set apart" areas of Trust land

> ... for use and occupation ... by any person or persons for purposes which in the opinion of the council are likely to benefit the persons ordinarily resident in that area of any other area of Trust land vested in the council, either by reason of the use to which the area set apart is to be put or by reason of the revenue to be derived from rent therefrom. (Trust Land Act [Cap 288] Section 13(1)(c)).

7 The Trust Land Act, at section 69, exactly reproduces the section of the Ordinance, quoted above, in which "customary law" is established as the framework for determining rights in land.

Such uses include the allocation of plots in market centres, which have been an important patronage resource with which councils and more powerful leaders have rewarded their clients and supporters (Klopp 2001:102-103). The areas classified as Trust Land in any given District are further divided into Divisions where necessary, each of which is administered by a Divisional Land Board, appointed by the County Council and composed of between four and fifteen members, up to four of whom can be councillors or public officers.

Devolving jurisdiction over Trust lands to County Councils at independence reinforced the colonial sense of ethno-territoriality by contributing an air of sovereignty to the Districts, while also providing a means for the operation of patronage, sometimes across ethnic boundaries. With administration placed in the hands of the local elite and their appointed representatives, local residents are in a marginal position in terms of vetting occupation and use of their lands by non-local clients, though elites were not immune to criticism and social sanction from their ethnic constituents. For example, the allocation of market plots at Enoosupukia to Kikuyu by the Narok County Council in the late 1970s was reportedly a source of local friction, as Maa-speakers complained about being left out and prevented from setting up businesses in town by an increasingly dominant population of “outsiders.” The tensions around belonging exacerbated by these allocations echoed similar disputes and debates over Kikuyu rights in Maasailand dating to the colonial period (Waller 1993), and a broader trend of politically-facilitated Kikuyu “encroachment” became a key issue in factional struggles among Narok politicians (Doherty 1987), eventually contributing to the ethnic polarization and violence of the early 1990s.[8] For politically and socially marginal residents, the continued legal salience of “customary” tenure perpetuated insecurity as they were sometimes forced to compete

8 These dynamics will be discussed further in Chapter 4.

on an uneven playing field for recognition and access. At Enoosupukia, the potentially negative implications of dependence on non-local leaders appear not to have been realized until their land became valuable as a site of agricultural colonization and acquisition of legal title in the land rush inspired by imminent land adjudication. However, the official, Trust land status of the Enoosupukia highlands outside Kipise Adjudication Section was a major contributing factor to the clashes of 1993, as the Narok County Council reclassified the area as a conservation forest and ordered the eviction of its occupants, primarily for political ends (see Chapter 5). This instrumental manipulation of state power continues to burden local residents who claim rights and belonging on grounds of historical occupation, ancestral inheritance, and intended recognition in proposed land adjudication.

Reforming "customary" tenure

By the late 1940s, colonial "underdevelopment" of the African reserves had precipitated significant class differentiation within African populations and induced a worsening political and economic crisis that would ultimately lead to Kenya's independence (Leys 1975; Berman 1990; Berman and Lonsdale 1992; Kitching 1980). The narrowing of land tenure in response to numerous stimuli, including differential incorporation of individuals into the monetary economy and constraints preventing territorial expansion by growing agricultural communities, had continued to drive concentration of land and wealth in fewer hands, leaving greater numbers poor and landless. With reduced access to agricultural land, many sought opportunities to earn cash to pay taxes by joining the labour force on settler farms. However, the growth of "squatter" populations in the White Highlands and in less populated native reserves along its borders was increasingly seen as a threat to European control and production,

and officials responded by further constraining movement, more strictly enforcing policies of racial and ethnic segregation, and mounting operations to “repatriate” natives residing outside their home areas without permission. The closure of this relief valve for population pressure worsened problems inside the reserves, exacerbating scarcity, driving fragmentation, and contributing to declining soil fertility. Economically, these trends meant that “the necessary complementarity between the white highlands and the reserves was now threatened by the risk that the reserves might no longer be able to furnish a subsistence for the families of their absent agricultural wage-labourers” (Leys 1975:67). Politically, deteriorating conditions and increasing landlessness, especially among Kikuyu both in Central Province and on the Rift Valley farms, contributed to growing anti-colonial sentiment and calls for change. Over time, this growing crisis drove not only movements for African self-government, but also governmental interventions and the problematization of “customary” tenure.

Rather than re-examining the political-economic structures of the colonial system, administrators approached what they saw as problems of African development “as if they originated and could be resolved solely within the reserves” (Berman 1990:275). Initially, solutions focused on reinforcing “tradition” to counter the perceived deleterious effects of uncontrolled culture contact, based on assumptions that individual ownership of land was inimical to African custom, and on programs of intervention intended to transform Africans in the reserves into model farmers. Among the first of these were efforts to combat soil erosion and exhaustion, inspired in part by the Dust Bowl experience of the 1930s in North America (Mackenzie 1998:84). But coercive strategies to enforce conservation measures inside the reserves were unpopular and ineffective (Government

of Kenya 1962:233).[9] For a period in the 1940s, officials mulled proposals to institute a series of "locational, divisional, and district councils to manage land along communal lines" to both improve resource management and encourage Africans to abandon increasing individualism, wrongly considered by officials to be "false values that have been a major product of [African] contact with [European] civilization" (Sorrenson 1967:58). Officials hoped to implement such a system among the Kikuyu, using the Kikuyu clan system as its basis; however, this produced confusion and resistance, as Kikuyu land tenure was not organized around clanship, but rather through individual ownership and lineage inheritance (Sorrenson 1967; Mackenzie 1989), and these proposals were being made at a time when "a great many Kikuyu, including virtually all educated Kikuyu, wanted to break away from the authority of the elders" (Sorrenson 1967:60). Further, legally inscribing communal ownership was incompatible with the envisioned need for the extension of agricultural credit, which "could hardly be issued to individuals if the title to land was to be vested in some vague entity called the kinship group, the community, or the tribe" (Sorrenson 1967:60). Another option was to work with "progressives" among the native population, who were expected to be receptive to technical advice, but these strategies were tempered by the political influence of settlers, who were highly averse to economic competition from African farmers. This led officials to design and officially promote improvements for subsistence cultivation while largely maintaining restrictions against African production of commercially valuable crops such as coffee, which proved similarly unpopular with Africans, especially those so-called

9 The authors of the report on African Land Development in Kenya, 1946-1962 wrote that: "the only way in which soil conservation measures could be carried out to an overall plan was by communal labour enforced by prosecution for offences against African District Council Land Usage By-Laws. This was not very effective; it was heartily disliked by everybody, even leading to violent demonstrations in some cases and, perhaps the worst feature of the system was that it made the Officers of the Department of Agriculture unpopular. They came to be looked upon not as persons ready to advise and assist, but as members of a sort of police force for enforcing soil conservation measures" (Government of Kenya 1962:233).

progressives who aspired to increased wealth and status.

In the limited places where these development measures were implemented, they proved less effective than hoped at increasing African agricultural production, a fact that administrators blamed largely on what they believed to be inherent deficiencies in "customary" tenure. Ignoring the disruptive influence of colonization on both landholding and agriculture, administrators deferred to received wisdom and argued that:

> ... it had been clear for many years that one of the main causes of bad farming was customary systems of land tenure leading to fragmentation of holdings. It is a physical impossibility for a farmer to supervise his land if it consists of a number of small scattered fragments, and it is virtually impossible for Agricultural Officers to advise him in such circumstances. The separate pieces of land are too small to permit of a sound rotation of crops and, if a man has to cart manure on his head for several miles he is unlikely to be able or willing to do this to all his fragments. ...
>
> The large number of small fragmented holdings, also made soil conservation measures ineffective. While a man might be prepared to terrace his own land it was not much use if his neighbour did not do likewise. (Government of Kenya 1962:233)

Likewise, officials understood customary tenure to be characterized by insecurity for individual land holders, in part due to their inability to effectively exclude those who could claim access on the basis of membership in kin groups and clans. This insecurity had, as mentioned above, been reinforced through the Native Lands Trust Ordinance, which established the legal status of customary law with respect to land tenure in the reserves and meant "that although clan and group ownership is established in a loose sort of way, the rights of an individual are undefined and by no means secure" (Government of Kenya 1962:234).

The solution to these twin problems – fragmentation and insecurity – was seen to be land consolidation and registration. While consolidation would provide an antidote to fragmentation and encourage African cultivators to practice what European officials

considered to be more environmentally sound land use, registration would enhance tenure security, leading to greater long-term investment in holdings by landowners and enabling the extension of agricultural credit. Careful application of such reforms could, it was believed, transform African subsistence production into small-scale capitalist agriculture, and African farmers into disciplined landowning producers. Early steps towards recognizing individual, private rights in land were, however, "made conditional on beneficial occupation, that is, the use of good farming practices as defined by the government" (Berman 1990:279), and the corresponding supervisory interventions into local practice proved unpopular with many African cultivators. Moreover, despite the problematization of customary tenure, "there was a tendency to avoid the whole problem simply because of its inherent complication and the obvious political risks of interfering in such an explosive matter as land ownership" (Government of Kenya 1962:6). Officials were particularly wary of continuing to push individualization and of legally recognizing individual ownership as it was feared this would exacerbate landlessness, already a major source of Kikuyu political dissent, especially among "squatters" in the Rift Valley. In the meantime, official inaction to effectively alleviate the worsening economic crisis led to increasing calls for African self-government and eventually to the birth of the Mau Mau movement (Sorrenson 1967:80-93).

The crisis reached fever pitch in 1952 with the escalation of both political agitation and Mau Mau oathing, intimidation, and violence.[10] By October 20 of that year, the Governor had declared a State of Emergency, banned the Mau Mau organization and its public political counterpart, the Kenya African Union and had their leaders and many

10 The origins of (Kanogo 1987; Throup 1985, 1988; Sorrenson 1967; Berman 1990), and colonial response to (Anderson 2005; Elkins 2005), the Mau Mau rebellion have been extensively covered in numerous publications. More detailed discussion is beyond the scope of the present work.

supporters arrested. In response, violence escalated with attacks on Kikuyu chiefs and loyalists as well as European settlers and officials, and the rebellion eventually grew into not only a war of liberation against European colonial rule but also a Kikuyu civil war. The colonial response to this uprising was to ban all forms of African political activity, heavily restrict Kikuyu movement, and evict and “repatriate” Kikuyu living outside the reserve, eventually leading to the detention of tens of thousands of suspected Mau Mau fighters in prison camps and hundreds of thousands of Kikuyu in internment villages.

Ironically, the violent revolt that had been incited by government inaction in dealing with the growing, late-colonial political and economic crisis presented an opportunity to effect land tenure reform: with the “radical leaders” of the anti-colonial movement in detention,

> ... in September 1953, the government instructed R.J.M. Swynnerton, the Assistant Director of Agriculture, to draw up *A Plan to Intensify the Development of African Agriculture*. It was ready within two months, and spelled out a comprehensive programme of consolidating fragments of land and registering the unified acreage under individual freehold titles, on the basis of which loans could be issued to individuals. (Leys 1975:69)

The Swynnerton Plan, as it became known, was intended to provide the antidote for the economic problems behind the political turmoil, not just restoring subsistence production but actually facilitating the growth of commercial production among African farmers. Further, it was hoped that land reform would quell Kikuyu political dissent and bolster the loyalists' position, creating an “agrarian revolution in the Kikuyu, Embu, and Meru Districts,” to “bring into being a middle class of Kikuyu farmers who would be 'too busy on their land to worry about political agitation'” (Sorrenson 1967:117).

In its implementation, the Swynnerton Plan was intended to bring African lands and social relations under modern, bureaucratic governance, and to enable technical interventions expected to stimulate agricultural production. But this was no mere effort to

make local practice “legible” to state planners and administrators (Scott 1998); rather, it was an explicit effort to apply scientific planning to the reorganization of both the landscape inside the reserves and the social relations of African “customary” tenure. As recounted in the report on African Land Development (Government of Kenya 1962), quoted at length here for both its descriptive detail and its striking tone, this transformation would be brought about through a massive, expensive, and labour intensive effort. The first stage in the process required:

> ... the determination of rights to every piece of land in the area being dealt with. In the Central Province a convenient size was found to be 3-4,000 acres, comprising 500-1000 landowners and adjudication has been carried out by Committees of Africans appointed from persons resident in the area. ... After adjudication, teams of measurers move in and measure up every fragment of the area. It must be remembered that the boundaries of these fragments are very rarely straight lines, and the first thing the leader of the team has to do is to obtain the agreement of adjoining landowners to a straight line boundary between them. ... The work involved in measuring fragments is truly enormous. Take the example of Kiambu District: there were 38,000 landowners and the average number of fragments was eight. Even if every fragment had been four-sided this would involve about a million measurements. In practice, of course, fragments are rarely quadrilateral and the number of measurements in the Kiambu District alone was probably nearer two million. It must not be forgotten also that after measurement, the area of each fragment has to be calculated. (Government of Kenya 1962:237)

After adjudication and registration of rights and measurement of claims, the transformative operation begins in earnest as “the layout of the section must be planned as a whole. In doing this, Committees require considerable assistance from officers of the Administration, Department of Agriculture and Survey Department” (Government of Kenya 1962:238). This planning was done almost exclusively on paper, with all manner of public utility lands, such as roads, markets, and permanent village sites, planned out for administrative convenience and economic efficiency. Even residential patterns were subject to planned redistribution, and the next phase in the section layout required that

> ... individual consolidated holdings must be sited and demarcated on the ground. In the Kikuyu Districts, only landowners who have a total entitlement above a certain size are allowed to live on their holdings; the smaller ones are sited round the permanent villages. There are two reasons for this. If a man has more than a certain acreage he can only look after it and develop it properly if he lives on the spot; conversely, if a holding is small, it is a waste of agricultural land to build a house on it, and it is much better for all concerned for the owner to live in a village which is built, whenever possible, on land of low agricultural potential. (Government of Kenya 1962:238)

The final stage in the land adjudication process was the preparation of the official Register of Title. In official eyes, "the act of registration confers upon each owner of land a negotiable freehold title, and he is thus completely secure in his tenure, without danger, can spend money on development and can pledge his land as security for a loan from one of the commercial banks or other lending agencies" (Government of Kenya 1962:240).[11] On the landscape and in agricultural practice, officials deemed tenure reform to be a success, resulting in a "far greater enthusiasm for farming" (Government of Kenya 1962:241):

> In registered areas the countryside shows even to the casual onlooker a picture of orderliness, of neat well-planned hedging and of well-tended crops. The development is based on the contour and the whole merges most happily into the countryside, as though it were meant to do so. ... The new farmer, with his title deed has no fear of dispossession and knows that the more effort he puts into his cash crops, the more they will repay him. He can build a better house, better stock buildings, erect fencing and adopt rotational agriculture on the basis of advice from the Agricultural Officer.

This image of scientific management of well-planned agricultural villages suggests that centralized control and management, rather than a one-time transformation of African land tenure, was a key objective of land reform in Kenya. With landholdings rendered legible for technocratic extension officers, agricultural intensification could be nurtured

11 According to Okoth-Ogendo (1976:164-6), registration did not originally confer title or extinguish other claims to rights in land. This oversight was corrected with the Native Lands Registration Ordinance (1959), which "introduced a system of registration which altered the legal status of land registered drastically," conferring freehold title on those listed in the Adjudication Register, and in effect operating "to defeat all existing rights and interests under customary law" (Okoth-Ogendo 1976:165, 166).

through the application of progressive farming methods and cultivation of cash crops, with benefits for both farmers and the colony's tax collectors.

While administrators and officials in Kenya's colonial government credited land reform with dramatic gains in agriculture on African held lands, in line with their initial perspective that “property rights exercise a determining influence on the course of social and economic change” (Berry 1993:124), much subsequent analysis has argued that the economic impacts of tenure reform are unclear at best (Bassett and Crummey 1993; Berry 1993; Bruce 1993; Bruce and Migot-Adholla 1994; Haugerud 1989; Mackenzie 1989; Migot-Adholla et al. 1991; Okoth-Ogendo 1976, 1986). The majority of African farmers whose lands were subjected to tenure reform by the mid-1960s still did not participate to a large extent in the intended “agrarian revolution” and continued to produce only small surpluses for sale (Berry 1993:86). Those who did engage in cash cropping did so less as a result of tenure reform than of the eased restrictions against African entry into commercial production of such crops as coffee, tea, and pyrethrum, which had been established to protect the weak European agricultural economy from competition (Okoth-Ogendo 1991:81-87; Leys 1975:70; Haugerud 1989), and the role of tenure reform in this was negligible, except perhaps in the provision of farm credit for investment which required secure titles as collateral, which was likewise accessed less often than expected (Shipton 1992). Further, analyses of the outcomes of early postcolonial reform exercises show that the effects of registration on actual local practice with respect to land tenure were similarly limited and often not in line with expectations (Coldham 1978; Shipton 1988, 1992, 2009). Transfers, including rentals, leases, and inheritances routinely took place outside the officially prescribed framework, leading to both a troubling disjuncture between the land register and actual holdings and

manipulation of those disjunctures by both buyers and sellers, contributing to widespread uncertainty and conflict. Nevertheless, the colonial government heralded the Swynnerton Plan as a success, and subsequent experts called upon to assist in Kenya's postcolonial development continued to promote land tenure reform as an effective means to that end. As Okoth-Ogendo points out, postcolonial administrators “were told by colonial agronomists that tenure reform was necessary and we believed it” (1976:183).

Postcolonial extension of land tenure reform

The postcolonial extension of land adjudication and registration as one of the pillars of agrarian development in Kenya was practically a foregone conclusion, serving as it did elite interests in land accumulation and perpetuation of the colonial economy, donor interests in extending development aid, and popular interests in securing people's claims to rights in land (Leys 1975). The independent government's commitment to continued land reform was made explicit in 1964 in a speech by President Jomo Kenyatta entitled “Back to the Land” (Kenyatta 1968), and reiterated in Sessional Paper number 10 of 1965, entitled “African socialism and its application to planning in Kenya” (Government of Kenya 1965; Ghai 1965; Lawrance 1966). In the latter, land adjudication and titling was explicitly identified as a means through which to increase agricultural production. In accordance with the underlying principle of “African socialism,” that “land and other production assets, no matter who owned or managed them, were expected to be used, and used for the general welfare” (Government of Kenya 1965:7), it was argued that “the need to develop and invest requires credit and a credit economy rests heavily on a system of land titles and their registration. The ownership of land must, therefore, be made more definite and explicit if land consolidation and development are to be fully successful” (Government of Kenya 1965:8). To help fulfil this commitment, the

postcolonial government requested financial and technical assistance from the former colonial power, including the designation of a “small team of specialists to prepare a thorough report on land consolidation and registration and suggest a long-term programme which is realistic and economic” (Lawrance 1966:2). This request led to the formation of the Mission on Land Consolidation and Registration in Kenya, headed by J.C.D. Lawrance and composed of three British and three Kenyan (two of whom were European-Kenyan) members, which operated in 1965 and 1966 and issued its report in 1966. Despite several cautionary notes throughout the Lawrance report, pointing to the ephemeral nature of popular demand for land registration, widespread misunderstanding of the process and purposes of registration, the lack of clear positive economic effects, and the increased likelihood of dispossession and loss of “tribal” or collectively-held land after the issuance of disposable individual titles (Leys 1975:69-70), the mission laid out a comprehensive plan for extending tenure reform throughout the country.

Structurally, the program diverged little from the framework devised by Swynnerton, and the Land Adjudication Act promulgated in 1968 in line with the Lawrance Report's proposals practically reproduced the Land Resistration Ordinance of 1959, itself largely a formalization of the Swynnerton plan (Okoth-Ogendo 1976). One notable change was in the role of local authorities vis-a-vis the Minister for Lands in the declaration of areas to be adjudicated. Under the Swynnerton plan, adjudication could be initiated wherever the relevant minister was satisfied that individual tenure existed and could benefit from registration and consolidation, and as described above this had as much to do with political as economic concerns. In the revised 1959 Land Registration Ordinance, this was adapted so that the Minister was required to declare an adjudication section only at the request of local authorities, such as the Local Native Councils

operating in each reserve. By 1968, the Land Adjudication Act restored ministerial prerogative while also preserving the option for local authorities – now the postcolonial County Councils – to request adjudication. In effect, these changes were cosmetic, as "the requirement to have local authorities request adjudication has never really been complied with, since it soon became accepted as a matter of national policy that tenure reform is good for the country whatever the tenure position or the views of a local authority in any particular area might be" (Okoth-Ogendo 1976:167). For the most part, the extended program also evolved from one of land consolidation to reorganize landholding in areas of high fragmentation, to one of more simple registration where fragmentation was not severe. The Land Adjudication Act contains no provisions for consolidation, although this was to be "achieved by encouraging voluntary exchange of parcels, or in some cases through 'gentle pressure' by the Administration" (Okoth-Ogendo 1976:169) where it was deemed to be necessary to optimize agricultural efficiency.

Postcolonial land reform built on the late colonial project, greatly increasing the total area of land and number of owners registered. Under the Swynnerton Plan, land consolidation and registration had been initiated throughout the Kikuyu area in 1956 and completed by 1960. The program was thereafter extended to Embu, Meru, Nandi, and Baringo, and "by 1965 it was in progress in all Provinces" (Leys 1975:69). By 1974, after expansion of land reform with British and other foreign aid, a total of more than 825,000 holdings covering nearly three million hectares of land had been registered (Okoth-Ogendo 1976:170), though this fell far short of the nine million hectares of registered land envisioned in the 1970-74 Development Plan (Leys 1975:69). The strong appetite for land adjudication throughout much, but not all (Shipton 1988, 1992), of the country

was tempered to a degree by recognition that it was not appropriate or timely in certain areas, specifically the pastoral rangelands and the contested areas of mixed occupation, such as the fertile parts of the former Maasai reserve (Lawrance 1966:27-35). In terms of the former problem, governmental experts, including the members of the Lawrance Mission, recommended an adapted form of adjudication and titling for pastoral groups, which took shape as the Group Ranching scheme, funded by the World Bank and implemented throughout the Rangelands of Kajiado and Narok Districts beginning in the late 1960s. Between 1968 and 1979, a total of 57 Group Ranches were created through the joint operation of the Land Adjudication Act and the Land (Group Representatives) Act, which made provision for demarcation of land units smaller than the administrative locations based on sectional territories, registration of ranch members, and provision of title deeds to the group rather than individual members. Officially, the program was intended to preserve limited mobility and access to varied ecological resources while encouraging commercialization of livestock production through access to credit with title deeds as collateral (Mwangi 2007b; Galaty 1980). However, beset by politics and corruption both internally and beyond their demarcated boundaries and registered memberships, the Group Ranches would almost universally be dissolved and subdivided, or headed toward subdivision, by the late 1990s due to a combination of internal and external pressures favouring individualized, private ownership which has facilitated land loss and constrained the ecological adaptiveness of mobile pastoralism (Campbell 1993; Rutten 1992; Mwangi 2007a, 2007b; Galaty 1980; Munei and Galaty 1998).

In the fertile areas of high agricultural potential within the former Maasai reserve, land adjudication ran into the politics of belonging, embodied by a large number of non-

Maasai (and half-Maasai) cultivators who had taken up residence in large numbers since the end of the Mau Mau emergency, reproducing earlier colonial-era patterns of acceptance, adoption, and interpenetration (Waller 1993; Campbell 1993). Land adjudication was desired by both Maasai and non-Maasai in these areas, but they were bitterly divided over whether and to what extent non-Maasai would be recognized as legitimate residents and acquire permanent rights in land in the form of title deeds. Recognizing this problem and its complication by Maasai political dominance in Narok and Kajiado, the Lawrence Report noted that “application of the Land Adjudication Act would at the present time result in Masai committees adjudicating land to Masai (even though it is occupied and farmed by non-Masai) against all principles of justice and often to the detriment of agricultural development” (Lawrance 1966:33). Ironically, the Mission also saw land adjudication as a threat to Maasai rights in land in the areas of the former reserve, pointing out that in areas where adjudication had already been carried out among Maasai, it had led to dispossession rather than security against increasing “infiltration,” and that land registration was bringing about greater mobility and transfer of land to people outside their home areas: “If proof of this is needed, it can be found in the Ngong area of Masailand where registration of land to individual Masai has resulted in immediate sale to Kikuyu farmers and consequent loss of the land to the Masai tribe, probably for ever” (Lawrance 1966:25). The official recommendation, apparently accepted for a short time, was to delay application of land adjudication measures in these areas until some policy had been determined as to how to deal with “genuine 'acceptees' and other non-Masai” (Lawrance 1966:33) residing and claiming rights in land in areas considered by Maasai, and many others, to be Maasailand.[12]

12 These political dynamics have been central to conflicts over rights in land at Enoosupukia, and will be discussed in greater detail in Chapter 4.

Land adjudication and tenure transformation at Enoosupukia

The postcolonial program of land adjudication and registration was officially opened in Narok District in 1968, when the District was declared a Land Adjudication Area under the provisions of the 1968 Land Adjudication Act. In part, this was necessary to initiate demarcation and adjudication of Group Ranches under the Land (Group Representatives) Act, which was connected to land adjudication as an alternative pathway to individualization. At the same time, Narok's official incorporation into the land reform project helped to realize both the development discourse linking privatization with investment and increased agricultural production – if not necessarily its expected results – and the aspirations of an emerging class of "progressive" Maasai seeking status and wealth in land ownership, mixed farming, and education (Doherty 1987; Waller 1993).[13] Despite the potential problems posed by simmering tensions between "progressive" and "traditionalist" Maasai and the many non-Maasai who saw in the fertile parts of Narok a frontier for settlement in relief from pressures in their home areas, much of the highland area was zoned for mixed agriculture and slated for adjudication and registration of individual holdings in a 1972 District Development proposal drawn up by a technical team and presented by the government to the World Bank (Doherty 1987; Trump 1972). As colonial officials had found in their early experiments with consolidation and registration, adjudication could not be initiated everywhere at once, and land adjudication sections – areas of more manageable size and population – were progressively declared beginning in 1969. Throughout much of the district, local residents were advised by leaders and members of the elite to prepare for official adjudication by striking committees and marking out boundaries to be recorded and registered by surveyors in

13 Some of these progressives, as well as other influential personalities, had succeeded in staking claims to large individual ranches in the mid-1950s, mainly in Kajiado District (Campbell 1993; Rutten 1992).

the years to come. While in many parts of Narok this involved local communities coming together to determine boundaries and membership of future Group Ranches (Galaty, personal communication), in the fertile highlands of Enoosupukia impending official adjudication was preceded by unofficial demarcation of individual claims, perhaps reflecting the recommendations made in the 1972 proposal.

The implementation of tenure reform at Enoosupukia has had a range of consequences. One significant change, both intended and expected, is the transformation of tenure from the local variant of customary tenure – in this case, a regime of "forest tenure"– to something approximating individual freehold ownership, though this has yet to be made official by completion of registration and issuance of titles. But this transformation has gone far beyond a change of tenure relations amongst local residents with respect to landed resources; tenure transformation has also shifted both the principles and practices of gaining access, effectively opening the highlands to colonization by Maasai and others. The ensuing land rush contributed to conflict as Purko and Keekonyokie Maasai, Dorobo, and Kikuyu engaged in struggles for recognition of their claims of belonging, eventually resulting in violent clashes and the displacement of Kikuyu residents by Maa-speakers. The growing disjuncture between official and unofficial principles and practices, notably in the operation of an extralegal land market, and the violent rupture produced by the instrumental application of state power will be the focus of Chapter 4. In the remainder of this chapter, I focus on the early dynamics of tenure transformation at Enoosupukia to show how official principles and procedures were negotiated, appropriated, and manipulated by local and non-local actors. Further, I show how the implementation of official land adjudication was beset by ethno-territorial disputes between members of competing Maasai sections, and how

these translocal politics have contributed to local uncertainty and insecurity.

Ownership and access in forest tenure at Enoosupukia and beyond

Prior to the commencement of tenure transformation in the late 1960s, rights to resources at Enoosupukia were governed primarily through a system of “forest tenure,” which combined collective and private ownership of different resources in “interrelated territorial and resource tenure systems” (Blackburn 1986:62). As has been described for Okiek local groups residing in other forested areas (Huntingford 1942, 1955; Blackburn 1986, 1996), forest tenure was suited both to the community's social organization and system of patrilineal descent, and to the foragers' economic specialization of hunting and honey collection. Rather than being organized around absolute ownership of spatial units, forest tenure involved the differential allocation of various rights of use and control linked to specific practices; that is, forest tenure involved a “bundle of rights” with both spatial and social dimensions. Further, forest tenure served to constrain competition for the most valuable resources, in turn reducing the possibility of intra-group conflict (Blackburn 1986).

As described in the previous chapter, Enoosupukia was one of numerous localities in Saleita, which itself was one of several regions of the greater Mau forest occupied by culturally-similar, but economically- and politically-autonomous, local groups of forest-dwelling foragers. Residence in each forager locality was generally restricted to the local group – that is, the male members of recognized lineages, their wives and descendants – and members of each local group generally lived in close proximity, though processes of fission and fusion contributed to movements between localities and the reconfiguration of local groups (Blackburn 1996). Forest localities were further sub-divided among lineages and lineage members so that family groups – usually brothers

and their sons – were recognized as “owners” of contiguous tracts of forest, resulting in a mosaic of spatially demarcated holdings. At Enoosupukia, these territorial units are described by the Maa-language term *inkidong'i* (literally 'beehives,' or 'apiaries'),[14] and each apiary was identifiable by a locally-known toponym. As elsewhere, these family territories tended to coincide with geographical features, usually ridges and valleys. Further, elders at Enoosupukia noted that while apiaries were shared among male relatives, each family territory was supervised by a responsible male elder acting as a steward and sometimes recognized as the apiary's “owner” (*olopeny*).

Despite being spatially organized, forest tenure was not a system of “land” tenure; rather, exclusive rights within apiaries were limited to resources and activities related to honey production, including the right to place hives and harvest honey from inside the owned territory, as well as the right to cut trees and remove tree bark for constructing and repairing hives (Blackburn 1986:66). At Enoosupukia, interviews with numerous Dorobo elders largely confirmed Blackburn's account, though they added that rights to placement and harvesting of hives could be extended, generally to close friends and relatives, at the discretion of the owners. Non-owners granted permission to place their own hive or harvest one belonging to the apiary's owner were expected to display respect toward their hosts and to follow the owner's rules and advice about his territory.

14 Blackburn identifies these territorial units by the Ogiek-language terms with which his informants referred to them (*koret*, pl., *korosiek*) (1986:66), and argues that this system is socially and economically efficient, maximizing access to different forest zones and flowering seasons for honey collection by facilitating intra-territory movement along ridges, while also allowing related men to live close together. The duality of forest tenure, in which rights to resources for honey production were private and exclusive while rights to resources for hunting were collective and non-exclusive, is probably explicable with reference to Woodburn's (1982) work comparing immediate- and delayed-return economies among foragers. Whereas hunting is an immediate-return activity, successful honey collecting requires an investment of labour, time, and resources, usually in the form of building and placing beehives. In addition to the relatively higher costs of production, honey is a socially-valued commodity, useful in exchange with neighbours and important in local ceremonial life, particularly due to its role in brewing beer and honey wine (Blackburn 1971, 1982).

Additionally, theft of honey was considered a grave offence, was subject to stiff penalties, and could spark disputes and even violent conflict, sometimes leading to long-lasting feuds between individuals and lineages that ended only with the permanent migration of one or more of the aggrieved parties (Blackburn 1996).

While distinct local groups were not engaged in perpetual hostilities and friendly interaction across social boundaries did occur, rights of access to group territories were like rights of residence, exclusive at the level of the group. For example, while members of a given local group enjoyed freedom of movement within their home locality and across other people's apiaries, non-members could not simply enter and traverse a locality without permission; permission could nevertheless be negotiated across social boundaries between friends and in-laws. Collective access within localities facilitated forest hunting and can be seen as a social adaptation to the mobility of game (Blackburn 1986).[15] Elders at Enoosupukia who recalled the era of hunting and honey-collecting as a primary livelihood explained to me that it made no sense to limit hunting to specific territories, as one could not expect game animals to adhere to such rules; further, a hunter could happen upon a bushbuck or other animal while travelling outside of his family's territory on other business and could only be expected to take advantage of such an opportunity.

Forest tenure may also have included limited rights of alienation. Blackburn (1996) has shown that transactions were carried out and ownership of territories

15 According to Blackburn (1986:70-71), the exception that proves the rule is the Marieshonik, who live on the north side of the Mau Escarpment in Nakuru District. They are the sole Ogiek group that he found which defines resource tenure as applying to game as well as to honey production. Blackburn argues that the social control function of forest tenure – limiting intra-group competition for relatively scarce and valuable resources – is extended to game here because of their occupation of a small forest area relative to group size and to the negative impacts of deforestation and silviculture in the area during the colonial period, processes that have reduced the availability of game for this local group.

transferred both within and between local groups as part of marriage arrangements, to accommodate inter-group migration, and as compensation or penalties imposed in dispute resolution. Evidence presented to the Carter Commission in the early 1930s further shows some history of transactions between Dorobo and Kikuyu in the forests south and east of Mount Kenya over a period of several hundred years, though the terms of these transactions remained in dispute into the twentieth century (Carter 1933; Leakey 1977). By contrast, residents of Enoosupukia maintained that transactions did not begin at Enoosupukia until the initiation of tenure transformation, though inheritances sometimes resulted in family territories being transferred from one lineage to another. For example, while descent and inheritance were preferably reckoned patrilineally, when a lineage head had no male descendants his apiary or apiaries could be inherited by the husband or husbands of his female children and eventually passed along to their male children, though these sons would carry the name of their father rather than the maternal grandfather from whom they inherited their apiary.

Prior to the disruptions brought about by the colonial encounter and postcolonial tenure transformation, forest tenure was also imbricated with ethno-territorial belonging organized through the framework of synthesis through exclusion described in the previous chapter. In its idealized form, this system located pastoralists on the plains, foragers in the forests, and farmers on fertile lands; in practice, these ostensibly socially and spatially distinct groups interpenetrated one another in various ways. For hunters and herders, this generally occurred during dry seasons when pastoralists would graze their herds in the lower reaches of highland forests occupied by hunters following either honey seasons or game (Kratz 1994; Blackburn 1982). Economic specialization ensured both non-competitive, complimentary resource exploitation and the mutual recognition of

belonging in discrete ecological niches. The disputed transactions between Kikuyu and Dorobo recounted by Leakey and discounted by Carter suggest a similar recognition of ethno-territorial rights there, and the main point of conflict appears to have been whether such transactions constituted extinguishment of the rights of Dorobo sellers or open-ended relationships of mutual obligation (Carter 1933:78-94).

At Enoosupukia, the ethno-territorial dimensions of belonging are apparent in the history of early pastoralist Maasai settlement in the area, in particular by a number of Purko families who have come to be locally-recognized as legitimate residents.[16] Some of these Purko families trace their arrival at Enoosupukia back to the time of the Maasai moves – that is, around 1913 – and can recount stories of the migration of their ancestors from the Laikipia Plateau. Others identify a longer route, with their ancestors first passing through various other parts of Narok District before settling and establishing homesteads at Enoosupukia as late as the end of the 1950s. In both Purko and Dorobo accounts, Purko settlement at Enoosupukia was negotiated with Dorobo lineage heads as owners of family apiaries, and the latter welcomed these newcomers to establish homesteads in a wide valley glade, the southern portion of which would much later become the site of Enoosupukia trading centre. These local accounts further emphasize that herders and hunters could reside peacefully together because they each used different resources; while Dorobo ventured into the forests to hunt and collect honey, Purko stayed mainly in the clearings and the forest margins where their livestock could safely graze the lush highland forage. Dorobo acceptance of these Purko families did not amount to a transfer of territorial sovereignty to Purko in general, nor did general social inequalities between Maasai and Dorobo in the cultural politics of ethnicity necessarily

16 While these families and their histories are well-known at Enoosupukia, due to the sensitivity of this information in terms of ongoing disputes about belonging between these locals and the state, I will not recount these stories in great detail here, nor will I mention their names.

enable coercive imposition by these Purko settlers, as their numerical minority in the neighbourhood could have made them vulnerable to violence by their hosts. Rather, these Purko were accepted as friends and neighbours, and as clansmen and kinsmen, and they have neither assimilated nor been assimilated by Dorobo.

While relations between Dorobo and accepted Purko at Enoosupukia continue to be relatively unproblematic, this Purko presence in an officially – at least under colonial indirect rule – Keekonyokie place became a source of friction in the process of land adjudication, as will be discussed below. Disputes about belonging and about whether Enoosupukia belongs to Keekonyokie or Purko Maasai have complicated the composition of official land adjudication committees and stoked reciprocal fears about exclusion and dispossession of members of one section by a committee dominated by members of the other. Before returning to these struggles that have shaped the implementation of official tenure reform in this locality, I next discuss the unofficial demarcation of individual holdings that preceded them.

Unofficial demarcation

The wave of land demarcation and individualization sweeping postcolonial Kenya began to wash over Enoosupukia sometime in the late 1960s or early 1970s, and local residents attribute the impetus for change to various local and national leaders. According to one man, locals who began to more rigidly define the boundaries of individual holdings were fulfilling the wishes of President Kenyatta himself, who had made a speech proclaiming that all Kenyans should have their own, individually-held land.[17] Others pointed to more local authorities, from county councillors and the area Chief to the Member of Parliament responsible for the area, as the source of calls for

17 Interview with ole Nkalo, Enoosupukia 25 August 2007. He is probably referring to Kenyatta's "Back to the Land" speech, mentioned above.

demarcation in preparation for official registration. In reality, there was probably no single leader who ordered or impelled residents of Enoosupukia to change their tenure practices; rather, unofficial demarcation in anticipation of official adjudication and registration was a response to a nation-wide program of “continuous and dedicated urging and propaganda by officials and leaders of public opinion” (Lawrance 1966:23). Regardless of the source of desire for registration of rights in land, the local response to promises of official adjudication was to form a committee of local men and to set about demarcating individual boundaries, using both the system of spatially organized rights to honey territories and current occupation as a guide. Over the long-term, these actions contributed significantly to a transformation of the local property regime, from forest tenure to a form of officially-unrecognized freehold in which a wider range of rights became spatially-delimited, individualized, and exclusive.

According to several members of the unofficial and official land committees for Enoosupukia,[18] the initial committee was struck by the Keekonyokie Location chief, Keko ole Kodonyo, and tasked with supervising and adjudicating the local demarcation of lands in both the highlands and the lower areas of what would later become Enoosupukia Location. By November, 1972, a list of committee members had been prepared and communicated to both the Chief and other officials in Narok District,[19] suggesting official awareness of the process without implying a commitment of government staff and resources, though locals note that these had been promised by leaders, a position confirmed by the appearance of at least two adjudication sections

18 Interviews with John Leperes ole Kereto, Moi Ndabi, 7 August 2005, and Sankale ole Kurrarru, Enoosupukia, 9 August 2005. While ole Kereto was a member of the unofficial demarcation committee, ole Kurrarru was a member of the official committee responsible for Kipise Section. Their historical accounts were confirmed by numerous others in interviews and conversation.

19 Unaddressed document, “Enoosupukia Land Committee,” 8 November 1972. Copy in author's possession.

covering Enoosupukia in later District Development Plans (see below). This document identifies a committee composed of twenty-five members drawn from across the location, including Keekonyokie and Purko Maasai as well as Dorobo. The committee chairman was a Keekonyokie man from the lowlands, who I interviewed in 2003; the vice-chairman was the Dorobo headman from Enoosupukia, Ketei ole Kereto, whose brother was also a member of the committee. Of the remaining twenty-three members, thirteen were identified by a research assistant as Keekonyokie and Kunono, while a further ten were Dorobo (six) and Purko (four) residents of the highlands.[20] All of the committee members were recognized as long-term residents of the lands in question. While the committee was constituted as a single body, its work was divided spatially so that two sub-groups of the committee were each responsible for adjudicating claims of residency and boundaries in their home areas, where the land and its occupants were most familiar to the appointed committee members. Thus, the ten Dorobo and Purko committee members were assigned the task of demarcating and adjudicating claims in Enoosupukia locality, while the Keekonyokie and Kunono focused their efforts on lower areas, including both the southern highland portion, the southeastern slopes of the escarpment, and a section of the plains below.

At the time of unofficial demarcation, the population of Enoosupukia Location was relatively small – in the 1969 census, the total population for Keekonyokie Location, of which Enoosupukia was a part until its sub-division in the 1970s, was recorded to be 8264 individuals (Republic of Kenya 1970)[21] – and consisted almost entirely of people

20 Interestingly, all of the Dorobo included in the committee were noted to be members of the Enoosupukia local group and residents of the northern highland portion. For whatever reason, the Lorkumi group who historically occupied the southern highland portion were not appointed to the committee. This may suggest a greater penetration by Keekonyokie in the lower, southern portions of the forest and some degree of subjugation of the Lorkumi Dorobo.

21 The area underwent rapid population growth between the 1969 and 1979 censuses, with the population Enoosupukia Location alone reaching nearly 9000 in the latter (see Chapter 4).

with a long history of accepted residence in the area, including Keekonyokie pastoralists, Kunono, members of two Dorobo local groups (Enoosupukia and Lorkumi), the handful of accepted Purko families, and a number of *ilnusui* of mixed Maasai and Kikuyu ancestry living towards the southern portion of the highland. Local elders explained that this relatively low population density, especially in the highlands, allowed individuals to claim large pieces of land, generally corresponding to the apiaries recognized under forest tenure or to areas allocated to the few non-Dorobo as accepted residents of the area. In some cases, forest territories were subdivided amongst adult sons of the lineage head territorial "owner." Once boundaries were locally agreed upon, residents and committee members set about marking the boundaries by scarring or felling trees to act as beacons when the official survey eventually began for the area. In the process of demarcating individualized holdings, lands were also set aside for public utilities and for "development on behalf of future generations." [22] By 1976, the list included sites for a nursery school, two primary schools, a secondary school, Enoosupukia town centre, a Catholic church, a dispensary, and a police post.

This unofficial, anticipatory demarcation of lands contributed to changing social and spatial relations in the highlands of Enoosupukia. Prior to this process, families in the highlands had lived in large, multi-family homesteads (*inkangitie*; sing., *enkang*) clustered together at the forest margins in the large Enoosupukia glade. With their claims recognized by the local land committee, local residents began to move their homes to their individual holdings, leading to a pattern of more dispersed residence across the landscape and contributing to a sense of individual ownership. This new sense of

22 Letter from Ketei ole Kereto, Chairman, Enoosupukia Demarcation Committee, to Assistant Chief, Enoosupukia Sub-Location, 16 November, 1978. While the letter indicates precise dates for the allocation of each plot, it is possible that these dates were retrospectively attributed when the letter was written.

individual freehold ownership coincided with increasing pressure on beneficiares of demarcation from outsiders – notably Kikuyu and non-local Maasai – to grant access to the forested land for agricultural transformation. While some Maasai were able to mobilize claims of kinship, clanship, and ethnic solidarity to insinuate themselves into the unofficial demarcation process and gain recognized rights of residence and even ownership, Kikuyu negotiated access through different means, often seeking acceptance as sharecropping tenants, effectively employed by emergent local landlords to clear the forest and transform the land for cultivation. Through these processes, the highland landscape was transformed from a thick forest to a fertile farming frontier, and the local Dorobo and Purko from hunters and herders to mixed small-scale farmers. Over time, arrangements between Kikuyu newcomers and Maa-speaking owners shifted to include cash transactions, though the terms of these agreements are contested today. In particular, Kikuyu and Maa-speakers disagree on whether these transactions constituted permanent or temporary transfer of rights, and whether the transferred rights were of use or of ownership (see Chapter 4). With impending official registration and titling, the stakes of such disputes were high; acquisition of title for land constituted official recognition of the permanent and absolute rights of ownership and belonging of the registered owner. While the tensions and conflict over belonging at Enoosupukia between Maa-speakers and Kikuyu have been the most visible and destructive, the official adjudication process was itself beset by tensions over control between Purko and Keekonyokie that had significant impacts.

Official land adjudication

With the highlands divided up amongst long-time residents by the middle of the 1970s, locals expected the area to quickly be declared an adjudication section so that

surveyors and other government representatives could make local demarcation official. This took place, on January 14, 1977, with the declaration of Kipise Adjudication Section and announcement of the membership of the official adjudication committee, as stipulated in the Land Adjudication Act. Kipise, however, did not include the entire area covered by local demarcation; rather, it centred on a locality on the southeastern slope of the Mau Escarpment and included significant portions of the highlands above and the rangelands to the east.[23] In contrast to the unofficial land committee, the adjudication committee for Kipise Section consisted of sixteen men, fifteen of them Keekonyokie Maasai residents of the affected area – including one who had established his home at Mpeuti – and one Dorobo from Lorkumi; the Dorobo and Purko of Enoosupukia who had taken part in the earlier process were not included, in part because their lands were excluded from the official adjudication section. Whether due to official optimism or recognition that holdings had already been locally demarcated and agreed upon, the adjudication notice further stated that

> all rights and interests in land within this Adjudication Section will be ascertained and recorded in accordance with the provisions of the Land Adjudication Act, and any person claiming such right or interest is requested to present his/her claim to the Recording Officer either in person or by duly authorized agent not later than 14th May, 1977.[24]

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23 The official declaration of adjudication lists the boundaries as follows: "Commencing at a point where Lelongo stream starts the boundary follows the same Lelongo stream marking the boundaries of Nasubukia [sic] and Sintagara [sic] on the other side respectively. Hence it continues following the same stream Southwards to a point of cattle trak [sic] known as Osendo. Hence it turns Eastwards following the same stream to a point of Olodoto range, where it crosses the stream enclosing Olodoto area on the side of Kipise section. Hence it turns Southwards to Lelongo Valley marking the boundary of Nairegie-Enkare on the other side to a point of Suswa Ranch. Hence it turns Eastwards direction following straight marked boundary of Suswa Ranch to Akira Ranch. Hence it turns Northwards following straight marked boundary to a point of Maiella Estate. Hence it turns Northwards to Ngambani and then it turns Westwards to a point where Kokot stream starts. Hence it continues towards the same direction following Mbeuti [sic] Valley to commencing point." These boundaries, especially the exact location of "Mpeuti Valley" have been subject to interpretation and revision in the more than thirty years since their official declaration.

24 Ministry of Lands and Settlement, "Declaration of Adjudication Section – Kipise Adjudication Section of Mau-Narok District," 14 January 1977.

According to the current surveyor for Kipise Section – the tenth to hold that office since declaration of the section in 1977 – the survey process was straightforward, and claimants and their lands were listed in the adjudication register "as they stayed," in contrast to places like Nairagie Enkare where a modified version of late colonial land consolidation had been performed.[25] In the official adjudication process, surveyors and the adjudication committee also tried to capture the transactions that had begun to occur in the mid-1970s, leading to registration of both those with "traditional rights" and those who had purchased land, after the adjudication committee vetted the legitimacy of such claims. In this sense, the official rules and procedures were bent to accommodate unofficial processes, including both the increasing number of transactions in the growing extralegal land market and the acquisition of demarcated parcels of land by non-local Maasai.

While some of these Maasai newcomers hailed from distant areas, others were potential beneficiaries of adjudication in the lowlands where they made their primary homes. For these Maasai, the Enoosupukia highlands were a potentially valuable commodity, not for land speculation per se, but for livelihood diversification as either an individually-owned dry season grazing refuge or a rental property on which land-poor Kikuyu cultivators could be situated as tenants. Even today, Dorobo residents of the Mpeuti area of Enoosupukia, just inside the boundary of Kipise section, can point to any given parcel of land and identify its absentee owner, in some cases by the Kikuyu clients

25 Interview with James Mayoye, Survery, Kipise Adjudication Section, Ilkirragarien, 23 July 2003. In another interview, with Councillor Korema ole Surum, at Nairagie Enkare, 21 July 2003, it was explained to me that the population of Keekonyokie Location, which comprises Nairagie Enkare and Nailogilog Adjudication Sections, included about 25,000 people, 10,000 of which were "pure" Maasai, 10,000 of which were "nusui," and 5,000 Kikuyu. In official adjudication for Nairagie Enkare Adjudication Section, which began in 1972, "pure" Maasai were alloted 100 acres each, and "nusui" allotted between one and twenty acres, with smaller pieces near the large Nairagie Enkare centre. Most of the "pure" Kikuyu have allegedly either leased or purchased land since title deeds were issued.

who have taken their patron's family name as their own. Dorobo opinions about Maasai land acquisition in the highlands are ambivalent. Some explained to me that it was fair to share the land with Keekonyokie as they essentially belonged to the same administrative location and were sometimes clansmen and kinsmen of local Dorobo. Others pointed out that while Maasai were able to use their high status and political connections to gain control of what had previously been recognized as Dorobo land, discrimination and Dorobo marginality prevented them from doing the same in the lowlands. As one man argued: "... if you try to get land down there, they'll ask what tribe (*olkabila*) you are or what your name is and if you say 'Dorobo' they'll say 'Go away! (*shomo iyie*!)"[26] While this is generally true, there are a few rare exceptions, including one Dorobo elder of the *olnyangusi* age set from Enoosupukia who has skillfully negotiated relationships throughout his life to acquire adjudicated land at Melili in the highlands to the north of Enoosupukia and near Ntulele in the lowlands. In particular he has forged and maintained close friendships with Maasai in those areas, including by arranging marriages between Maasai friends and some of his daughters, and he has been able to extend these relationships so that some of his sons have been similarly granted land. Ironically, his is one of the families that has been most severely affected by insecurity at Enoosupukia, as their (unofficially recognized) lands fall entirely within the area now claimed as a forest by the Narok County Council.

26 San Kasana, interview at Enoosupukia, 3 October 2007.

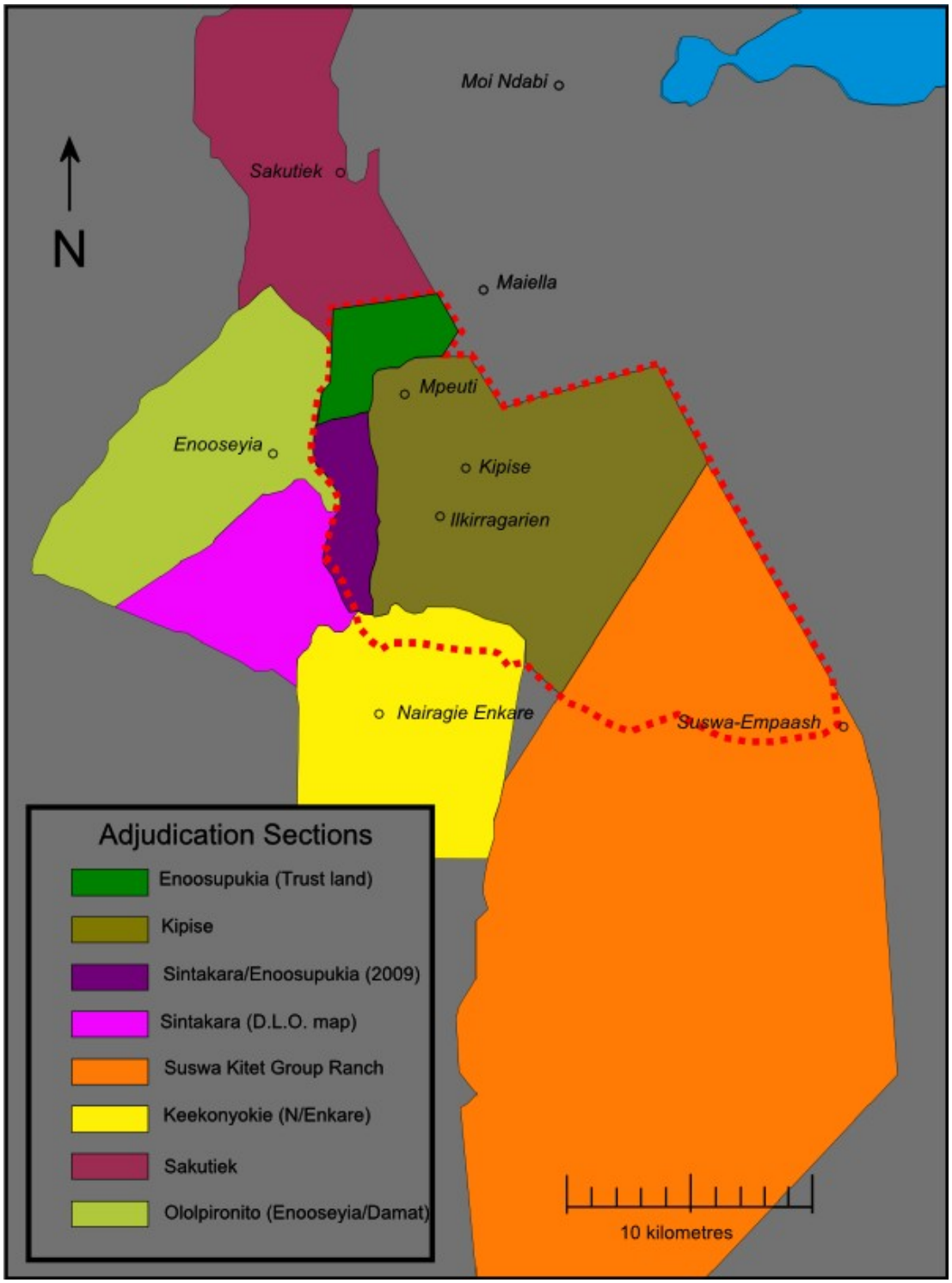

Figure 3.1: Land Adjudication Sections in Enoosupukia Area. This map is compiled from several sources, including an officially unofficial map of Narok Adjudication Sections produced by the Ministry of Lands, the declaration of adjudication for Kipise section, a GPS survey on the ground, and educated guesswork.

Despite the optimistic projections of officials in the Ministry of Lands, registration and adjudication of claims for Kipise section would continue for a much longer period of time than expected, due to some combination of local disputes, a rapidly increasing number of claims engendered by the operation of the unofficial processes mentioned above, and the overextension of the state in trying to carry out numerous survey, adjudication, and registration exercises across the country simultaneously. Likewise, a combination of local political tensions and limited official capacity were likely behind the division of the unofficially demarcated area into at least two official adjudication sections, to be completed in succession. Local assertions that official land adjudication was intended for the entirety of Enoosupukia, which are today used to counter state claims that the area must be maintained for exclusive conservation, are corroborated by proposals noted in a series of Narok District Development Plans. In the District Development Plan [DDP] for 1984-88, Kipise Adjudication Section is listed as covering 8,740 hectares of land, with adjudication expected “to be completed 1984/85” (Republic of Kenya 1984:49). By contrast, Enoosupukia was listed under the heading “areas to be declared 1987/88” and as covering 10,772 hectares. By 1989, when the DDP for 1989-93 was published, Kipise remained unfinished with completion projected for 1990/91. The area of the proposed Enoosupukia section had been revised and was now listed as consisting of 2,750 hectares, for which, along with an area of 3,616 hectares proposed as Sintakara Adjudication Section, adjudication was to be completed in 1992-93 (Republic of Kenya 1989:87). In the next published plan, for the period 1994-1996, Kipise remained listed as “in progress” while Enoosupukia, still covering 2,750 hectares, was listed as among “new areas to be opened up” (Republic of Kenya 1994:111), and

Sintakara had disappeared from the lists.[27]

Despite these appeals and ongoing negotiations, officials apparently declined to declare Enoosupukia Adjudication Section. Nevertheless, having completed unofficial demarcation and expecting official adjudication, local residents have continued to treat their holdings as unofficial freeholds, including carrying out transactions to transfer rights of use, residence, and even ownership, often to Kikuyu newcomers. The interconnected operation of these official and unofficial processes of tenure transformation have resulted in a situation of plurality and uncertainty. Various stakeholders claim rights of ownership by virtue of initial recognition in either the official adjudication at Kipise or the unofficial adjudication of Enoosupukia, while others claim to have subsequently purchased land – a legal impossibility given the fact that no land in the area has yet been officially constituted as fungible property, as will be described in the next chapter. The continued official status of Enoosupukia, but not Kipise, as Trust land has also facilitated its instrumental reclassification as a forest as a means to displace a large and politically problematic Kikuyu population that gained access beginning in the late 1970s. This assertion of state ownership, initially a politically-motivated effort to appropriate institutions of bureaucratic rule for personalized ends, has recently come to haunt local residents as political shifts both nationally and globally have hindered their patron's ability to protect them from reassertions of exclusion by the state on the grounds of conservation. Faced with persistent insecurity and competing claims from a diverse array of actors, it is no wonder that local residents see provision of title deeds as a permanent

27 The massive disparity in stated areas of the proposed Enoosupukia Adjudication Section is a product of two factors. First, the initial estimate of the size of the section may have been made prior to completion of surveying and identification of boundaries. Second, a relatively small portion of the previously proposed Enoosupukia section appears to have been included in the area later identified as the proposed Sintakara Adjudication Section. Despite these apparent errors, the figure of 10,772 hectares reappears in claims by the Narok County Council as to the size of the Enoosupukia Forest, whose boundaries remain unsurveyed (see Chapter 5).

solution and continue to lobby for not only completion of Kipise Adjudication Section but also fulfillment of apparently forgotten promises by their leaders to extend adjudication to Enoosupukia.

Waiting for closure

Tenure transformation at Enoosupukia was inspired by impending extension of official land tenure reform, in the form of land adjudication and registration, to the area as part of Kenya's postcolonial development strategy. As intended, tenure reform precipitated a shift in land tenure towards individualized, private landholding throughout much of the country. At Enoosupukia and Kipise, unofficial demarcation in anticipation of official adjudication has created a pervasive sense that residents enjoy, or should enjoy, rights of freehold ownership and the freedom to develop their lands as they see fit, as well as security from competing claims and unwanted state intervention. This has included, more in the past than today, a belief that freeholders-in-waiting have the right to transfer their holdings, or subsidiary rights of use and occupation, to others. As had the processes of unofficial and official adjudication, the extralegal land market that emerged out of these changes intersected with the politics of belonging, in both local struggles over control and access to land at Enoosupukia and in translocal political processes linking localities to the centre as much by patronage networks as by encompassment into bureaucratic rule. The articulation of these diverse principles and practices has produced frictions in the cultural politics of property at Enoosupukia, not only exacerbating disputes but also resulting in uncertainty, insecurity, and occasionally violence.

After nearly forty years of tenure transformation, and more than thirty-three years of official land adjudication in Kipise, no one yet holds legally recognized private rights in

land in the area. Though the adjudication and registration phase of the titling process was declared complete in October, 2007, in the meeting described at the beginning of this chapter, rights in land in Kipise Adjudication Section remain somewhat uncertain. According to the Land Adjudication Act, title deeds for land in an adjudication section may not be issued until all grievances and objections have been settled by the District Lands Officer and subjected to appeals at the Ministry of Lands, if necessary. The legacy of the extralegal land market in operation from the middle of the 1970s, and of the violent clashes in October 1993 in which Maasai fought and displaced thousands of Kikuyu residents, has made the task of hearing and resolving objections particularly onerous. Nearly a year after the closure meeting at Ilkirragarien, the District Lands Officer explained to me that the objection process was proceeding, but slowly. During the 60 day objection period, more than one thousand complaints were filed with the officer, compared with nearly 1850 parcels listed in the adjudication register. In the first nine months of 2008, more than half of those objections had been heard and resolved, but over 400 remained. Many of those, he explained, were related to contested transactions between Maa-speakers and Kikuyu, described by him as “an agricultural community from Naivasha.”[28] These contested transactions, and disputes about Kikuyu belonging at Enoosupukia and in Narok District, are the subject of the next chapter.

28 Interview with District Lands Officer Laku, Narok, 23 September 2008.

Chapter 4

Clashing claims: transactions, belonging, and conflict

In October, 1993, more than sixteen years after the declaration of Kipise Adjudication Section, official land adjudication and registration was abruptly halted by an explosion of violence that pitted local and non-local Maa-speakers against Kikuyu who had come to inhabit the highlands of Enoosupukia Location over the previous twenty or more years. Whereas Kikuyu acquisition of land in Narok had been politically-contentious, but largely tolerated and even facilitated by Maasai leaders, since independence (Doherty 1987:28-50), a shift in national political dynamics in the early 1990s empowered an exclusionist discourse, transforming Kikuyu into "outsiders" or "settlers" who had "encroached" on Maasai lands, destroyed the indigenous forest and posed a threat to pastoral livelihoods and political rights. The clashes at Enoosupukia constituted a particularly violent manifestation of this conspicuously "illiberal" discourse of "uncivil nationalism" (Berman 1998; Klopp 2001a; Mamdani 1996, 2001). In a week of fighting, thousands of residents – both Maa-speakers and Kikuyu – fled in fear for their lives, taking refuge in neighbouring areas like Maiella and Nairagie Enkare, the town they had built in flames. The conflict was multi-dimensional, occurring at the nexus of several disjunctures in the politics of belonging: between ethno-territoriality and civic citizenship, between collective and individual rights in land, and between single- and multi-party

politics, that is, between supporters of the government and of the newly legalized opposition, as well as along a fault line between official and unofficial land tenure, as will be discussed below.

The legacy of this violent episode remains visible on the landscape: the concrete foundations of the numerous shops and other buildings that once constituted the small centre of Enoosupukia can still be seen amidst herds of cattle and small stock grazing the lush grass that has grown between them. The ruins of two primary schools, each formerly populated by hundreds of students, now stand abandoned, black painted patches on dilapidated stone walls all that suggests their former use. In the aftermath of the clash, only a small portion of those who fled were able to return; the vast majority of the Kikuyu violently displaced from the area have been forced to reside elsewhere and left to assert their claims of ownership from afar (see Table4.2). Those who did return, almost all Maa-speakers, including many of the Dorobo indigenous to the area, have experienced protracted tenure insecurity, their own claims under siege by persistent calls for Kikuyu resettlement, on one hand, and by threats of eviction in the name of forest conservation, on the other. The clashes also left the future of land adjudication in doubt. While many at Enoosupukia currently see the completion of land adjudication as a critical step in enhancing tenure security and facilitating local development (see Chapter 3), some have recognized that completion of the process may require accepting Kikuyu claims to at least some of the land. By contrast, in an interview in 2003 with Keekonyokie leaders from the lowlands at the site of the ruined Enoosupukia centre, one man explained that “the Maasai” were not bothered by the continued delays in titling: “Titles for Kepise have not been issued because the Maasai don’t want the people who fraudulently acquired plots to be recognized as owners. The Maasai don’t care if it takes

100 years, as long as the truth comes out."[1]

But "the truth" here is subjective, and depends heavily on assertions about and interpretations of countless unregistered transactions for land made between the late 1960s and early 1990s. While Maasai leaders have repeatedly argued that the Kikuyu displaced from Enoosupukia had gained access through various illegitimate means, Kikuyu have countered allegations of illegal encroachment with claims that they had merely exercised their constitutionally-protected rights to occupy, use and own land in the area by purchasing land from local owners.[2] In part, these disputes hinge on whether land at Enoosupukia could legally be bought and sold, and on the relationship between official principles and procedures with respect to land transactions and the widespread, unofficial markets that have escaped or evaded governmental capture. At a deeper level, these disputes raise questions about the social and political embeddedness of property, in particular, the degree to which individual rights of acquisition and alienation are subject to struggles over belonging situated at points of articulation between notions of liberal citizenship and ethnic subjectivity.

This chapter addresses these questions by examining ongoing struggles over Kikuyu belonging in Narok and at Enoosupukia, and in particular how these struggles involve negotiation of the disjunctures in the social field of property. I begin by building on

1 Interview with Enoosupukia Location leaders, Enoosupukia, 17 July 2003.

2 Freedom of movement, including "the right to move freely throughout Kenya, [and] the right to reside in any part of Kenya" is guaranteed in Section 81 of the Constitution of Kenya, though the independence constitution did not immediately repeal the Outlying Districts Act of the Special Districts (Administration) Act, which regulated access to Maasai and other "closed" Districts (see Section 81(6)). The latter, in particular, not only set up rules for governing so-called "special" Districts, but also – in the Special Districts (Administration) (Application) Order – listed the "tribes whole or part of which have been declared to be resident in a district or area under section 4 (definition of "tribesman")" (see Chapter 2). These Acts were repealed in 1997 (Weiss 2004:66), in response to pressure from opposition groups after the government had used them to harass and constrain the opposition during and after the 1992 General Election (Ndegwa 1998:201; Katumanga n.d.).

the work of the previous chapter, to show the intended and unintended outcomes of tenure reform, especially in the form of a proliferation of unregulated and thus governmentally uncontrolled and uncontrollable transactions. I then examine the tensions between ethno-territoriality and liberal notions of national citizenship seen through the politics of belonging in Narok District. The question of Kikuyu rights in Maasailand, brought to the forefront in the violent clash at Enoosupukia, represents an evolution of colonial-era negotiations of social and spatial boundaries; struggles over Kikuyu belonging in Maasailand, in which ethno-territoriality ostensibly comes into friction with national citizenship, point to the importance of (real and perceived) inequalities as well as the risks and opportunities involved in the operation of patronage. Finally, I use narratives collected during field research at Enoosupukia and other parts of Narok to show the ways in which the dynamics of the pre-clash land market are recalled and challenged in the context of ongoing and unfinished land adjudication. Continued negotiation of the disjuncture between collective claims and individual ownership are one aspect of the tenure uncertainty with which people at Enoosupukia live. Other aspects of this uncertainty, in particular contestations among resource users and between local residents and branches of the state, and the salience of patrimonial connection, are the topics of Chapters 5 and 6. The aim of this chapter is not to establish the veracity of the various historical and legal claims, but rather to examine the ways in which rights and wrongs are asserted and debated.

Tenure reform and land control

The Kenyan project of land tenure reform, discussed in the previous chapter, sought to replace “customary” tenure with a bureaucratic system of land registration and conveyancing in order to stimulate both investment in agricultural improvement and

broad social changes among the rural African population (Coldham 1979; Okoth-Ogendo 1976). In this respect, the program was a directed effort to reproduce the emergence of "modern" social institutions that had taken place in Europe in the preceding centuries (Giddens 1990). There, the establishment of standardized representations of time, space, economic value, and knowledge, had facilitated a shift whereby trust is "vested, not in individuals, but in abstract capacities" (Giddens 1990:26) and guaranteed by statute and state power (Geisler 2006). The result of this shift was to "disembed" trust from social relations, allowing what Giddens calls "time-space distanciation" through which modern institutions could be stretched across space and over time to incorporate larger numbers of people as participants in a single system. In terms of land tenure, the disembedding of trust could, in principle, be accomplished by recording rights in land and representing them both in an official register and through title deeds, as well as by the implementation of an official legal framework governing ownership and transactions. Standardizing representations of rights in land and procedures for transferring those rights would not only facilitate state governance of larger territories and populations (Scott 1998:38-45), but also allow individuals and organizations to engage in transactions without detailed knowledge of one another or of the actual land in question, facilitating both the extension of credit from banks and other lenders to title-deed holders and the emergence of a regulated market in which land could be bought and sold.[3]

The growth of land markets, both within local communities and between the formerly exclusive "tribal" reserves, was seen as critically important to the success of late-colonial and postcolonial land reform, and it marked a reversal of decades of colonial policy. Remarking on this shift and explaining both its intended outcome and

3 These potential benefits of land registration and titling continue to be promoted as central to economic growth on the grounds that they liberate wealth frozen in unregistered, but customarily recognized, holdings (de Soto 2000).

rationale, Swynnerton explained that

> ... in the past Government policy has been to maintain the tribal system of tenure so that all the people have had bits of land and to protect the African from borrowing money against the security of his land .... In future, if these recommendations are accepted, former government policy will be reversed and able, energetic or rich Africans will be able to acquire more land and bad or poor farmers less, creating a landed and a landless class. This is a normal step in the evolution of a country. (Swynnerton 1954:10)

In reserves such as the Kikuyu Land Unit, where population density was high and fragmentation of holdings perceived to be severe, land markets and voluntary transfers were expected to further enhance the outcomes of consolidation, facilitating concentration of land in the hands of those most likely to make economically productive use of it, namely, wealthy and "progressive" Africans. While the exacerbation of landlessness through tenure reform had previously been reason to delay such projects, late-colonial officials hoped that those without land could be absorbed as labourers on African-owned farms or into urban areas.

Like fragmentation and tenure insecurity, "maldistribution" of the African population was seen as central to the political-economic crises of the colonial era. Understood as a legacy of colonial agreements establishing ethnically-exclusive reserves that privileged group rights in land over economic rationality, the colonial status quo had resulted in overcrowding and land shortages in some reserves – particularly those occupied by agricultural communities – and underutilization of abundant fertile land in others. Top-down interventions to address this problem, for example through resettlement or land exchanges, were correctly perceived as politically fraught and potentially highly unpopular, especially among members of less numerous communities, such as the Maasai, who stood to lose high potential lands. According to the Carter Commission, the best available option in the 1930s was facilitation of "peaceful

interpenetration” by individuals who would more easily, and less contentiously, be assimilated or accepted into host communities while also serving as a positive influence toward the local development of productive agriculture (see Carter 1933:350, 374). In the aftermath of land registration, voluntary transfers of registered lands on a willing-seller, willing-buyer basis would similarly serve as a means of effecting population redistribution from higher to lower density areas in the former reserves without the political risks of implementing top-down resettlement across still salient ethnic boundaries. However, despite the postcolonial privileging of national citizenship over ethnic particularism, Carter's warning about the limits of interpenetration – that “no tribe will be willing to receive strangers in such numbers as to threaten its own integrity” (Carter 1933:353) – has been prophetic. Contradictions between distinct but interconnected tenure systems, on one hand promoting “modern” individual tenure and depersonalized transactions, and on the other asserting the continued salience of historical claims and ethno-territorial belonging, have contributed to conflict in many parts of Kenya between newcomers and autochtons, and disputes draw on a variety of principles of establishing and recognizing rights in land (Lonsdale 2008). Such frictions have been a problematic outcome of processes of state formation and a result of encounters between governmentality and complex social realities. Further, they have been exacerbated by the escape of land tenure, and of tenure transformation, from governmental control, as a result of both the successful promotion of the ideology of tenure reform and the incomplete encompassment of local social fields by the state.

In addition to creating a system of registered lands and freehold ownership, the Kenyan tenure reform project attempted to establish official structures and practices for the regulation of land transfers. On registered lands, where adjudication had been

completed, transfers of rights, including sales, leases, mortgages, and even certain inheritances, were to be regulated by land control boards charged with preserving the economic benefits of consolidation and preventing both refragmentation and unproductive, speculative concentration. This was intended to solve what officials understood as a root cause of land fragmentation, the system of inheritance under "native law." While the determination of heirs was to continue to be determined by customary law as practised by the residents of a given area, after land registration "any sub-division resulting from inheritance will require the consent of a Divisional Land Control Board" (Government of Kenya 1962:242). In addition to preventing fragmentation, land control was also intended to mitigate the potentially detrimental effects of conferring freehold rights on undisciplined Africans who were believed by administrators to be ill-prepared for the responsibilities of ownership. In a telling statement, the report on African Land Development explained that constraining the emergence of a free market in land with bureaucratic supervision made it possible that

> ... control shall be exercised over land transactions after registration, not only for the purpose of preventing uneconomic subdivision, but also to exercise restraint over the newly emancipated landowner who might wish to sell or exchange his land to the detriment of his family, and to a state of widespread indebtedness arising from the indiscriminate charging of land. (Government of Kenya 1962:242)

The basic framework for this system of governmental regulation was established in the late 1950s, when, along with the Native Lands Registration Ordinance, the Land Control (Native Lands) Ordinance was implemented. The framework was altered slightly with the introduction of subsequent statutes, including the Registered Land Act, in 1963, and the Land Control Act, in 1967 (Coldham 1978a). While the Registered Land Act deemed that registered landowners enjoyed "absolute ownership of that land together with all rights and privileges belonging or appurtenant thereto" (Registered Land Act, S

27(a)), including the right to engage in voluntary transfer, the Land Control Act made transfers subject to vetting by governmental authorities in the form of land control boards. The organizational framework for land control was decentralized, with distinct boards formed at District and Provincial levels, as well as a Central Land Control Appeals Board with jurisdiction throughout the country. District Boards were to be formed from a combination of local residents and officials, striking a balance between local traditional authority and government administration; in practice local representatives were drawn from the local elite, and were often wealthy landowners themselves (Coldham 1978a:68). Each Land Control Board has jurisdiction over a defined area, ranging from whole Districts to smaller administrative Divisions consisting of several Locations, and the Boards are empowered by the Act as the sole regulatory authority overseeing transactions of registered lands in their areas of jurisdiction. Under the Land Control Act, virtually all transfers involving registered land require the consent of the Boards, and transactions conducted without official consent are to be considered legally void (Land Control Act, S 6). Board approval is necessary for registering transfers or subdivision of registered lands, making the Boards a key intersection of governmental regulation and practice on the ground.[4]

4 In making their decisions on approval or refusal of consent for transfers, Land Control Boards are guided by section 9(1) of the Land Control Act, which states that:
In deciding whether to grant or refuse consent in respect of a controlled transaction, a land control board shall-
(*a*) have regard to the effect which the grant or refusal of consent is likely to have on the economic development of the land concerned or on the maintenance or improvement of standards of good husbandry within the land control area;
(*b*) act on the principle that consent ought generally to be
refused where -
(i) the person to whom the land is to be disposed of -
(*a*) is unlikely to farm the land well or to develop it adequately; or
(*b*) is unlikely to be able to use the land profitably for the intended purpose owing to its nature; or
(*c*) already has sufficient agricultural land; or
(ii) the person to whom the share is to be disposed of -
(*a*) already has sufficient shares in a private company or co- operative society owning agricultural land; or
(*b*) would, by acquiring the share, be likely to bring about

In practice, official land tenure institutions have not succeeded in capturing local practice. On registered lands, land control boards have essentially operated as "rubber-stamp bodies" for accumulation and concentration (Shipton 1988). As a result, fragmentation has recurred in some areas, especially in areas where more affluent residents have been able to purchase land opportunistically from their less wealthy neighbours (Haugerud 1989:77). At the same time, both official policy and the actual practices of many of the local boards appear to have been heavily weighted in favour of large landowners and buyers able to exert political pressure on the boards to approve sales that might otherwise have been blocked as promoting unproductive or speculative accumulation (Shipton 1988:115). Illustrating this bias towards the wealthy and powerful, Shipton cites the Ministry of Lands and Settlement Handbook of 1969, which prioritized economic growth over equity in regulating transfers:

> First of all, a Land Control Board shall consider what effect the grant or refusal of an application is to have on the economic development of the land. ... A highly successful and progressive farmer may find 500 acres insufficient for his farming potential. This proviso depends entirely on upon the capabilities of the man seeking to acquire more land. (in Shipton 2009:154)

Further, along with "irregular privatization of public lands" (Klopp 2000), manipulation of land adjudication and purchases have been critical means by which Kenya's political-economic elite have accumulated resources both for themselves and for redistribution to clients. The instrumental appropriation of official land control has thus served to exacerbate inequalities after independence by favouring the economic and political elite at the expense of smallholders, contrary to the official principles on which land control

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the transfer of the control of the company or society from one person to another and the transfer would be likely to lower the standards of good husbandry on the land; or

(iii) the terms and conditions of the transaction (including the price to be paid) are markedly unfair or disadvantageous to one of the parties to the transaction; or

(iv) in the case of the division of land into two or more parcels, the division would be likely to reduce the productivity of the land

was constructed.

While elite manipulation of official rules and procedures has been a crucial factor in the evolution of property and patronage in postcolonial Kenya, land control has also regularly been circumvented altogether by smallholders engaging in transactions, as buyers and sellers of previously registered lands in local markets have avoided registering transfers of rights due both to the costs and complexity of engaging with land control boards (Coldham 1978a), and to continued reliance on interpersonal trust guaranteed by local witnesses rather than the state (Shipton 1988:110). This has resulted in a sharp divergence between official and unofficial tenure principles and practices and induces a disharmonious pluralism, characterized by a wide range of "ambiguities between older and newer systems of tenure control, ... that give the leeway for rapid personal land accumulation and for loss" (Shipton 1988:124). The proliferation of transactions outside frameworks of official regulation increases both the potential gains and the risks, for, as Shipton has pointed out "misunderstandings are manipulable; confusion can be capitalized on" (Shipton 1988:124). For transactions involving registered lands, "unregistered dealings will generally be devoid of legal effect, but as long as those involved behave as though they had such validity, customary law [or, more accurately, unofficial tenure] will continue to operate de facto, at least until challenged by someone prepared to assert his strict legal rights" (Coldham 1979:617).[5]

Unregulated land markets have also tended to emerge in areas where land registration has not yet been completed, including areas undergoing adjudication, those expected to undergo adjudication in the near future, and Group Ranches being driven by

5 In light of extensive critiques of the notion of "customary law" (e.g. Colson 1971; Chanock 1985, 1991; Moore 1986, 2000; Ranger 1983, 1993), Coldham's use of the term is problematic; however, his conclusions remain clearly relevant to understanding the tensions inherent in the context of legal pluralism.

diverse pressures towards sub-division and registration of individual titles (Campbell 1993; Galaty 1992; Esther Mwangi 2007). Whereas unregistered transactions for registered land appear to occur when neither party has a vested interest in gaining or maintaining a title deed (Shipton 1988:110), or when the costs of registration outweigh the risks to either party due to non-registration, transactions for as-yet-unregistered individual holdings sometimes represent an alternative pathway through which to acquire both land and a title deed. In many cases, the potential gain for buyers of unregistered land is high, as they can attempt to acquire land at lower rates than they would pay for registered land while also avoiding the costs associated with seeking official approval for and registration of the transaction. Sellers may also benefit from such arrangements: rather than waiting an indeterminate number of years for adjudication and registration to be completed and their land to become a legally fungible commodity, sellers can gain immediate cash income by selling current rights or future interests prior to the completion of adjudication. Such agreements are often intended to be formalized in one of two ways: the buyer can seek to have his purchase made legitimate by having his name included in the official adjudication register, after which he can expect to receive a title deed along with other registered landholders upon completion of official land adjudication and registration; alternatively, buyers and sellers may agree that upon completion of adjudication and registration, the seller's holding will be officially subdivided and the transaction registered through the appropriate land control board. Both of these strategies appear to have been employed by various actors at Enoosupukia in transactions involving lands in both Kipise section and the unadjudicated Trust land outside its boundaries.

Contrary to the way that unregistered dealings for registered lands have frustrated official efforts to bring localities under governmental supervision and control, anticipatory transactions need not be anathema to official land tenure reform, especially if they merely represent a parallel avenue to registration of holdings; however, extralegal land markets, that is, those operating outside the official frameworks of land registration and control, are profusely risky and depend heavily on interpersonal rather than institutional trust. Despite general faith in a willing-seller willing-buyer paradigm throughout Kenya, neither buyer nor seller is necessarily trustworthy, and either one may attempt to manipulate the ambiguities surrounding tenure transformation for personal gain. For example,

> ... buyers often illegally approach prospective land holders and purchase futures at less than market price, then can bribe officials to enter the buyer's name rather than the seller's name on the register, thus claiming the entire holding. Also, while awaiting title, prospective land holders may sell a piece of land to several buyers, but then refuse to hand over title since transactions concerning land for which title has not yet been obtained are illegal. (Munei and Galaty 1998:70)

Even where such betrayals have not occurred, the outcomes of transactions for future interests in unregistered lands remain uncertain and depend on acceptance by other interested players who may not be directly involved in the transactions, and on tolerance or complicity by both administrative officials and local political patrons. Where any of these guarantees break down, insecurity can develop, challenging not just individual claims based on purchase but the whole unofficial system. Rights claimed by buyers could be challenged by the dependents of a seller, who may either disapprove or be unaware of the transaction, potentially leading to protracted conflict or violent confrontations. While such conflicts can also arise due to unregistered transactions for registered land,[6] they may be even more prevalent in the context of newcomers using

6 Registered and unregistered transactions for registered lands, including sales, leases, and mortgages, are subject to a wide range of challenges from a diverse array of claimants. For

transactions to stake claims in hopes of attaining title deeds, especially when those newcomers cannot easily support their claims of individual rights with reference to other forms of belonging. Such disputes and conflicts do not necessarily subside once buyers have acquired registered title to purchased land; rather, legal ownership recognized under state-supported “modern” tenure can be contested – if only unofficially – by allegations of corruption or trickery,[7] countered with claims of privileged belonging on the basis of autochthony or previously inscribed ethno-territoriality, or negated through the instrumental manipulation of disorder and violence.

The case of Enoosupukia is a cogent, if perhaps extreme, example of the operation and consequences of these processes of circumventing governmental control over land tenure. Here, ambiguities and uncertainties, rooted in the many disjunctures between official and unofficial rules, procedures, and statuses of land and people, have been manipulated by individuals, including buyers and sellers as well as members of the local and national elite. At first, this led to gains by both locals and non-locals: the former accumulated clients and cash by renting, leasing, or selling land to cultivators, while the latter acquired access to land for occupation and cultivation as well as a chance to attain secure legal title, expensive or impossible to acquire in the more densely populated areas from which they came, where registration had been completed and more transparent markets established. Over time, these processes became increasingly contentious, especially as official land adjudication and registration proceeded. It became

numerous examples, see Shipton (1988:110-113) and Haugerud (1989:80-83).

7 As Coldham (Coldham 1978b:102-103) has pointed out, the Registered Land Act provides for the cancellation or amendment of any registration obtained or omitted by fraud or mistake, except any first registration (Registered Land Act, S 143 (1)). Because registrations resulting from land adjudication and titling are first registrations, they are thus legally incontestable. According to Coldham this is a legacy of the late-colonial land registration program, and was justified as preventing the need for widespread and expensive repeat adjudication which would surely awaken old political animosities and undermine the effects of consolidation, arguments which carry little weight today.

clear that “outsiders” would be able to gain permanent, legally-protected rights in land, enhancing their power in both the local community and the patronage networks which had facilitated their colonization of the area. Beginning in the late 1980s, political shifts favouring ethnic-particularism, both in the factional dynamics of Narok District and at the national level, created opportunities for further manipulation of the ambiguities of the tenure regime at Enoosupukia and for redressing what had become a political problem of alien “encroachment.” By 1993, in the aftermath of Kenya's first election since the reinstatement of multi-party political competition, tensions over the right to belong at Enoosupukia – and over to whom Enoosupukia belongs – exploded into violent inter-ethnic conflict, triggered by the politically-motivated exploitation of the disjuncture between official and unofficial rights in and statuses of land.

Politics and belonging: interpenetration and ethnic-particularism in Narok

The growth of a predominantly Kikuyu agricultural enclave at Enoosupukia and the subsequent violent clashes through which it was destroyed can be seen as symptomatic of oscillations in the politics of belonging in Narok District. The shift in status of Kikuyu immigrants to Narok District in the postcolonial era mirrors a similar change between the 1930s and 1950s, in which Kikuyu went from being tolerated as “acceptees” to being deported or detained as “aliens” (Waller 1993). In both cases, tensions over the presence and future of Kikuyu on what were considered to be Maasai lands were enmeshed in patrimonial politics and connected to the broader political-economic situation. Further, both crises of belonging were resolved, if only temporarily, by a convergence of national and local politics: in the 1950s, the Mau Mau Emergency allowed the colonial government to openly support Kikuyu detention and deportation from contested lands; in the 1990s, threats to the political legitimacy and future of an

entrenched elite, in the form of a movement for democratic liberalization, contributed to the resurgence of ethno-territoriality as members of the ruling party resurrected and twisted calls for regional devolution into a basis for particularism and violence (Klopp 2001b, 2001a; Ajulu 2002; Throup and Hornsby 1998). However, the dynamics of the two periods are also distinct, in particular because of the underlying transformation of land tenure that both drove Kikuyu settlement in Narok after independence and exacerbated Maasai fears of permanent land loss. Whereas Kikuyu threatened with detention or deportation during the colonial period could claim adoption by recognized Maasai families as a basis for remaining inside the reserve, essentially asserting belonging as ethnic "insiders" or clients of insiders, Kikuyu displaced from Enoosupukia through violent conflict have lodged protests against this apparent injustice on the grounds that they purchased rights to occupy, use, and transfer land in the highlands and maintain that they have a legal right to return. This section will discuss the larger-scale political dynamics of these two periods, focusing on the shifts towards ethnic particularism in the 1980s and 1990s and the eruption of violent conflict at Enoosupukia in 1993. The next section will take up the issue of Kikuyu claims of ownership by examining the ways those claims have been challenged by local and non-local Maa-speakers both in the aftermath of conflict and in the context of demands for resettlement and recognition in local land adjudication.

Struggles over belonging in colonial Maasailand

Control over and access to fertile, well-watered areas inside the Masai Reserve – later the Districts of Narok, Kajiado, and Trans Mara – have long been politically contentious. The inclusion of forested highlands and areas with relatively high agricultural potential in the extended reserve demarcated after the Maasai moves of 1911-13 had been a central

demand of the Maasai, mainly to ensure access to water and dry season grazing for their livestock; this was somewhat reluctantly conceded by colonial administrators (Sorrenson 1968). While those areas were indeed important to the pastoral economy for both access to water and dry season grazing, they also served as ideal spots to settle agricultural clients, trading partners, and relatives whose production further bolstered the pastoral economy (see Chapter 2). In particular, lands around Ngong and Loitokitok in Kajidao District, and Nairagie Enkare, Naroosura, and Narok town in Narok District became sites of mutually beneficial interaction and interpenetration between Maasai and Kikuyu. Relatively abundant fertile lands in the Maasai districts provided relief from the pressures of population growth, officially proscribed territorial expansion, and narrowing tenure in the Kikuyu Land Unit and settlement there was sometimes preferable to gaining low-paying employment on European-owned farms. In the forest margins of Narok District, enterprising Kikuyu could stake claims to land and transform it by cultivation in hopes of establishing a new estate, reproducing the processes of agricultural colonization that had occurred in the highlands between Mount Kenya and Nairobi over a period of several hundred years before the beginning of the European colonial encounter (Leakey 1977). For other Kikuyu, adoption into Maasai families provided opportunities to become Maasai, first gaining employment as herders and later becoming established stock-owners, reproducing dynamics of the pre-colonial ethno-economic system. Maasai similarly benefited from these processes, gaining the labour or agricultural products of Kikuyu clients, as well as marrying Kikuyu wives and enlarging their families, an important determinant of personal status for Maasai men. Such relationships were central to the growth of the population of mixed Maasai-Kikuyu living around Nairagie Enkare, who could claim Maasai ethnicity while also practising cultivation rather than livestock husbandry (Waller 1993; Galaty 1993).

The operation and outcomes of such processes were also tied to colonial political dynamics, in terms of both internal struggles among an emerging Maasai elite and between colonial administrators and their Maasai and Kikuyu subjects. Colonial responses to inter-ethnic relationships and transgressions of the boundaries of officially closed reserves were ambivalent. On one hand, colonial concerns about maintaining social and political control over African reserves, as well as a sentiment of duty to abide by the terms of the second Anglo-Maasai agreement and preserve the land and resources inside the reserve for Maasai in perpetuity, made Kikuyu "infiltration" a problem to be managed (Waller 1993). On the other hand, facilitating peaceful interpenetration was seen as a viable, if limited, solution for the larger problem of uneven distribution of population and resources between African reserves, and official enforcement of ethnic segregation was believed to be one of the causes of this problem as it disrupted precolonial processes. To illustrate the severity of "maldistribution" between groups and support its recommendation for facilitating interpenetration, the Carter Commission cited the disparities between the Kikuyu and Maasai reserves, explaining that

> ... the area of the three Kikuyu reserves as gazetted ... is 1,726 square miles, inhabited at an average density of 283 to the square mile, while Masai, as gazetted, is 14,797 square miles, inhabited at an average density of 3 to the square mile. And yet the Masai country contains very extensive areas of good arable land as well as enormous areas of pasture. (Carter 1933:351)

The implication of this example, of course, is that the abundant resources allocated to the Maasai were being underutilized and could be put to better use by Kikuyu, which would simultaneously alleviate pressures and lead to improved productivity in the overcrowded Kikuyu reserve.

Pushed by other colonial officials to assist in alleviating the worsening political-economic crisis by loosening restrictions, by the beginning of the 1940s administrators in the Maasai districts “reluctantly accepted a degree of controlled 'interpenetration'” (Waller 1993:234). Official supervision of these processes, however, was of only limited effectiveness, hindered by both the increasing pace of Kikuyu infiltration and the role of the Maasai elite, including both influential individuals and the clerks and representatives responsible for vetting Kikuyu legitimacy and issuing occupation permits.[8] Through the 1940s, the character of Kikuyu immigration into Maasai had also shifted, with fewer seeking adoption and assimilation, and larger numbers seeking to establish independent estates and maintain their Kikuyu identity, livelihoods, and culture. Keen to maintain control, “District commissioners continually reminded the Maasai that aliens were encroaching on and spoiling their land and drove the point home by asking whether they did, in fact, wish to lease or sell land outright to other peoples – which they did not” (Waller 1993:239). However, antipathy on the part of District administrators towards Kikuyu encroachment on Maasai lands provided an opportunity for political manipulation on the part of rival members of the Maasai elite. Tensions between inclusionists and exclusionists often pitted elders and sections against one another, each pointing to the presence of Kikuyu on the other's lands as evidence of their betrayal of Maasai interests while arguing that their own Kikuyu clients were legitimate residents (Waller 1993:242). Due to these complexities, Kikuyu presence in the Maasai reserve remained both an intractable problem for colonial administrators and politically fruitful for some Maasai. Further, the rights of Kikuyu farmers to reside on and make use of Maasai lands

8 Despite provisions in the Special Districts Act (Cap 105) not only establishing a system of permits, widely known as the *kipande* (pass) system, but also constructing rules to constrain and punish manipulation of the arbitral boards charged with vetting applications and adjudicating claims of belonging, these were manipulated by a coterie of Maasai brokers, including chiefs, councillors, businessmen and clerks (Waller 1993:237).

remained uncertain and insecure, as they were dependant in large part on maintaining good relations with Maasai patrons who enhanced their own status as brokers by interceding with the state on behalf of their clients.

The stalemate over Kikuyu presence in Maasailand was broken in the early 1950s with the eruption of the Mau Mau rebellion and the implementation of emergency measures throughout much of the country. As elsewhere, colonial officials and loyalist Maasai were able to reinvent Kikuyu occupants of the fertile areas in the Maasai reserve as alien infiltrators and guerrilla supporters, if not necessarily forest fighters. Without clear rights in land under the varieties of “customary” law recognized through the Native Lands Trust Ordinance, Kikuyu were subject to detention and deportation, which temporarily alleviated the problem of aliens residing on reserved lands in favour of ethnic exclusivity. This shift did not, however, resolve the underlying causes of Kikuyu immigration to less densely populated, high potential lands. The end of the Emergency and the victory of the anti-colonial movement by the late 1950s set the stage for postcolonial changes, including the extension of land tenure reform and the promotion of an ideology of national unity and liberal individualism that led to the resurgence and acceleration of population movements.

Postcolonial movements

After Kenya's independence from Britain in 1963, population movements within the country, between formerly closed, ethnically-exclusive reserves increased in scale and pace. As they had been during the colonial-era, the fertile lands of Narok District, especially highland areas like Enoosupukia, were magnets for immigration, shifting the ethnic and political balance between various communities resident in the District. Between 1962 and 1989, the Maasai went from forming a huge majority of the District's

population (nearly 80%) to forming less that 50% of the population, while still constituting the single largest ethnic group (see Table 4.1). During the same period, the Kikuyu population in Narok experienced tremendous growth, from less than 1% of the total in 1962, to more than 11% in 1989, due primarily to immigration, but perhaps also supplemented by residents exercising the freedom to identify as Kikuyu rather than claiming Maasai ethnicity to bolster claims of belonging.[9] These radical demographic shifts had major implications: whereas Kikuyu "encroachment" into Narok had been a relatively small-scale, though politically-significant, problem in the colonial period, their increasing numbers after independence, and the shrinking Maasai share of the population, made the possibility of Maasai land loss more tangible. Postcolonial tenure reform, which represented a potential way to buttress individual claims against collective, historical, or ethno-territorial claims of belonging, and the reintroduction of multiparty democracy further raised the stakes and inflamed fears of marginalization and dispossession, both among the Maasai political elite and their clients.

9 While the annual growth rate of Narok's Maasai population was higher (between 4 – 6%) than the national average of just under 4%, the annual growth rate of the Kikuyu population in Narok District was astronomically high (approximately 83% from 1962 to 1969, 28% from 1969 to 1979, and 16% from 1979 to 1989), revealing significant immigration by Kikuyu. The Kalenjin population in the District also experienced remarkable growth (between 8 – 10 %), during this period, also suggesting significant immigration from elsewhere. That the Kalenjin form a higher percentage of Narok's population is due to the inclusion of present-day Trans Mara in Narok District prior to 1994, when it became a separate District. Trans Mara and the western portions of Narok abut the colonial-era Kipsigis Reserve, and conflicts over political dominance and belonging have been prevalent in those areas, including during the post-election violence of 2008 (Agence France Presse 2008; Akiwumi 1999; Homewood, Coast, and Thompson 2004).

Ethnicity	1962	%	1969	%	1979	%	1989	%
Maasai	86472	*78.7*	83243	*66.48*	118091	*56.15*	188303	*47.28*
Kikuyu	670	*0.61*	4578	*3.66*	17387	*8.27*	45089	*11.32*
Kalenjin	20733	*18.87*	32078	*25.62*	59921	*28.49*	121099	*30.41*
Dorobo	871	*0.79*	1024	*0.82*	1528	*0.73*	3806	*0.96*
Other	1128	*1.03*	4296	*3.43*	13379	*6.36*	39975	*10.04*
Total	109874	*100*	125219	*100*	210306	*100*	398272	*100*

Table 4.1: Population by Ethnicity, Narok District, 1962-1989.[10]

In the early stages of postcolonial immigration to Narok District, Kikuyu and others came as clients of both ordinary Maasai and of the Maasai elite through an evolving “moral economy of adoption” (Waller 1993:231). In fertile rural areas, especially the forested and uncultivated highland areas in the northern portion of the district, Maasai and newcomers engaged in sharecropping arrangements. With a sense of individual land ownership growing along with the emergence of a “progressive” class, Maasai became landlords hosting non-Maasai tenants accustomed to and willing to carry out agricultural labour, which many Maasai still considered unbecoming of “people-of-cattle.” Clearing brush and forests, selling timber and charcoal, and eventually cultivating small fields, these newcomers paid their hosts from the fruits of their labours, while also earning rights to occupy and use the lands they transformed. As Doherty (1987:31) notes, Maasai believed they were gaining the most benefit from these sorts of arrangements, in effect gaining clients, family members, and crops for the low cost of a little bit of land. But this may reflect a first level of misunderstanding between Maasai

10 Table compiled from data published in the Kenya Population Censuses of 1962, 1969, 1979, and 1989 (Republic of Kenya 1964, 1970, 1981, 1994). The “Kalenjin” category appears for the first time in 1979, making the numbers for 1962 and 1969 estimates based on combined numbers for the Kalenjin-speaking ethnic groups listed separately. The “Other” category includes all other listed ethnicities, increasing in number from 20 to 50, including non-Kenyan Africans and other foreigners, between 1962 and 1989, showing an increasingly diverse population. Data for ethnicity was not published in the 1999 Census, which was conducted in the aftermath of more than six years of persistent ethno-political conflict throughout the country.

hosts and Kikuyu newcomers, as the latter more likely interpreted the situation in terms of Kikuyu notions of pioneering and a “labour theory of value” in which rights of ownership derived from the application of labour to transforming land into productive farms (Waller 1993:233; Berman and Lonsdale 1992). The ability of Kikuyu and other newcomers to claim and gain recognition in official land adjudication and registration, as well as through the subsequent purchase of rights in land, disabused Maasai of their sense of proprietary security, sowing the seeds of regret and resistance.

Growing popular disaffection with the increasing Kikuyu population in Narok District initially had little outlet, as immigration was tolerated, even encouraged, by the Maasai elite as an element of their involvement in postcolonial patronage dynamics.[11] Under the auspices of the increasingly powerful Kenya African National Union (KANU) in Kenya's single-party system, local politicians and bureaucrats, from clerks and councillors of the Narok County Council to Members of Parliament, were bound to nation-wide patronage networks headed and controlled by the country's first President, Jomo Kenyatta (Khapoya 1979; Barkan 1992; Branch and Cheeseman 2006; Rutten and Owuor 2009; Wrong 2008; see also Chapter 6). Postcolonial dynamics echoed those of the colonial-era, as incumbent and aspiring Maasai leaders sought to gain personal wealth, status, and influence by cultivating and accommodating large client-bases and extracting unofficial fees for services ranging from connecting non-Maasai newcomers with Maasai hosts holding sufficient land to allocating plots in commercial centres. As Munei and Galaty have argued, these patronage dynamics have meant that

> ... the Maasai leadership – local and national – is seriously compromised by its conflict of interest over the land question since it is most likely to benefit from land alienation and sale. Local leaders are often those who receive large land

11 But see Doherty (1987:28-37) for a thorough discussion of public debates about the presence and rights of non-Maasai in Narok through the 1960s.

> allocations, which when sold, become income; and they are in the best position to purchase land, (when it is not sold to those outside the community), or to serve as agents in land transactions when ultimate buyers are non-Maasai. Maasai national political leaders depend on the patronage of the ruling party – and the government – which does not wish to restrict or discourage Maasai land sales. Finally, Maasai leaders often depend on electoral support from non-Maasai living in their districts, many of whom are active in procuring Maasai land. Thus, while not illegal, the tacit encouragement of and passive acquiescence to Maasai land sales, especially those involving poorer pastoralists who will be left destitute, represents a scandal with only one precedent: the expropriation of the desirable central Rift Valley from Maasai by white settlers at the beginning of the 20th century. (Munei and Galaty 1998:70)

The succession of Daniel arap Moi, a Kalenjin, to the Presidency after Kenyatta's death in 1978, and the subsequent narrowing of patronage through the 1980s altered the balance between Maasai and Kikuyu in Narok District, and opened space for public challenges to Kikuyu presence. The succession had been contentious, especially among members of the Kikuyu elite who wanted to maintain the control over patronage established and built through fifteen years of Kenyatta's rule, but efforts by Kenyatta's inner circle to have the constitution amended to prevent Moi's ascension to power were thwarted (Khapoya 1979; Ajulu 2002). Faced with such challenges to his authority, and threatened by an attempted coup in 1982, Moi tightened his own inner circle to include a coalition composed of members of small ethnic groups and to exclude the Kikuyu and the Luo as much as possible from both positions of political authority and from lucrative patronage appointments in the civil service and parastatals. Resistance to this marginalization, in the form of demands for inclusion and for political liberalization by Luo and Kikuyu leaders beginning in the early 1980s, led to violent repression of dissent, marked by arrests, detentions, and torture, as Moi's Kenya became an increasingly totalitarian state (Atieno-Odhiambo 2002; Citizens for Justice 2009).

In Narok, these national-level patronage shifts coincided with a return of the issue of Kikuyu settlement to the forefront of local political discourse. As early as the 1979

Election, William Ntimama, a parliamentary candidate and rising star in Maasai politics, began to use land loss and marginalization of Maasai by Kikuyu as a rhetorical tool to simultaneously rally support and challenge his opponents, though he was prevailed upon to drop out of the race before the election in return for a patronage appointment, preserving the incumbent's position as a loyal KANU supporter (Doherty 1987:288).[12] Ntimama's rhetorical position became more popular through the 1980s, and, by combining this populist, pro-Maasai rhetoric with skillful navigation of national patronage dynamics, he was finally able to defeated his main rival at the time, incumbent Justus ole Tipis, in the 1988 election (Oduol 2001; Hughes 2005:212). But it was not until the events surrounding the 1992 election that inflammatory rhetoric manifested in action.

Intensifying internal pressure for political reform, driven by long-time opponents of single-party rule such as Oginga Odinga, and more recent converts to the cause, such as the Kikuyu elite excluded from Moi-era KANU, as well as an auspicious international climate at the end of the Cold War, led to what Atieno-Odhiambo has termed “the 1990 conjuncture” (Atieno-Odhiambo 2002:225). New alliances in the movement for multi-party democracy, bringing together politicians, the clergy, intellectuals and students, and “the urban crowd” brought demands for change to the streets for the first time in decades. These internal movements were reinforced from outside Kenya as the trading partners and donor agencies, upon whom Moi's government relied for both its own sources of wealth and funding to govern the country, made their ongoing involvement in the country conditional upon political liberalization, cutting off support in November 1991

12 Doherty does not name the candidates involved, but the factional battles among Maasai leaders have been well-publicized in the Kenyan media. In particular, Ntimama's turbulent political history has been the subject of multiple feature articles (e.g. Tanui 1998; Shimoli 1999; Oduol 2001; The Weekly Review 1993).

(Klopp 2001a:482; Haugerud 1995:25). In response,[13] Moi convened an urgent meeting of KANU's governing council and, after listening to several hours of discussion about whether to allow opposition parties, encouraged delegates to vote to repeal section 2(a) of the constitution which had made Kenya a de jure single-party state when passed in 1982. For the first time since 1966, the upcoming General Election would be contested by multiple, legally-registered political parties.

While liberalization was an opportunity for those politicians who had lost favour to reclaim their piece of the national cake, it was an obvious threat to the partimonial networks headed by Moi and his closest ministers. In response to this threat, members of Moi's inner-circle resurrected an old political platform from the transition to independence that featured demands for the regional devolution of power. Known as *majimboism* (derived from the Kiswahili word for “provinces”), this position was not merely a call for devolution of power; rather, majimboism involved a discourse that links political control by larger ethnic groups with land loss and marginalization of smaller groups (Klopp 2001a; Ajulu 2002).[14] Majimboism found traction in those communities considered to be autochthonous to the Rift Valley, where discontent simmered due to perceived inequalities in the distribution of lands repatriated from European farmers.

13 By contrast, in the preface to the second edition of his *The State in Africa* (2009), Bayart argues that the role of external influences, such as pressure from donors, has been overemphasized in studies of Africa's “transition” to multi-party democracy.

14 Majimboism had prominently featured in the political campaigns and negotiations that preceded independence (Anderson 2005; Ajulu 2002), and I discuss the politics these debates in Chapter 6. In the transition to independence, as in its resurgence in the 1990s, majimboism especially appealed to residents of the Rift Valley who had borne the brunt of colonial displacements and lost significant tracts of land. Prior to independence, politicians linked their calls for federalism with fears among their ethnic constituents that Kikuyu, Luo, and Luhyia domination of politics in an independent Kenya would formalize and facilitate the acquisition of lands in the Rift Valley by members of those 'outsider' communities, effectively preventing the repatriation of those lands to their historic owners. Incited to action by slogans such as “*Kila mtu Kwao* (every person to his or her own home)” (Ajulu 2002:259), violent clashes began to erupt wherever such 'outsiders' had settled. In the Rift Valley, for example, “the Kikuyu, Luhyia and other ethnic groups, which had lived in the area for years, were labelled foreigners, their houses burnt, and the majority of them were rendered refugees” (Ajulu 2002:259).

Colonial-era boundaries and institutional frameworks for adjudicating rights in land and territory on the basis of ethnicity had been subverted through government settlement schemes and processes of tenure transformation that facilitated internal colonization of the country and this perpetuated feelings that not all Kenyans had benefited from independence. Further, members of smaller ethnic groups whose less-densely populated lands have been effectively colonized by farmers since independence point to the de facto closure of the homelands of agricultural communities as a double standard. For example, the following statement, made by a Keekonyokie councillor during a group interview at Enoosupukia in 2003, illustrates these sentiments. Lamenting the fact that Maasai assertions of exclusive Maasai rights were considered unjust by many Kenyans, the councillor argued that Maasai were only demanding what other groups enjoyed by virtue of power, wealth, or privilege. Illustrating this, he explained:

> You'll never find one Maasai living in Kikuyuland. If you go there with a small business you'll be hanged. Leave along buying a plot from there. When you are seen running a small shop, people will not buy from you. If you have a *matatu*, people will not use it. They will start saying 'this is a Maasai.' If you go to Luoland, it is only the Luo. If you go to Kisii, it is only the Kisii. If you go to Machakos or Kambani, it is only the Kamba people. Why is it only Maasailand where all the other groups of people are coming?[15]

Beginning in 1991, public rallies were held in ruling-party strongholds in various parts of the Rift Valley, in which key members of cabinet and other political leaders used majimboism as a threat against multi-party activists and the communities presumed to support their movement by virtue of shared ethnicity (Klopp 2001a:483). At these "majimbo" rallies, alluding to and sometimes openly calling for the removal of "outsiders" from Kalenjin or Maasai lands in the districts they expected to control, contributing to the ethnicization of grievances over inequality and inflaming tensions, leading ultimately to

15 Korema ole Surum, group interview at Enoosupukia, 22 July 2003. See also (Matter 2004:85).

violence.[16] One of the most vocal leaders of the majimbo movement was Narok North MP William Ntimama, who had negotiated his way into Moi's inner circle during the 1980s, and especially after his first election to Parliament in 1988. At rallies in Narok and elsewhere throughout 1991, Ntimama lobbed threats against “outsiders” and the political opposition (Klopp 2001a:489-492); in one particularly ominous statement, Ntimama is alleged to have announced that “if alien communities did not respect the wishes of the Maasai who are their hosts, then the community (Maasai) will have to think twice about continuing to host other tribes in the district after the General Elections” (Akiwumi 1999:167).[17] Diverting attention away from inequalities within the Maasai community, especially between members of the elite and their client constituents, Ntimama employed “exaggerated claims that if the Kikuyu-led opposition were to come to power, all Maasai land would be grabbed” (Klopp 2001a:491). Such statements resonated with Maasai insecurities around land, especially due to land loss through unpopular treaties, demarcation of parks and wildlife reserves, and the functioning of the partimonial system in which land was a common resource, but they were also somewhat disingenuous: during his tenure as chairman of the Narok County Council in the late 1970s and early 1980s, Ntimama is alleged “to have helped settle hundreds of the very outsiders he [had

16 These sentiments and arguments persist, and they continue to be activated to explain or justify violence when it arises. Majimbo featured again in the 2007 election campaign and was used to both marshal support for the opposition and to spread fear about the prospect of their victory. In the post election violence, long-standing grievances about land were cited as one of the key reasons for the eruption and escalation of fighting (Waki 2008:32). Devolution is a key component of Kenya's new constitution, approved by referendum in early August 2010 and promulgated on 27 August 2010, though it is far too early to prognosticate on how it will be implemented and with what long-term effects and whether it will forestall future conflict along ethnic lines.

17 In a more colourful statement, Ntimama is widely alleged to have warned that Kikuyu in Narok District should “lie low like an envelope” and vote in support of KANU and Maasai leaders. Clarifying his statement during hearings of the Akiwumi Commission, Ntimama explained that he had been misquoted, likely by a non-Maa-speaker and that during his speech “he had talked about an antelope lying low to avoid being sighted by a leopard” (Njuguna and Agutu 1999), apparently taking issue with the inaccurate translation rather than denying the metaphor and its clear implications.

recently] turned against" (The Weekly Review 1993:8). His motives become more clear in light of an interview with The Weekly Review in 1991, when

> ... Ntimama insisted that the Kikuyu settlers were controlling as much as 90 per cent of all commercial activities in Narok town. They were in every business ranging from wholesale, transport to curio shops and kiosks besides dominating in the agricultural sector in the district, he said. "The people are doing lucrative business in all sectors but recently they have been wanting to control the politics of the area," Ntimama said at the time. (The Weekly Review 1993:8)

Because of such statements and positions, electoral violence in Narok District before, during, and, at Enoosupukia, nearly one year after the 1992 election has been understood as the direct outcome of Ntimama's inflammatory rhetoric and mobilization of a personal militia (Throup and Hornsby 1998:542; Klopp 2001a:498-499), in line with prevailing interpretations of conflict in Kenya as politically-motivated, elite-orchestrated partisan violence.[18] The Akiwumi Commission, for example, rejected evidence that conflict between groups competing over local land and resource ownership was at the root of violence as post-hoc explanations, arguing instead that "whatever reason that was later given for the clashes or for the eviction of non-Maasai from Enoosupukia and its neighbouring areas, can only be an excuse to conceal the real reason for the clashes which was political" (Akiwumi 1999:170). However, such understandings overlook both

18 Kenya's periodic clashes have predominantly been explained as "organised political violence predicated on the worst of human instincts: fear and insecurity" (Ajulu 2002:265-266), and thus as an example of top-down intervention through which otherwise peaceful citizens were incited to commit incomprehensible violence (Bowen 1996). In this vein, recommendations for preventing future outbreaks of violence have focused on ending the culture of impunity for people who incite or commit violence, and paid little attention to the problematic nature of neopatrimonialism itself. For example, the report of the Akiwumi Commission on Tribal Clashes argues that "tribal or similar clashes like the ones that traumatized the country [in the 1990s] stand a good chance of being expunged if influential personalities do not take advantage of tribalism and human failings. The ordinary people who comprise the foot soldiers in tribal clashes should learn not to allow themselves to be used to perpetrate violence of any kind" (Akiwumi 1999:56). The report further calls on experienced and aspiring politicians to exercise restraint and refrain from manipulating "existing conducive situations" (Akiwumi 1999:49), rather than examining and resolving the underlying problems. Others have more recently interpreted recurrent violent conflict as symptomatic of weak institutions and institutionalized violence (Mueller 2008), and convergences of elite and popular interests drawing on and exacerbating long-standing grievances over land (Rutten and Owuor 2009).

the role and interests of local participants to the violence and the importance of local conflicts over land and tenure transformation.

Presence, violence, and Kikuyu at Enoosupukia

Like other fertile zones in Narok District, Enoosupukia became a site of rapid population growth after independence, mostly driven through immigration by non-Maasai.[19] According to local informants, the first trickle of Kikuyu settlement at Enoosupukia coincided with the process of unofficial demarcation, which began around the end of the 1960s, and increased drastically through the 1970s and 1980s. This is corroborated by data from the 1969, 1979, and 1989 censuses, shown in Tables 4.2 and 4.3.[20] In the 1969 Census, the Keekonyokie Location of Narok District, which included the area later designated as Enoosupukia Location, held a population of just over 8,000 inhabitants. By 1979, the population of Keekonyokie Location had risen to nearly 19,000, with that inside Enoospukia Location accounting for nearly 9,000, meaning that nearly 50% of the population of the former Keekonyokie Location resided on approximately 20% of its land area.[21] By 1989, the population inside Enoosupukia Location had nearly doubled again, to 17,338 people in an area of 218 square kilometres, or about 80 people per square kilometre, only slightly lower than the 87 people per square kilometre recorded for the 94 square kilometres of Nairagie Enkare township and its surrounding lands, and still forming nearly 50% of the population of the former Keekonyokie Location.

19 Published census data does not give figures for population by ethnicity at the Location and sub-Location levels, but the rates of population growth and especially the increase in number of households suggest immigration by adults rather than an explosion of the local population through high birth and low death rates.

20 Data compiled from the Kenya Populaton Censuses of 1969, 1979, 1989, and 1999 (Republic of Kenya 1970, 1981, 1994, 2001).

21 Of the 10,000 residents recorded for areas of Keekonyokie Location outside of Enoosupukia, a significant proportion likely occupied lands at and to the north of Nairagie Enkare, forming a relatively continuous, high-density agricultural area in contrast with the less heavily populated rangeland areas to the south and east.

At such high densities, it is no wonder that local residents recall the entire highland being "full of Kikuyu,"[22] though Kikuyu were not the only ones residing and farming at Enoosupukia; many Dorobo and local and non-local Maasai had also taken up small-scale cultivation of maize, potatoes, and other crops.

Year	Population	Households	Area (Sq km)	Density
1979	8795	1818	227	38
1989	17338	3619	218	80
1999	9436	2043	213.9	44

Table 4.2: Population Change in Enoosupukia Location, Narok District, 1979-1999.

Year	Population	Households	Area (Sq km)	Density
1969	8264	N/A	N/A	N/A
1979	18795	3707	1131	16
1989	36505	7665	953	38
1999	43581	9550	1376.5	32

Table 4.3: Population Change in Keekonyokie Location, Narok District, 1969-1999.[23]

The character of Kikuyu settlement at Enoosupukia also changed over time. In the earliest stages, perhaps as far back as the late 1950s or early 1960s, Kikuyu friends and trading partners of Dorobo and Maasai may have been encouraged to settle in the highlands with the offer of a small piece of land given on the basis of friendship or sharecropping.[24] In some cases, these friendships had been fostered during the Mau Mau Emergency, when residents of Enoosupukia were removed from the area and

22 If Kikuyu at Enoosupukia constituted half of the location's 1989 population of 17338, that is, 8, 670 people, they would account for nearly 20% of Narok's 45,000 self-identified Kikuyu recorded in that year's Census.

23 Keekonyokie Location has been divided into several administrative locations since 1969. The figures for 1989 and 1999 have been compiled from those reported for each location, including Enoosupukia.

24 These early arrivals to the area may also include a small group of families known locally as Kinare or Kikuyu Dorobo, who claim that they or their ancestors were welcomed into the area by Saleita Dorobo before independence, and whose current residences form a contiguous block along a high ridge just east of Mpeuti Primary School, inside Kipise Adjudication Section.

resettled in a guarded village at Sakutiek, ostensibly for their protection from guerillas using the dense forest as a base of operations. During this period, some Dorobo recall having spent time working on European-owned farms in the Rift Valley, where they interacted with Kikuyu resident-labourers. For others, relationships were initiated and maintained in the early years after independence through frequent interaction at local markets, for example at Nairagie Enkare or at Maiella, which was purchased from its former Italian owner and settled by a Kikuyu land buying society in the mid-1960s . However, rather than assimilating to local custom or leaving the area after working for a few years to clear and begin cultivation of the land, as Dorobo and Maasai reportedly expected based on colonial-era precedent, these and other Kikuyu began to assert claims of ownership, inviting Kikuyu friends and relatives to join them on lands they had acquired or to negotiate with local Maa-speakers for access to additional land.

As elsewhere in Narok District, the initiation of official land adjudication raised the stakes of immigration and shifted the balance of power in the local politics of belonging. With increasing numbers, the growing Kikuyu population began to assert more influence on social life: local Dorobo age-set ceremonies ceased to occur by the late 1970s and even male circumcisions were being conducted in the evenings by professional nurses and doctors rather than at home in the early morning as according to Maasai custom. Further, empowered by expectations of receiving secure title to lands they had come to consider their own, Kikuyu at Enoosupukia also began to demand better representation and more control in political life, calling for the appointment of a local chief or assistant chief from among their number, and seeking to stand in elections for positions on the Narok County Council. Describing these changes in an interview in 2003, one man gave his perspective on the relationships between Kikuyu and their hosts, perhaps reflecting

or justifying the violent conflict that had taken place ten years before:

> I was born here at Enoosupukia, and the Kikuyu started coming to settle here when I was [an uncircumcised adolescent, around fourteen years old]. ... When they came here they started looking down on the Maasai community, and they were saying they would only employ the us as casual labourers or guardsmen at their homes, so we developed a very coarse relationship. They stopped us from doing many things here. When this place was declared a town, they refused to give us plots. In the market, we were not given a chance to sell our things. ... When they gained a lot of momentum and security, they declared that we should leave. And we wondered, why should we leave Enoosupukia, which is our land![25]

Countering the political aspirations of the Kikuyu enclave at Enoosupukia became a point of convergence for members of the Maasai elite in Narok District and their Maa-speaking clients at Enoosupukia and elsewhere. The completion of land adjudication at Enoosupukia would result in thousands of Kikuyu gaining secure ownership of land, and consequently rights of residence and political participation in Narok District. For local residents who had begun to feel the negative effects of Kikuyu settlement, most notably in the loss of access to land and social control for Maa-speakers, Kikuyu acquisition of title deeds would render Dorobo and Maasai challenges to Kikuyu occupation and use of the area officially powerless, though they may remain salient in local negotiations and disputes. For Maasai with political aspirations, a secure and growing Kikuyu population in Narok District was at least an obstacle, and at worst a threat, to hopes of election to either the Narok County Council or Parliament. In the more liberal democratic environment of multi-party politics, power and connection in patronage networks depended not only on connections at the top, but also on the number of client votes a candidate could deliver.

The results of the 1992 election confirmed an obvious alliance between Kikuyu constituents and opposition political parties and revealed a rupture between the Kikuyu

25 Interview with Kirtella ole Karia, Enoosupukia, 22 July 2003.

enclave at Enoosupukia and those in power in Narok, namely Ntimama and KANU. In an effort to address this problematic situation and to reward his supporters, Ntimama used his influential position to manipulate the disjuncture in land tenure at Enoosupukia that had grown through the parallel operation of official and unofficial demarcation and the extralegal land market. While many of the Kikuyu newcomers had succeeded in having themselves registered in the official adjudication processes for Kipise Section, those residing on the Trust land portion of Enoosupukia had little evidence other than the corroboration of their Maa-speaking neighbours to support their claims. Collaborating with numerous residents of Enoosupukia, other influential people in Narok, and important members of the KANU elite, Ntimama had the Trust Land portion of Enoosupukia reclassified as a conservation forest and ordered the eviction of farmers residing in and using that land. Despite fairly transparent malevolent intentions, this action made use of official procedure to assert the "strict legal rights" (Coldham 1979:617) of the Narok County Council to govern and manage resources inside its jurisdiction.[26]

The eviction was formally announced in late September by the Narok District Commmissioner (Klopp 2001a:493), and it provoked immediate opposition. Kikuyu at Enoosupukia saw the eviction as an infringement of their civil rights, on the grounds that they had purchased or otherwise established private interests in the land, which in any case was under adjudication, and as unjust retribution for exercising their rights to support legally-registered opposition candidates in the 1992 election. With the support of a number of Kenyan NGOs and the Catholic Diocese of Ngong, filed for a court injunction to stop the eviction until its legality could be determined in court. Before the petition could be heard, however, violence erupted at Enoosupukia, effectively executing

26 I discuss the process and lasting consequences of this assertion of state ownership and control in the next chapter.

the eviction of not only Kikuyu residents, but also temporarily displacing many of the Maasai and Dorobo inhabitants.

Seen through the reporting of Kenyan newspapers and international wire services, the clash at Enoosupukia appears as a brutal paroxysm: on Thursday, October 14, 1993, the Daily Nation explained that “four people were killed and three others seriously injured yesterday morning in fighting between residents of Enoosupukia area of Narok District. One of the victims had been beheaded and mutilated and the head could not be found” (Daily Nation 1993a). The Narok District Commissioner, explained that the fighting was “triggered by an attack on a Maasai village by members of the Kikuyu tribe” (Agence France Presse 1993b), highlighting the ethnic organization of the violence. Over the following days, violence escalated as Maasai and Kikuyu exacted revenge on one another, attacking humans and raiding livestock (Agence France Presse 1993a). With local residents sheltering in churches, a second wave of violence broke a few days later when “attackers, armed with bows, arrows, clubs, and swords, invaded the [Catholic] mission and started beating and slashing them” (Daily Nation 1993b). Coincidentally, news of the attack on the church was published on the same day as a brief article reporting on a preliminary hearing for an injunction against the eviction of residents from Enoosupukia, brought by the Catholic Church against the Narok County Council (Njuguna 1993). By October 20, officials announced that fighting had ceased and calm had returned (BBC 1993), but by this time, violence had spread beyond Enoosupukia to other parts of Narok District, leaving more than thirty-five people dead, and many thousands more displaced (Klopp 2001a:475, 506 f.n. 4).[27]

27 The number of people displaced from Enoosupukia is uncertain, and estimates range up to the widely-stated figure of 30,000. Klopp reports that “approximately ten thousand” refugees from Enoosupukia ended up at Maiella (Klopp 2001a:499), which probably accurately reflects the numbers fleeing Enoosupukia judging by the 1989 Census data, and likely includes both Kikuyu and Maa-speakers.

Figure 4.1: Enoosupukia town site, early 1980s. Julius Ngayami and boys with some of the Ngayami family herd.

Figure 4.2: Former Enoosupukia town site, November 2008. Simon Ngayami holding picture shown in Figure 4.1.

While other published accounts of the clash at Enoosupukia allude to or allege top-down orchestration of violence by Ntimama and the role of an organized attacking

force of Maasai in initiating the confrontation, narratives describing the genesis of violence that I have collected during my field research suggest otherwise: the violence that caused mass displacement appears to have been the final event in a series of escalating confrontations and fights, each of which can be understood as part of a strategy to use physical presence and force to challenge and defend claims to land. Faced with potential government action to displace a significant population from Enoosupukia and uncertainty about whose claims might be respected and whose ignored in the process, both Kikuyu and Maasai resorted to displays of what Galaty (2005) has called “presence-on-the-ground.” One of the first such displays was recounted by Maasai and Dorobo interviewees in 2003, who told me that when Ntimama and the Minister for Environment and Natural Resources, John Sambu, came to tour Enoosupukia to assess the environmental situation ahead of the eviction, their entourage was “pelted with stones by Kikuyu youths.” Later, once the eviction had been officially announced, attempts to assert control through physical presence and intimidation escalated. The two narratives reproduced below assign blame to different parties, but both explain the clash as an outcome of increasingly violent encounters in a context of uncertainty.

In 2003, a group of Keekonyokie Maasai told me this story of how the clash broke out:

> The war at Enoosupukia started when some Maasai herders tried to take their livestock to water at one of the streams near the town center. The Maasai had come to the area seeking grazing and water because the lowlands had become very dry as the short rains had not yet fallen. When the Maasai arrived, they found a group of Kikuyu who told them they could not use the water without first paying for access. The Maasai and Kikuyu argued over this, and eventually a fight started. In the fight, the Kikuyu killed and beheaded one old man and told the others that they would make soup with his head. The Maasai fought back and were able to kill some of the Kikuyu and scatter the rest, but the old man's head was never found.

> The next morning, before dawn, a group of Kikuyu raided a Maasai homestead, to avenge their friends who had been killed. Finding that the family had already fled, the Kikuyu attacked the livestock, killing and slashing more than twenty cows. This outraged the Maasai who prepared for battle and called on other Maasai to help defend the community. The fighting continued for a few days until all the Kikuyu had been chased away from Enoosupukia and the Maasai remained to take control of the land, which is rightfully ours.[28]

In this account, attention is drawn to demands by Kikuyu that Maasai pastoralists should pay for access to water and grazing. While it is not unheard-of for pastoralists to pay for grass in places where land is owned by individuals under freehold tenure, the assertion by Kikuyu that Maasai should pay for water at Enoosupukia, which is considered to be ethno-territorially Maasai, is an assertion of exclusive ownership that seeks to reinforce Kikuyu claims to land and legitimize their presence. Such an assertion of presence can be interpreted as an act of resistance against eviction, directed not only at specific Maasai resource users, but by extension at Ntimama as their patron. Of further note in this account are the beheading of an elderly man and the mutilation of Maasai cattle by Kikuyu fighters. Both of these actions can be considered violations of social order and seen as symbolic attacks on Maasai identity.

Another variation of the story, written by a Dorobo research assistant in 2005, recounts the genesis of the clash as follows:

> Members of the Maa community started assaulting Kikuyu at Enoosupukia by raiding their homes for livestock in an attempt to frighten them and cause them to voluntarily vacate the area. In that process, some Purko youngsters from Mosiro Location [about 70km south of Enoosupukia] raided a home in Kipuput area, not far from the town, and stole three cattle, fourteen sheep and a goat. Unfortunately there was one old man who had the idea of accompanying these youngsters on the raid and he was caught and killed by an angry mob of Kikuyu who were trying to stop the raiders. Because of their rage, the Kikuyu traced the raiders to a homestead where they had sought refuge. The people in the home ran away, so the Kikuyu maimed about thirteen cattle when they could not find people to fight.

28 Group interview, Enoosupukia, 22 July 2003.

> After this fight, the Maasai called for help from neighbouring locations, and Purko came from many places to join the war. When the fighting was finished and the Kikuyu had run away, the Purko stayed in Enoosupukia and brought their livestock, and they continued to harass and intimidate people here, including other Maasai and Dorobo.[29]

In this second account, the eventual escalation of violence is linked to harassment of Kikuyu residents by non-local, perhaps seasonally resident, Maasai pastoralists. Current residents of Enoosupukia recount similar stories of harassment by transient or seasonally resident herders, who occupy the Trust Land portion of Enoosupukia during the dry season. Herders are blamed for intentionally grazing their livestock on local crops, stealing livestock, and committing burglaries in an effort to intimidate residents of Enoosupukia, allegedly with the explicit permission of members of the Maasai elite who hope to perpetuate instability, prevent agricultural development, and maintain Enoosupukia as a dry season grazing refuge. In the context of the 1993 eviction order, such intimidation can be seen as an effort to challenge Kikuyu claims to land, to deligitimize Kikuyu presence, and to stake claims in anticipation of Kikuyu eviction through establishing Maasai presence. These competing displays of presence were intended to challenge and defend particular claims to land at Enoosupukia after the unofficial system governing rights in land, which had emerged through decades of tenure transformation, was destabilized and made uncertain. It is somehow ironic that an attempt to effect the eviction of Kikuyu through the appropriation of official rules and state institutions for political aims resulted in inter-community violence and the displacement of both Maasai and Kikuyu; even formal eviction became informalized.

29 Report on Enoosupukia history, written by Simon Ngayami, 2005.

Recounting transactions

In the years since the clashes, Kikuyu displaced from Enoosupukia have consistently asserted their claims to rights in land on the basis of willing-seller, willing-buyer transactions. As the Kenya Human Rights Commission has reported, displaced "Enoosupukia residents had purchased their land from Dorobo and Maasai groups from the late 1960s and early 1970s and believed they had a right to it" (1998:26). However, both the accuracy of such claims and the validity of the transactions are challenged by current residents of Enoosupukia, many of them the same individuals who are alleged to have sold their land. These disputes are not merely contested histories of events in the past; rather, they represent ongoing conflicts about the past, present, and future occupation, use, and ownership of lands at Enoosupukia, and they are at the heart of the hundreds of objections filed after the closure of the adjudication phase of official land tenure reform for Kipise Section (see Chapter 3). I do not propose to carry out here the work of the District Lands Officer or the Ministry of Lands, with whom the responsibility lies to hear and rule on such disputes, nor do I purport to predict the outcome of those hearings, in part because the hearings are held in private and the details of each individual case are not publicly available for examination. Instead, I use local narratives about the history of Kikuyu settlement at Enoosupukia, and in particular on the nature of agreements between local Maa-speakers and non-locals, both Kikuyu and Maasai, to discuss the ways that local history is publicly reinterpreted and contested. Agreed upon by nearly all interested parties is that until the end of the 1960s, Enoosupukia remained a relatively untouched forest, home to local Dorobo and a few Maasai. From there the stories diverge; the different narratives not only serve to assert and challenge claims to rights in land, but also make use of stereotypes – the "ignorant Dorobo," the "conniving Kikuyu" – drawn from the cultural politics of the pre-colonial era, in effect reproducing

social inequalities and justifying intervention in the form of violence.

Accessing and acquiring land

Recounted by Maasai from outside Enoosupukia, and by a handful of elderly Purko who live there today, the process is clear: Dorobo had no idea of the value of their land, or even any sense of land ownership. Their ignorance and naivety combined with their penchant for alcohol made them susceptible to Kikuyu trickery. The following example, recorded in 2003, is representative:

> Before the Kikuyu came to Enoosupukia the Dorobo were the only people living in this forest, but they would often go to Maiella to take liquor. There the Kikuyu would befriend them and would even come and stay at a Dorobo's home as a guest. From there the Kikuyu started doing farming. The Dorobo were not giving them land as such, and the Kikuyu were tricking the Dorobo by saying that 'we are coming to farm, and probably we will go back home after a while'. Because the Dorobo did not know how to read and write they did not know that the Kikuyu had a hidden agenda. Now when the Kikuyu tested the land for agriculture they found it fertile, and they began to call their cousins and friends from Central Province to settle here.[30]

Early on, such arrangements of friendship and co-residence were made through the exchange of gifts, including goods like blankets, *shuka* cloth for clothing, beer, and in some cases perhaps a daughter given in marriage to transform the relationship from one between friends to one between affines. Such agreements mirror long-standing practices between Kikuyu and Dorobo, and between Kikuyu and Maasai, which had earlier complicated colonial efforts to demarcate social and spatial relationships through the system of tribal reserves (Waller 1993, 1985; Carter 1933; Leakey 1977). Further, the exchange of gifts in such arrangements may not have represented final (or finalizable!) transactions, but rather ongoing social relations characterized by obligations of reciprocity and subject to moral principles; however, such transactions involve polysemic symbolic statements and actions, and their meaning depends as much on social

30 Group interview, Enoosupukia, 22 July 2003.

recognition of subsequent interpretations as on initial intent.

Over time, with the further incorporation of both Dorobo and Kikuyu into the monetary economy, such transactions came to include cash, often in small amounts as a supplement to other gifts given to maintain obligations of reciprocity. That Dorobo had begun to feel the pressures of modernity, in the form of taxation and the cost of participating in a cash economy, is indicated in the following passage from a letter outlining the history of Enoosupukia. Justifying his role as a leader while also describing the introduction of agriculture, Ketei Kereto, the local Dorobo headman, wrote that:

> … in 1964, when the government confirmed the importance of taxes, the citizens here lacked any way of getting money. But even the Dorobo began to know the importance of the soil and the benefits that they might gain, such as money for taxes and their needs, when, following my example, they began to cultivate the forest so that they might profit from inside it.[31]

As elsewhere in Narok, while the profits of cultivation may have derived in part from residents' application of their own physical efforts, the availability of experienced, land-hungry Kikuyu provided an additional source of labour through which to transform Enoosupukia from a forest to a fertile and productive zone of smallholder agriculture. Before long, the first trickle of newcomers widened to a torrent, and cash became an increasingly important component of agreements. Some residents of Enoosupukia have told me that, in these early days, cash transactions involved small amounts, around 500 Kenya Shillings per acre, a ridiculously small amount by today's standards, as is sometimes noted in arguments that Kikuyu “buyers” tricked Dorobo “sellers” by severely underpaying and effectively stealing land.[32]

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31 Letter from Ketei ole Kereto, Enoosupukia, to District Commissioner, Narok, 5 February 1975. Copy in author's possession.

32 See below for further discussion of disputes about the fairness of land prices in Enoosupukia's extralegal market.

As the pace of settlement increased, the character of agreements for access and use of land also changed. In part this surge of interest in land at Enoosupukia was driven by the outcomes of land adjudication and registration elsewhere, particularly in Central Province in the late colonial period. There, changing socio-economic conditions combined with emerging land markets to create push factors driving emigration. For some, the possibility of selling land was a way to gain cash income for social and political obligations, including the payment of school fees and taxes; for others it was a means to seek greater fortune elsewhere, particularly through rural-to-rural migration, which takes place "where a land frontier emerges and land market conditions are such that people can acquire larger holdings at the cost of the value of their present parcels" (Okoth-Ogendo 1976:178). The unregistered lands of Enoosupukia, slated for official adjudication and registration and already held under unofficial freehold after local demarcation, could be had for a fraction of the value per acre in densely-populated Central Province, allowing purchasers to also invest additional capital in agricultural inputs or spend their surplus on consumer goods. By the late 1970s, newcomers to Enoosupukia were insisting on written agreements, signed by witnesses, recording the transactions, the amount of land involved, and the price paid, probably reflecting both previous experience with the official land market, higher levels of education, and the extension of interaction to the limits of interpersonal trust, requiring more legible guarantees. A few examples of these documents follow:[33]

33 A sample of written agreements was obtained from the Catholic Diocese of Ngong, Justice and Peace Commission, in 2003. I have altered and partially redacted the names in these agreements to protect the anonymity of the people involved. See Appendix I for scanned copies of the original documents, translated here. The small sample of documents presented here appears to show an increase in price per acre over time; however, my collection of these documents is not complete, which prevents a more thorough statistical analysis.

Example 1:[34]

This is an agreement between _____ Waweru and Njeri ole Obiki. I Njeri ole Obiki have sold to Mr._____ Waweru my shamba of one and a half acres. I guarantee that this is my shamba and it has always been mine, and even if Mr _____ Waweru sells it on, no one will disturb him with any claims to it. The price of this land is KSHS 4,000 /=, and _____ has paid in cash. The following people have witnessed _____ paying me the money:

1. Tobiko ole Obiki
2. Ngugi _____
3. Muigai _____

Buyer: _____ Waweru

Seller: Njeri Obiki

Example 2:[35]

25/11/78

I _____ Olenkelai have given _____ Kamau a shamba of one acre for the price of Sh 2,000/= and he has paid cash. Elders who were present:

1. _____ Kinyanjui
2. _____ Ng'ang'a
3. _____ Mening'
4. Meloito Olenkelai
5. _____ Kariuki
6. Sankale

Shamba owner: _____ Olenkelai

Buyer: _____ Kamau

34 This agreement appears to involve a Kikuyu buyer and a Maa-speaking seller. The name of the seller, “Njeri ole Obiki” is fascinating, in that it combines a Kikuyu personal name with a (male) Dorobo surname. It is possible that the seller is a Kikuyu wife of a Dorobo man from Enoosupukia and the first witness listed may be her husband, but I was unable to confirm this interpretation.

35 This document also represents an agreement between a Dorobo “seller” and a Kikuyu “buyer.”

Example 3:[36]

27/3/79

AGREEMENT BETWEEN _____ KAMETE AND NGUGI _____ CONCERNING SALE OF LAND

I _____ Kamiti have sold to Ngugi _____ a shamba of two acres for a price of shs 2150 per acre. For two acres, the total is shs 4300. Ngugi has paid everything in cash. Seller I.D. Card No: _____, Buyer I.D. Card No. _____

Witnesses

1. _____ Kachugo
2. _____ Kinyanjui
3. _____ Lorkumi
4. Karanja _____

Example 4:[37]

P/no 8** + 8** Kipise Adjudication Section

15-5-86

I Mr _____ ole Kalash have sold to Mrs. _____ Njeri _____ my shamba of one acre, for a price of 6500/=. She paid Shs 2000 /= and Shs 4500/= remain to be paid.

ID Card number of Mr _____ Kalash _____/64 Narok

Buyer: Mrs _____ Njeri ____, ID No _____/64 Kiambu

Witnesses

1. _____ Muthee
2. _____ Mbugua
3. _____ Maina

Signature of seller

36 In this agreement, the transacting parties both have Kikuyu names, as do three of the listed witnesses. The third witness is a Dorobo of the Lorkumi local group, suggesting that the land involved is situated somewhere between Enoosupukia and Ilkirragarien towns.

37 In this case, the document records an agreement between a Maasai man (selling) and a Kikuyu woman (buying), witnessed by three Kikuyu men and involving specifically identified parcels in Kipise adjudication section, suggesting that the seller's claims had already been recorded in the adjudication register. This is the second of three agreements between these two individuals in my possession, the first taking place a year earlier and involving a three-quarter acre piece of land, and the third being an amendment to this second agreement.

Example 5:[38]

I, Ala Mude have sold to _____ Karanja a shamba of two acres for a price of Kshs 8000 /= per acre, for a total of 16,000. We have agreed that he will pay me half the amount and complete the payment when he gets the money. He has paid Shs 3000 today, 15-7-1987. Witnesses: 1. _____ Mwangi 2. _____ Mwaura.

I am _____ Ala Mude, ID Card number: _____, Location: Enoosupukia, District: Narok

3-5-1988, He paid me 3,000.

Witnesses: 1. _____ Mugo, 2. _____ Nyaga

We have agreed that I will show him the plot he will be using so he can pay me the balance. I went to show him the plot along with these two elders: 1._____ Nyaga, 2. _____ Mugo

Balance 10,000

As these documents illustrate, agreements for land transactions at Enoosupukia varied in the degree of formality, the prices, and the procedures involved. In some cases, the full amount was paid at the time of agreement; in others, the payment was made in instalments, with the buyer being shown his land only after payment of a significant portion of the price (see example 5). The agreements, all written in Kiswahili, appear to have been written by Kikuyu-speakers, judging by some of the linguistic hallmarks – for example, incorrectly interchanging the letters “r” and “l”, which are not distinct in Kikuyu (example 2) – and they appear to often, but not always, involve transactions between Maa-speaking sellers and Kikuyu buyers, judging by the names of the parties involved. Where the apparently Maa-speaking sellers and witnesses, again judging by the names, have signed the documents in their own hand, they often show limited literacy, with more rough penmanship than the text of the document or the names of other parties. Many of the documents include national identification card numbers, and sometimes thumbprints to seal the deal. In two of the documents I collected, the agreements are sealed with

38 Here an individual with an unusual but presumably Maa name sells to a Kikuyu, with two Kikuyu witnesses. This document shows an ongoing transaction, with payments being made in instalments and recorded in writing, and the buyer (along with witnesses) being shown his land only after providing a certain proportion of the total amount.

Kenya Revenue stamps affixed beside the names of witnesses, an apparent appropriation of state symbols to guarantee extralegal dealings. Some of the agreements also include explicit mention of parcel numbers, which beneficiaries of adjudication listed in the adjudication register could use as proof of their own claims, as well as of the location of their land (see example 4). While these agreements are recorded in written form, providing evidence of the transaction supported by a number of witnesses, they rely heavily on interpersonal trust, as illustrated in Example 1, which states that “no one will disturb [the buyer] with any claims to [the land],” even if he should choose to sell it to someone else.

Contesting transactions

In fact, despite such assurances, these transactions and the written agreements with which they were recorded have been the subject of considerable dispute. Dorobo and Maasai contest the degree to which such agreements constitute sales of land, and whether these agreements conferred on “buyers” the right to freely transfer purchased rights in land to others. Some also call into question the willingness of sellers, asserting their ignorance of the implications of selling land rather than hosting clients or leasing rights to reside and cultivate, as well as their marginal position in patronage networks through which land-seekers were introduced to land-holders.

For example, several Maa-speaking, long-time residents of Enoosupukia have acknowledged dealing in land with Kikuyu newcomers, but they are adamant that these agreements were always meant to be temporary rentals or leases, combined with sharecropping, in which Kikuyu paid a sum to occupy a piece of land for a few years, clear it and begin cultivation, reaping the profits of selling timber and charcoal, as well as the first few harvests of maize, potatoes, or other crops before surrendering the now-

productive plots to their landlords who would make subsequent use of it. While there is some precedent for this type of arrangement elsewhere in the forested areas of Narok, and these practices continue today in the hotly contested Maasai Mau to the west and north of Narok town, this practice is at odds with Kikuyu ideals of homesteading and estate-building in which rights are acquired and secured by transforming and making idle lands productive, and misunderstanding may thus be an important part of the problem; however, there is ample precedent for rental and leasing arrangements, both in Kikuyu "customary" law and in late-colonial and postcolonial practice, and similar practices have been reported elsewhere in Kenya (Haugerud 1989; Shipton 1989, 1992, 2009). Part of the dispute may turn on shifting interpretations and understandings of the nature of transactions and tensions between a moral economy of acceptance and a cash market in land, and assertions that such agreements were "really" sales or "only" rentals may be retrospective reinterpretations. Certainly, present-day claims by Maasai and Dorobo residents that they engaged in ongoing or fixed-term rental and lease agreements implies a level of sophistication and experience with modern transactions that appear to have been historically and culturally alien. It is telling, however, that allegations of Kikuyu trickery enter the story when some of these Maa-speakers recount their surprise at seeing their supposed clients and tenants welcoming other Kikuyu onto the land and proceeding to sell land to other newcomers, suggesting a transgression by newcomers who were welcomed as guests but not recognized as owners. While Kikuyu could be tolerated or even sought out as clients of emerging local landlords, these secondary transactions would have left Maa-speakers without a revenue stream or control over access, and understandable grievance.

When I mentioned the paper records of transactions, one man explained to me that these were evidence of Kikuyu taking advantage of Maa-speakers' illiteracy: they would make a verbal agreement to rent or lease an area of land and then ask the landowner to provide a thumbprint on a document he could not read; in the most extreme version of the story, Kikuyu would get a thumbprint on a blank sheet of paper and write up the sale agreement after the fact; if the Kikuyu claims were challenged by Maasai, the document would be produced as proof that an outright sale had been agreed.[39] This account highlights both a lingering Maasai ambivalence about modernity and the dangers of written words as opposed to interpersonal agreements guaranteed through established social institutions, as well as the use of an unfavourable Maasai stereotype against Kikuyu as people who cannot be trusted, or people without *enkanyit* (respect, but also, a shared knowledge of 'proper' behavour and social relations).[40]

An additional complaint by numerous Maa-speakers, both local and non-local, who questioned the legitimacy of Kikuyu purchases, was that buyers had taken advantage of sellers' ignorance of land markets to acquire land at unreasonably low rates. Similar complaints are not unheard-of elsewhere, and can be connected to the problem of inflation in deferred payment transactions, especially when the purchaser gains immediate access to land after an initial payment. As Shipton has noted (Shipton 2009:158), such arrangements favour buyers who may try to stall in order to benefit by selling crops at increasing prices while eventually paying the originally-agreed-upon rate for the land they have used to produce their income. Inflation has been a serious problem in Kenya, and especially in the 1970s when, after relative stability in the 1960s, inflation rates increased dramatically, to between 8% and 20%, driving the price of

39 Interview with Olodungudungunkop, Enoosupukia, 9 October 2008.
40 See Chapter 2.

commodities up and the value of the Kenya Shilling down (Ndung'u 1997:7).

The question of inflation as a source of injustice can be mitigated with a comparative look at land and commodity prices elsewhere in Kenya during the same period. In the five transactions discussed above, prices per acre range from Kshs 2,000/acre in 1978 (example 2), to Kshs 8,000/acre in 1987 (example 5), for transactions of one or two acres at a time. By comparison, Haugerud reports prices ranging from Kshs 4,000-5,000/acre to Kshs 15,000-18,000/acre in 1980 in Embu, with higher prices being paid for land in zones of higher economic potential, the lower prices corresponding with a zone suitable for cotton production, and higher prices at higher elevations where coffee and tea cultivation were productive (Haugerud 1981:39). It is difficult to estimate a comparison in the productive potential of land in Haugerud's Embu sites with land at Enoosupukia due to a range of factors. First, they are ecologically different, with land at Enoosupukia at higher elevation (2000-2800m) than at Embu (approximately 1375-2150m in Haugerud's sites) and likely subject to different rainfall regimes and soil types, all of which factor in to which types of crops can be grown with what degree of success. Similarly, while Embu had long been an agricultural area, and farmers there had, by the late 1970s become well-established as commercial producers, land at Enoosupukia was still uncultivated during the same period, requiring an investment of both labour and time to make purchased land economically productive. Further, as Haugerud notes elsewhere, the market value of land in Embu exceeds its agricultural value. For example, prices for an acre (0.5 ha) of land in the coffee zone could exceed the annual net income from that land's coffee crop by four or more times (Haugerud 1989:77-79).

As another line of comparison, one might consider the prices of household items which land-sellers or agricultural producers might purchase with their income; to that

end, a wealth index scale produced by Haugerud (1995:151) to analyze inequality in her Embu field site is instructive. For example, in 1980 prices, a wireless radio cost approximately Kshs 500, a sofa set Kshs 1,500, a motorcycle Kshs 14,000, and an automobile Kshs 30,000. Given that the transactions for land at Enoosupukia described above involved small pieces of land, usually of one or two acres, income from sales would not have been sufficient to acquire more expensive status items. By contrast, unpublished data provided by John Galaty recording prices in twenty-two transactions involving registered lands that took place in 1985-1986 at Ewuaso Kedong, a semi-arid locality south of Mount Suswa, show comparatively low prices per acre (between Kshs 1,000 – 10,000, with an average of Kshs 1,400). However, the total income from these sales was remarkably high, as transactions involved between 100 and 600 acres, bringing sellers from Kshs 100,000 to Kshs 1.5 million, a legitimate fortune at the time.[41]

While land prices per acre at Enoosupukia appear to be higher than at Ewuaso, suggesting some relationship between agricultural potential and market value, the price disparity between Embu and Enoospukia suggests the importance of another factor: legal status. The transactions at Embu involved registered lands and proceeded, albeit very slowly, through the land control boards. By contrast, land at Enoosupukia was unregistered, and transactions were thus inherently risky arrangements involving potential future rights of ownership. Finally, while it is extremely difficult to generalize about the overall dynamics in the extralegal land market at Enoosupukia from a very small, and potentially unrepresentative, sample, it is unclear that the recorded land prices were inordinately low. Further, rates of Kshs 2,000/acre appear to be too high to suggest rentals (compare rates of Kshs 250/acre in Embu in 1980 (Haugerud 1989:78),

41 Interestingly, many of Galaty's sellers reported loan repayment as a primary reason for selling, while some also mentioned agricultural investments such as purchasing livestock, fencing, and piping water, and several indicated “leisure” as a secondary reason for selling.

though they could conceivably show long-term leases. It appears then that the grievances of Dorobo and Maasai sellers, that they had effectively been cheated, or at least not adequately compensated, have more basis in empirical fact than allegations of outright forgery or trickery about the terms of these transactions. That said, it is entirely reasonable that purchasers could have capitalized on local sellers' ignorance of prices elsewhere to acquire rights in land at favourable rates.

Beyond questions of access to information an capital, inequality also factors in to the extralegal market in other ways. While these kinds of arrangements, whatever their actual content, were often negotiated between individual locals and outsiders, they were also sometimes facilitated through the moral economy of patronage. Acquisition of land at Enoosupukia – by both non-local Maasai and Kikuyu – in anticipation of official adjudication was facilitated through established patronage networks that linked Narok District to the Kenyan centres of power via the political and economic elite, and in which Dorobo forest-dwellers were at the bottom end. According to several informants, the process would usually involve the local Dorobo headman, an unofficial appointee of the administration chief, being summoned to the office of the Keekonyokie chief at Nairagie Enkare. There the headman would be introduced to a prospective settler, normally a prospective client of a local leader, better connected to more distant patrons who might likewise be better connected to more powerful members of the elite than the local Maasai brokers and patrons. The Dorobo headman would be asked to assist the newcomer to find a willing host who would grant him a place to build a house and clear some land for farming. Such networks are alleged to have gone far beyond the local area, and patrons are said to have included not only the Maasai elite within Narok and influential members of the County Council, but also Members of Parliament and even

President Kenyatta. The Dorobo headman and other local residents of Enoosupukia felt that they had no choice but to accept these outsiders, both because these newcomers were protected by powerful patronage bosses and because cooperation on this matter could allow Dorobo clients a degree of leverage in future dealings with local leaders, by voicing demands for reciprocation in terms of the limited obligations of reciprocity between patrons and clients.

These contested transactions reveal one of the deep contradictions that I have encountered in interviews and informal conversation with people at Enoosupukia. When discussing land issues, people frequently make broad allegations that “everyone sold land here” and that “there is no one here who did not sell land,” but there is almost no one who will directly admit to having sold land. While in many cases these statements are accusations against older men by younger relatives and sons who were dispossessed of their birthright through selfish sales, it may also be a way for people who did sell land to acknowledge this fact while avoiding the shame of admitting what is now widely regarded as a mistake made out of ignorance or greed. Given the problems of dispossession, insecurity, and violence that extralegal land sales facilitated, it is not surprising that few people will admit to having sold land. Further, while people sometimes admit that land was sold at Enoosupukia because sellers were ignorant of its value and of the implications of land sale – that once it is sold, it is gone for good – it is rare that anyone would admit their own ignorance. During my time at Enoosupukia, I have had only one man explicitly admit that he sold land to outsiders in the past. While his explanation of the reasons he and others sold land could be interpreted to allude to personal greed, the motivations for selling land for money were not unreasonable. As he told me: “we wanted development and we wanted what we saw the Kikuyu had at

Maiella. With money one can buy a suit or build a permanent house with iron sheets and timber. [One Dorobo from Enoosupukia] even bought himself a pickup and drove it around! But all that money is gone now."[42] Nevertheless, it is commonly asserted that should people at Enoosupukia acquire their title deeds, very few, if any, will consent to sell their holdings as they have witnessed the negative consequences; better, they argue, to put individually-owned land into productive use as it will continue to produce revenue, whereas selling land results in a one time windfall that can quickly and carelessly be spent.

Narratives explaining away transactions in Enoosupukia's extralegal land market with reference to Kikuyu trickery, Maasai and Dorobo ignorance or greed, and pressure applied by patrons are an important means of contesting claims and making counter-assertions of rights in land. They are made more significant, and potentially successful, by the disjuncture between the unofficial agreements witnessed in person and recorded in writing for posterity, and the official tenure status of the lands apparently transacted. The completion of land registration in Kipise and demands for official adjudication of Enoosupukia bring this disjuncture and its consequences once again to the fore. In some cases, the contested agreements do not stand alone as means for Kikuyu purchasers to assert their claims to rights in land: along with written and verbal agreements between individual buyers and sellers, some newcomers were able to have their names included in the official Kipise adjudication register, granting them the same recognition under the

42 Interview with Olonyukie, Enoosupukia, 20 November, 2008. Galaty (1992) has noted this trend elsewhere in Maasailand as one of the factors driving Group Ranch sub-division and the sale of individualized holdings. Growing class differences, especially between those with education and access to employment and those without, correlate with tendencies to retain or sell land: "It is readily explained that for those without education or employment, the sale of land is the primary route to owning and displaying today's symbols of wealth and 'modernity': cars, improved homes, shop-bought commodities, and food and drink purchased in local bars and hotels" (Galaty 1992:32)

land adjudication process – and eventually the Registered Land Act – as those autochthonous Dorobo and ethno-territorially acceptable Maasai who are also listed in the register.

The disjuncture is more stark where agreements were made regarding land in the Trust Land portion of Enoosupukia, where official adjudication had not begun and no written register exists. The importance of the distinction between registered and unregistered claims is not lost on those whose future ownership of titled land depends on both completion of land adjudication and on negation of competing claims. When I asked one friend from Enoosupukia how the problem of competing and overlapping claims, particularly those involving alleged sales of land, should be resolved, his answer was immediate: those who got their names into the register for Kipise must be recognized, and they should be allowed to live on, rent out, or sell their land as they see fit, as should any other registered landowner. Those who were not registered, whether in Kipise or Enoosupukia, need not be recognized because they had essentially purchased something that does not officially exist.

Legacies of conflict: negotiating embeddedness

Despite frequent calls for Kikuyu resettlement, of which current residents are acutely aware,[43] Enoosupukia has effectively been treated as Maasailand and occupied primarily by Maa-speakers, presumed to be clients of the incumbent Member of Parliament, since the clashes of 1993. In the context of uncertainty and lack of official recognition, claims to rights in land at Enoosupukia, including the rights to occupy, use, and transfer rights to others are continually negotiated, and principles of ethno-territoriality and individual ownership are interwoven. Tension between these ideals

43 I discuss local perceptions and reactions to such demands further in Chapter 6.

manifests in different ways on adjudicated and unadjudicated land, revealing a simultaneously conceptual and spatial disjuncture in tenure in the highlands, marked by the boundary between Kipise Adjudication Section and the remaining Trust land of Enoosupukia. Questions of Kikuyu belonging remain salient. Kikuyu have been effectively excluded from agricultural use of land in the "forest" and from acquiring rights of ownership through new transactions for land inside Kipise since the clashes; however, a key point of friction among the expected beneficiaries of titling, currently acting as freeholders-in-waiting, is whether Maasai and Dorobo "owners" should rent or lease their land to Kikuyu as tenant farmers. This issue came to a head in late 2008, when simmering conflicts between communities neighbouring Enoosupukia flared into violent confrontations, leaving residents of the highlands to debate whether or not to take sides.

At the beginning of September, 2008, just as I had returned to Kenya after several months absence during the widely-publicized post-electoral violence earlier that year, fighting broke out between Kikuyu residents of Maiella and their Maasai neighbours from both Narasha and Suswa, to the south, and Sakutiek and Melili, to the northwest (Macharia Mwangi 2008). Apparently triggered by a drunken brawl over a woman on a market day, the clash rekindled long-standing grievances about ownership of a piece of land at Narasha, adjacent to the Narok-Naivasha boundary and formerly a part of the Italian-owned Maiella Estate.[44] The initial fight was followed by a night-time raid on the

44 The land in question, approximately 4,000 acres, has been the subject of a long-standing dispute between the Ng'ati Farmers Co-Operative – a Kikuyu land-buying society – and Maasai claimants. Members of Ng'ati claim that they purchased the land as part of their deal with the departing colonial owner and have sought to include it as they sub-divided their holdings amongst members. Maasai have countered that the land is not only their ancestral inheritance, but also that they had been granted rights of occupation and use by the colonial proprietor, and further, that Ng'ati had accepted and perpetuated this arrangement. The dispute has been in the courts for several years, with an initial decision in favour of the Maasai occupants. Ng'ati lodged an appeal, but this was dismissed in a ruling handed down in July, 2009. The ruling upheld the Maasai argument and declared them to be owners by adverse possession (Tunoi, Githinji, and Onyango Otieno 2009; Kiplagat 2009). The dynamics of this dispute deserve further study.

town in which several houses were set on fire, a handful of people injured by arrows, and an elderly man burned alive as he slept. Heavy police presence quelled the fighting, but inter-community peace and interaction had been severely disrupted: when I returned to Enoosupukia a few days after the fight, Kikuyu from Maiella were no longer coming up the escarpment to tend their rented farm plots, nor to cut timber or harvest charcoal from the forest; likewise, Dorobo, Maasai, and even the *nusui* living at Kokot, on the boundary between Maiella and Enoosupukia, were afraid to visit Maiella on market days, one of the *nusui* having allegedly been chased back up the hill when he attempted to go to town to purchase sugar. Some of the “Kinare Dorobo” living at Enoosupukia felt similarly insecure, as their alleged Kikuyu ancestry called their right to reside in a Maasai area into question. Violence resumed in late October, this time near the top of the escarpment, along the boundary between Maiella and Enoosupukia, when a pair of young boys herding their family's stock strayed onto Kikuyu farms across the boundary and were chased back by a group of Kikuyu defending their crops. Two older brothers of the herders rushed to their aid but were surprised by Kikuyu youths as they descended from the top of the ridge. In the ensuing fight, one young man was wounded on the arms and legs, and the other nearly decapitated when a machete slashed his throat, killing him. Violence was again ended by police intervention, but not before another revenge attack on a Kikuyu town, slightly north of Maiella (Macharia Mwangi and Ndirangu 2008).

This second episode, hitting close to home for residents of Enoosupukia, occurred just one day after local residents of Mpeuti, the highland neighbourhood at the boundary between Kipise and Enoosupukia, held a meeting to debate their continued relationship with farmers from Maiella. Amidst rising tensions after the first fight, a number of Maasai resident landowners had begun to agitate for a local ban on Kikuyu

cultivation at Mpeuti, and asked others to join them in reneging lease and rental agreements, from which a few resident and absentee Maa-speaking freeholders-in-waiting have been profiting over the past several years.[45] In a nearly three-hour open meeting, followed by a shorter session in which only registered landholders were allowed to participate, successive speakers debated the justifications for excluding Kikuyu from the area in solidarity with other Maasai. In the end, it was decided that each individual landowner should make his own decision about whether or not to host outsiders and on what terms that was to be done; further, respected local leaders, including a former administration chief, affirmed the right of all Kenyans to use public roads free from harassment or intimidation by local residents, echoing the sentiments of a few speakers who insisted that peace should prevail and all residents, regardless of ethnicity, were welcome to remain.

The pre-conflict status quo was slow to recover, however, as this public pronouncement provided only partial confidence among non-residents that they would be afforded safe passage and be allowed to work their rented farms unmolested. In discussions with a few men during the evening after the meeting had concluded, the decision was lauded as preserving the rights of individual landholders. In addition, the few men whose agitation had resulted in the meeting being held were ascribed – in their absence – ulterior motives: having rented out land to Kikuyu and seen their tenants' crops grow, these landlords were accused of trying to seize the unrest as an opportunity to eat both the rent money and the crops. While these allegations that the agitators were motivated by personal greed may be true, they do not negate the fact that the rights of

45 In 2003, I was told by non-resident Maasai that the land in question was a site of renewed Kikuyu encroachment, facilitated by the 2002 election of President Mwai Kibaki, a Kikuyu (see Matter 2004:81-83). In retrospect, this appears to have been an assertion by non-local Maasai of their own rights in land, and a challenge to the rights of resident Maa-speakers to freely transfer rights of use.

individual freeholders-in-waiting remain socially and politically embedded and subject to challenges. In this instance, principles of individual choice and national belonging – that is, the permeability of the ethnicized district boundary – were privileged and reaffirmed; however, while they were defeated, counter-claims that land at Enoosupukia is not "yours" or "mine" alone, but "ours," or at least "not theirs," remain salient and can be legitimately asserted in the ongoing cultural politics of property.

Across the Kipise-Enoosupukia boundary, on the Trust land whose declaration as a conservation forest ignited the clashes of 1993, the dynamic politics of belonging similarly incorporate ethno-territoriality, patronage, and (individual) ownership, pitting several groups of resource users – including Dorobo and Maasai resident farmers, herders who use the area as a dry season grazing refuge, and timber and charcoal producers who exploit it as an open-access commons – as well as both the Narok County Council and the central government against one another. The next chapter traces the colonial roots, and post-colonial routes, of Enoosupukia's transformation from a frontier for land acquisition and agricultural colonization to a protected forest, and examines the seemingly perpetual conflicts about who can use this "forest" in what ways.

Chapter 5

Appropriating and interpreting conservation: political forestry and forest politics

On many mornings at Enoosupukia, the first sound to reach my ears – more distant than the rooster's crow and the donkey's bray – was the high-pitched, petrol-driven whine of chainsaws, known locally as “scooters.” This sound signified the presence of teams of young men, most of them residents of neighbouring Maiella, felling trees and processing timber. During my stays in the area in 2007, such timber teams were occasional visitors to Mpeuti, where they harvested timber with the permission of local residents who claimed freehold ownership of the land and trees. More often, the sounds of the saws emanated from the valleys of the Trust land, beginning well before dawn under cover of darkness. By mid-day, donkeys laden with planks were being led eastward over the high ridges, towards Maiella, where their cargo was sold into commodity-chains that may reach as far as the growing centres housing flower-farm workers around Lake Naivasha.[1] The semi-clandestine nature of these operations was necessary because the Trust Land had been officially declared a conservation forest in 1993, a triggering event in the infamous clashes that wracked the area and led to the

1 My plan to investigate these commodity chains in 2008 was thwarted by tensions between Maiella and the neighbouring Maasai communities after a spate of violent confrontations between September and November 2008. Under threat of physical violence, Kikuyu powersaw teams were no longer entering Enoosupukia to extract timber.

displacement of thousands of Kikuyu residents. Continued extraction of timber and charcoal, and thus degradation of the 'forest' has been a source of contention: for government and non-local activists it serves as justification for intensified policing and protection, for area residents it is used to support their calls for repatriation and resettlement. The latter was made especially clear by a friend late one morning: as we sat on a grassy slope watching his young grandson and the family's flock of sheep, he commented on the sound of the saws. The Kikuyu, he told me, were enemies of the forest (*ilmang'ati lentim*) and they would continue until all the trees had been cut down. But the real problem, he explained, was that the land across the valley had no owners (*meeta olopeny*) to look after it.

Forests are well understood as key sites of governmental intervention, and scholars have produced a wealth of writing on the dynamics of “political forestry” in colonial and postcolonial contexts, as well as in their connections to global processes (Peluso and Vandergeest 2001; Vandergeest and Peluso 2006a, 2006b; Li 2007; Tsing 2005; Agrawal 2005; Scott 1998).[2] Informed by Foucault's notion of “governmentality” (Foucault 1991), these authors have shown how “political forests” (Peluso and Vandergeest 2001) have been central to the processes by which states have attempted to assert their discursive and actual hegemony by ideologically and legally redefining the natural world and the social practices through which it was previously constructed. For example, Peluso and Vandergeest's examination of the emergence of forest administration in colonial Southeast Asia has shown that “colonial forestry played a key role in state cultural projects of legitimation as well as in the development of new forms

2 Forests have not been the only sites of conservationist governmental intervention. Recent work has shown how “environmentality” has characterized the formation of a range of conservation initiatives, from game parks and wildlife areas (Neumann 1998; Brockington 2002), to marine protected areas (Walley 2004).

of state power" (2001:763). New institutions and practices, including forest preservation and management laws and organizations, ideas about "Customary Rights,"[3] served to establish territorial sovereignty on the part of colonial states, as well as new ways of imagining landscapes and the relationships between people and trees.

Forests are political, rather than merely ecological, entities in that they are constructed through ideological and political processes to serve particular interests. Highlighting this distinction, political forests need not be coterminous with forested landscapes. Indeed, in the cases analyzed by Peluso and Vandergeest, "'forest land' became that land that was either demarcated by the state for permanent reservation or that land that was claimed by the state. Not all forest cover was included in the area allocated for state forestry, nor was all state forest land actually forested" (Peluso and Vandergeest 2001:801). In colonial Southeast Asia, the region with which Peluso and Vandergeest are concerned, forestry played a critical role in establishing colonial governance and encompassing territory under colonial rule, providing both mechanisms and justifications for intervention into the lives of colonized populations and the environments in which they made their livelihoods.[4] In the postcolonial era, forestry has remained an important domain through which states, and more recently global organizations, have sought to make local spaces legible and encompass them into structures of governance (Vandergeest and Peluso 2006a, 2006b). Further, political forestry has not gone on uncontested. The demarcation and conservation of forests has

3 Peluso and Vandergeest capitalize "Customary Rights" to identify it as a social construction and to distinguish it from the larger body of customary practices from which it was codified (Peluso and Vandergeest 2001:762).

4 While similar processes undoubtedly were at play in colonial Kenya, and have continued to some extent in the postcolonial context, a full examination of the political forestry in Kenya is well beyond the scope of this thesis. Thus far, a recent doctoral thesis (A. Otieno 2008) comes closest to providing such an account; however, Otieno focuses more closely on a detailed history of the local dynamics of forest policy and practice in four sites in Western Kenya than on examining the multi-sited cultural politics of governance.

often marked by confrontations between local residents and resource users and authorities at national and global levels. Forest politics, however, cannot simply be characterized by relations of domination and resistance. Rather, forests and forest politics are sites of friction, through which rule is contested, discourses appropriated and reshaped, and knowledge reconstructed and circulated (Tsing 2005; Li 2007).

Enoosupukia is a political forest in that it has been officially constructed through rules and discourses of political forestry, but it has not yet been completely "environmentalized." It has neither become a "governmentalized locality," nor a site around which a new "regulatory community" has been successfully forged; likewise, the vast majority of local residents have not become "environmental subjects" whose thoughts and actions in relation to the political forest have been significantly shaped by the environmentalist discourse (Agrawal 2005:6-7). In part this is because Enoosupukia has remained peripheral to political forestry in Kenya; its resources are of primarly local importance as a water catchment area for streams that supply lowland pastoralists with water and fill the reservoir of a recently constructed dam meant to provide piped water to Nairagie Enkare. More importantly, Enoosupukia's marginality to the main thrust of political forestry is a result of the circumstances of its construction: though the declaration of the forest and proposed eviction of farmers in 1993 was justified with a conservationist narrative of protecting the water catchment, it is widely understood that this ecological narrative was a thin mask for underlying political motivations, as described in the previous chapter. In that instance, political forestry was co-opted, and an environmentalist discourse deployed somewhat cynically, to serve the narrow interests of political patronage.[5] Specifically, the official rules and procedures of political forestry

5 This is not to suggest that environmental issues are completely irrelevant here. As I discuss below, securing access to sufficient water is crucial to lowland pastoral livelihoods. However, I argue that the plight of specialized pastoralists was secondary to the political and political-

were appropriated and applied to destabilize the emerging unofficial land tenure situation and negate the claims of “outsiders” who had purchased rights through the extralegal land market. Enoosupukia's official status as a local authority forest has been central to contestation over rights in land since its declaration in 1993, and wrangles over who belongs in the forest and to whom the forest belongs have been intensely political.

This chapter focuses on Enoosupukia as a forest, political and ecological, and the ways in which this status continues to be contested. Contextualizing Enoosupukia in terms of political forestry in Kenya, the chapter begins with a political history of the forest from its early identification as a site in need of protection in the late 1940s to its official declaration in 1993. This is followed by an examination of state-organized evictions in 2005. While these interventions suggest a move towards political forestry and the incorporation of Kenya's forests into a global political-economy of neoliberal conservation (Igoe and Brockington 2007), they have been interpreted by local people as motivated by patronage politics and discrimination, rather than translocal concerns with state sovereignty or ecological protection, which reflects both the history of this particular forest, and the importance of patrimonial connection in negotiating rights in land in this context of persistent insecurity. Finally, through a number of descriptive case studies, I show how local residents and resource users continue to lay claim to and make use of forest land, through both direct occupation and narrative assertions of their rights to do so, despite the persistent threat of further violent intervention by the state. These case studies help to illustrate the relationship between real or perceived power inequalities and the ability to access resources (Ribot 1998; Ribot and Peluso 2003). The importance of connection to patronage networks and the strategies by which people seek to forge alliances in order to gain and maintained rights in land at Enoosupukia, though central to

economic motivations for the assertion of state ownership and conservation in 1993.

both local interpretations of political forestry and the ability to continue to inhabit the forest, will be discussed more fully in the following chapter, as they are of broader significance to the politics of property.

From political forestry to forest politics

In some of the high valleys of Enoosupukia, thick stands of trees line the seasonal and perennial streams that flow down toward the lowlands. Residents of the area, especially the older ones, recall that in the past the entire highland except for a few large glades was covered in dense forest, so dark that the sun was hardly visible from within.[6] These local recollections are corroborated by several documentary sources, including a map produced by the Department of Survey, dated 1975 (Survey of Kenya, Series Y731, Sheet 133/3), a hand-drawn map of vegetation types across Narok District produced on behalf of the Government of Kenya for the Kenya Range Management project (Trump 1972), and an earlier report on the forest areas of the Maasai reserve (Betts 1952).

The remnant stands of today were, at least as recently as the 1950s, part of a larger forested area identified in colonial reports as the Melili Forest, which was:

> ... confined to the crest of the Rift Valley watershed due west of Lake Naivasha and south-west of the Eburu Forest Reserve. Its approximate length is twenty-five miles [40 km] along the ridge and width five miles [8 km] from east to west [a total area of 125 sq mi, or approximately 323 sq km (32,375 hectares)]. ... The greater area of the forest lies on the east slopes, the width of the belt on the west of the watershed being nowhere more than one mile. On the east it is bounded by the Naivasha Farms and the Eburu Forest Reserve with which it is continuous. On the west it terminates in a sharply defined line along the edge of the treeless Melili downs. (Betts 1952:4)

6 This was often described as "*entim narok, nemeliyio enkolong*" (a dark/black forest, in which the sun could not be seen).

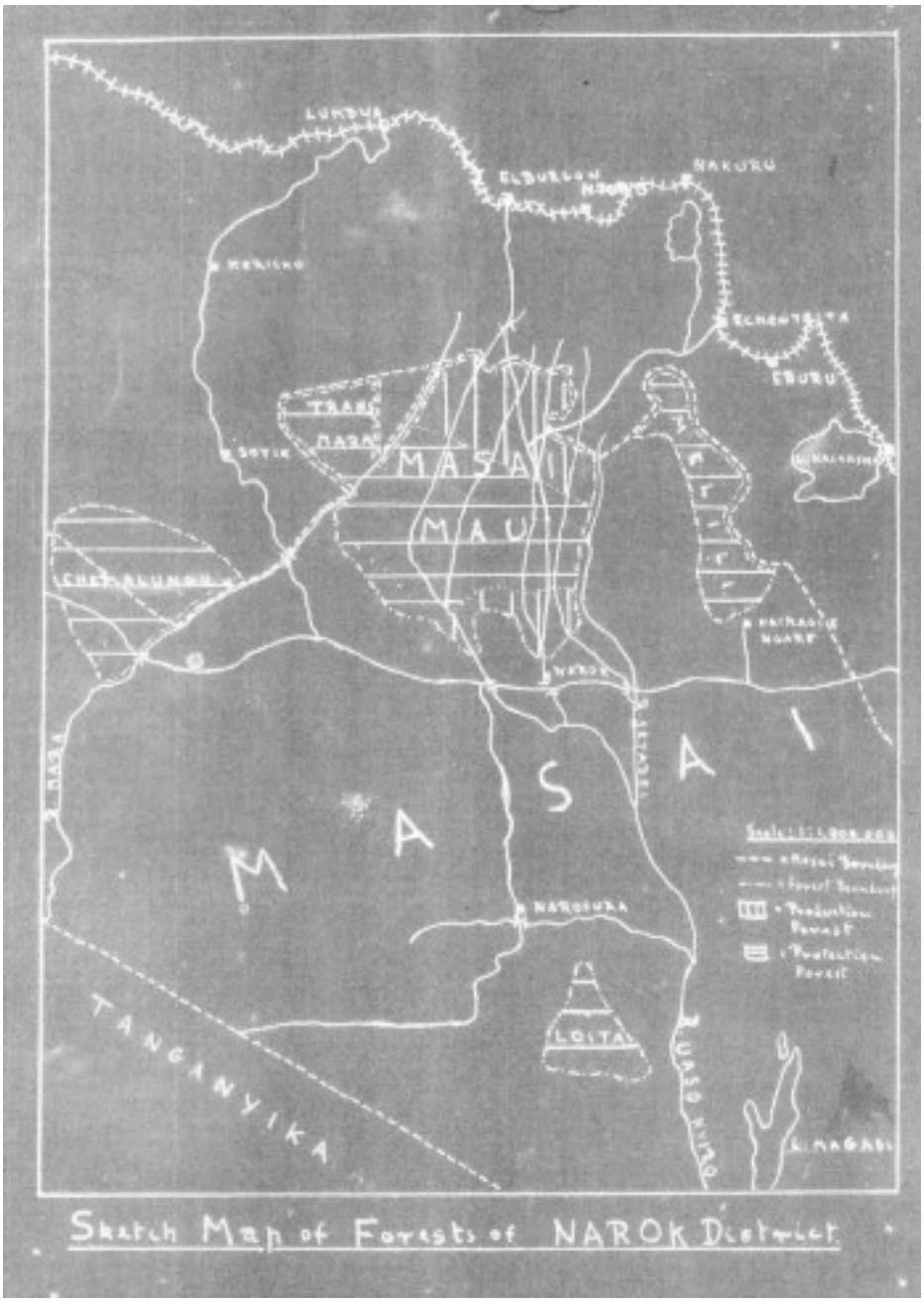

Figure 5.1: Sketch Map of Narok Forests, from Betts, 1952

Betts further speculates that the Melili forest was once continuous with the much larger Maasai Mau, to the west, and that the forested area of the Melili ridge would once have extended further south, beyond Nairagie Enkare, but had been reduced through clearing for cultivation (Betts 1952:7). At the time of Betts' report, while the Melili forest was not

easily accessed by road, it was transected by a number of foot tracks connecting growing centres such as Nairagie Enkare and Sakutiek. However, “off these paths the forest [was] quite impenetrable on account of the dense undergrowth of the most virulent nettles” (Betts 1952:5). Much of the forest has been removed since Betts' time, transformed into productive smallholder farms but also introducing a range of negative ecological consequeneces from small landslides to reduced water levels and the near-disappearance of formerly common wildlife species. Where forest stands remain, so do the stinging nettles, known as *entamejoi*, which, along with *imuyioo* (biting ants), can be frustratingly painful to unwary visitors.

Colonial forestry

Enoosupukia and the rest of the Melili forest, along with a few other forested areas of Narok District were, as late as 1962, among the only forests in the entire country not yet officially reserved for protection (Logie and Dyson 1962:7).[7] Political forestry, under the auspices of colonial management, began in Kenya in 1891 with the first forest legislation, designed to protect coastal mangroves, and proceeded to move inland with the railway into the twentieth century. The arrival of the first Conservator of Forests, in 1902, was accompanied by the establishment of the “East Africa Forestry Regulations” in the same year, which provided mechanisms for the identification, regulation, and policing of areas declared to be forests (Logie and Dyson 1962:6). Initially, “reservation was principally of forest areas which were potentially productive, but

7 Logie and Dyson note that “with the exception of some 500 square miles in the conservative Masai District of Narok, reservation in Kenya is now virtually complete.” Lest it be presumed that political forestry was easily established elsewhere, they tellingly add that “it is interesting to note that the early Conservators of Forests envisaged reservation being complete within a few years but that, in fact, the work of reservation and survey has continued intermittently throughout the life of the Department” (Logie and Dyson 1962:7). Interruptions in the process were not only due to local resistance, but also global affairs, including the two World Wars of the early twentieth century.

after the Second World War a Forest Boundary Commission was set up to examine all forest boundaries and to recommend areas for excision and addition to the forest estate" (Logie and Dyson 1962:7), indicating early connections between forestry and efforts to make Kenya a self-sufficient colony, as well as the subsequent emergence of conservation as a governmental "problem" (Escobar 1995)[8]. It was in the context of this emergence of broader concerns over environmental protection by the end of the Second World War (Anderson 1987:257; Logie and Dyson 1962), and exercises such as the work of the Forest Boundary Commission, that the state's gaze came to rest on the Narok forests, as exemplified in the report by Betts.

According to Betts' 1952 report, Narok District contained an estimated 1038 square miles (2688 sq km) of forested land – approximately 14.5% of the district's total area of 18513 square km (Trump 1972). Most of this forest land, approximately 700 square miles (1813 sq km), was unreserved at the time. Three areas, accounting for a total of 138 square miles (357 sq km) of forest, had been gazetted as Native Reserve Forests in 1941, the largest of which, the Trans Mara forest reserve, alone accounted for 136 square miles (352 sq km) (Betts 1952:6) Despite this apparent wealth of forested land, forests received minimal attention in the Narok District annual reports until the late 1940s. In the earliest reports, forests were accorded a line or two, generally to reiterate that the district contained no official forest reserves and that, as a rule, the Maasai did not damage what forest existed. By 1925, apparent attempts at regulating the use of forest resources, and particularly formerly-forested lands, began to increase as

8 In a brief but important piece, David Anderson has examined the political dynamics of forestry in the Lembus forest. Initially granted as a concession to "a group of businessmen with Canadian and South African connections" (Anderson 1987:252), Lembus evolved from a site of commercial exploitation, to one of governmental conservation, and ultimately to one controlled by local government, whose claims of ownership were a product of earlier governmental intervention in the determination of "native rights" (Anderson 1987:258).

evidenced by a note about a new Native Authority Ordinance “prohibiting the Kikuyu and other cultivators at Nairagi Engare from further encroachment on the forest” (Narok District Annual Report 1925:12). This ordinance, however, was likely aimed more at controlling the number of Kikuyu 'aliens' taking up residence in the fertile areas of Narok than at preserving the forest for either conservation or regulated exploitation. Even as colonial governmental regulation of residence and resource use increased through the 1930s and 1940s, interventions in the forested areas of Narok were most often justified in terms of agricultural extension, through farming improvement and anti-soil erosion campaigns, and can be better interpreted as part of ethno-territorial rather than forest politics (Waller 1993; and see Chapters 2 and 4).

By the late 1940s, in conjunction with a growing interest in identifying, legally-inscribing, and managing forests in Kenya more generally, Narok's forested lands began to be subjected to greater scrutiny on the part of the Forest Department. Betts recounts the deputation of the Divisional Forest Officer from Londiani to visit the Maasai forests in 1947, which led to inspections of the Mau forest block in February 1948 and the Loita block in July 1948. Subsequent to these inspection tours, reports recommended that:

> ... the major portion of the Mau and Melili forests should be gazetted as Native Forest Reserve Areas and that they should be administered as a Division with Headquarters and a Divisional Forest Officer at Narok, and Forest Stations under Foresters at Narok, Chapaldarakwa, and possibly Loita. The reservation of the last-named block [Loita] was not so urgent as the Mau but well worth doing. (Betts 1952:13)

When put before the Masai Native Council in 1948, these proposals were rejected outright and they became the centre of nearly three years of negotiation between the colonial government and the Masai Council. The Maasai – according to Betts' report, which was based on meeting minutes and correspondence between administrators – appreciated the governmental justifications for forest preservation, including protection

from fire and other causes of damage, but “they refused to consider allowing the Forest Department to come into Masai and take over charge of the forest area, and were particularly opposed to an European Officer being posted to live on the Mau to carry on this work” (Betts 1952:13).[9] Maasai reticence to surrender their forests to European colonial control eventually resulted in compromises: a European forester would be appointed, but posted to Narok town and required to work under the supervision of the District Commissioner and the Local Native Council rather than the Forest Department. Further, the Council extracted promises from the colonial government to train Maasai in forestry work so that they could carry out management themselves.[10]

In mapping out the future of the Narok forests, Betts envisioned the full implementation of the Forest Boundary Commission's recommendations, which amounted to a cautious but continuous campaign to push the Maasai to accept official forest demarcation and surrender management of the conservation areas to the Forest Department (Betts 1952:14). Implementation plans included the eviction of cultivators from from “unsuitable areas,” which meant beginning “before the [1952] Short Rains planting season to remove all interior settlements to selected areas outside the forest and to demarcate the forest boundaries along the borders of marginal settlements” (Betts

9 This resistance was undoubtedly connected to serious Maasai concerns about further alienation of the lands guaranteed to them in the Anglo-Masai Agreements and can be understood as an assertion of Maasai autonomy and desire to self-govern. In that sense, colonial forest politics between Maasai and the colonial government can be seen as a continuation of Maasai resistance to colonial rule described by Hughes (2006).

10 With the increased interest in forest preservation came efforts to open forests to regulated exploitation. The opening of Maasai forests, like the opening of the Maasai District as a whole, was controversial even within the colonial administration. The Narok DC saw timber production and export as an avenue through which to induce economic and social transformation among the Maasai, but also worried about the risk of non-Maasai encroachment into the Reserve, both as concessionaires and as labourers. A brief experiment with regulated exploitation, beginning in 1949, soon spiralled out of hand: not only were Maasai concessionaires importing Kikuyu and Kisii labour to do work they themselves refused, but also a number of Maasai and Kikuyu were operating without permits, sometimes cutting restricted (and highly valued) species, and, worse, refusing to pay royalties (Betts 1952:18)

1952:25). Among the three priority areas listed for this endeavour was the area “north of Nairagie Ngare,” which had been subject to disputed occupation throughout the previous decades, albeit in terms of struggles over belonging and connected to colonial debates around the obligation to protect the Maasai from alien influence, rather than the protection of their forests from destruction (Waller 1993). Through the 1950s, the Melili forest also became a key point in the colonial struggle against Mau Mau, bands of which had taken up residence there;[11] for primarily counter-insurgency purposes, residents of Enoosupukia, including Dorobo, were moved out of the forest in the mid-1950s and relocated to Sakutiek, Nairagie Enkare, and the European-owned farms in Naivasha where some gained employment as farm labourers. Apart from these temporary clearances, which were reversed at the end of the Emergency, when Dorobo and some Purko Maasai reoccupied the highlands and established a local ceremonial manyatta for the graduation of the *olnyangusi* age set,[12] Enoosupukia seems to have taken a secondary position in the politics around Maasai forests during the transition to independence, as the western Narok forests of the Maasai Mau, including the headwaters of the Mara and Ewuaso Ngiro rivers, remained they key site of contention.

Postcolonial land use and development planning

The forests of Narok District came under renewed governmental scrutiny in the early 1970s as part of a larger program of land use and development planning leading to the first Narok District Development plan, in 1972, which the government of Kenya would use as the basis for an application to the World Bank for funding. In developing zoning

11 The problem of “alien” encroachment into Narok is the subject of numerous files full of correspondence, located in the Kenya National Archive. A thorough discussion has been presented by Waller (1993).

12 Enoosupukia residents reported that this was *emanyatta olorikan*, the final ceremony uniting the left and right hand warrior age groups under the new, collective name “olnyangusi” and closing their warriorship, held in 1959. For a thorough discussion of the Maasai age set system, see Spencer (Spencer 1993, 2003).

and management recommendations, a vegetation and land use survey prepared for the FAO on behalf of the government of Kenya (Trump 1972) with a broader focus than Betts' forestry-centric report, identified forest conservation as a critical and complicated issue.[13] Remarking on the state of forests in the district and highlighting the the difficult development predicaments they posed, the report explains that:

> ... the forest areas have been much reduced by the traditional grass burning habits of the Masai. The remaining forest represents a valuable asset but only a small proportion is gazetted forest reserve. Most of the surviving forest is not protected in any way and is rapidly being destroyed, particularly by cultivators in the eastern Mau. There can be no doubt as to the necessity for retention of vital catchment protection forest in the Mau Range and the Loita Hills.
>
> The necessity for removal of much of the forest to provide high potential arable land must also be accepted.
>
> There is a most urgent need to review the catchment protection policy in this district and to ensure that adequate forest areas are preserved in time. This does not necessarily mean solely catchment protection but the maintenance of forests on a multiple land use basis. Producing a sustained output of water, timber, grazing and wildlife a well-managed forest will tend to be regarded as a valuable economic asset and its preservation will be acceptable to the people.
>
> The Narok forested and ex-forested areas contain the only undeveloped arable lands remaining in Kenya (apart from areas in other districts where irrigation will be required). In the Narok hills the range of crops will be restricted by low temperatures at the higher altitudes but this factor will not be limiting in the Trans-Mara.
>
> Increasing cultivation of the forest lands will effectively remove much of the high potential grazing lands which are the traditional Masai dry season pastures. (Trump 1972:4)

These considerations led to the proposal of nine Development Zones for the District, each with distinct land use recommendations meant to facilitate the emergence of a diverse economic base (see map below). Forest protection, notably by extension of the existing forest reserves, was deemed an “obvious need” in both the Mau (zone G) and Loita (zone E) Forest areas (Trump 1972:15). The larger proportion of the Melili

13 The Trump report does not list Betts' report in its list of “sources of information on Narok District” and it is unclear to what degree there is continuity between the two.

Forest described by Betts (above), however, was designated for mixed farming (zone H), as was the drier, lower potential intermediate land between the forests and the central plains (zone I), which were considered suitable for a rotation of grain and ley (fallow). Enoosupukia and the rest of the area north of Nairagie Enkare, slated for evictions and conservation in Betts' projection, is included in this mixed agriculture area. [14]

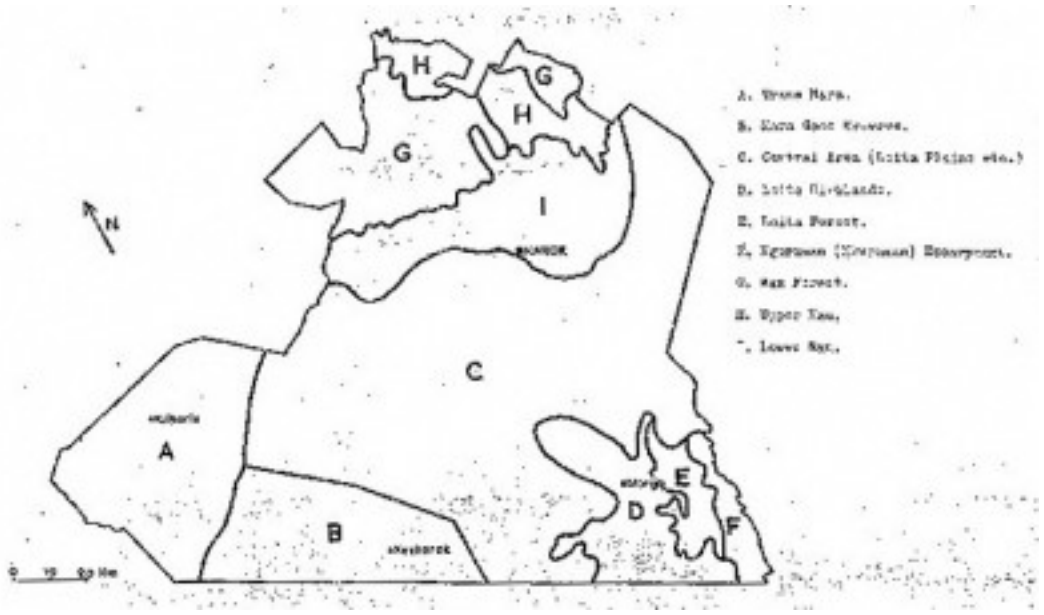

Figure 5.2: Map of Proposed Land Use Zoning, Trump 1972

Declaring Enoosupukia a conservation forest

After the 1972 Development Plan, Enoosupukia and much of the surrounding area were further subjected to governmental reconstruction, but under the rubric of land adjudication rather than forest conservation. As described in the previous two chapters,

14 The timing of this report correlates with the period of intensified claim-staking in the fertile highlands described in the previous chapter, though it is not clear whether this proposed Narok District Development Plan became official policy, or whether official policy included encouragement of agricultural colonization. The map included in the Trump report differs slightly from one reproduced in Doherty (1987:72), which she cites as coming directly from the 1972 District Development Plan. The latter map includes a larger portion of the Melili Forest, covering more of Enoosupukia, in the Mau Forest conservation zone. It is also not clear, beyond the political resistance documented by Betts, to what extent local stakeholders played a role in, or were even aware of, these early incursions of political forestry into the area.

while the whole of Enoosupukia was unofficially divided into individual holdings, only one portion of the land, Kepise Adjudication Section, was subjected to official land adjudication and registration. The remainder, the northern and western highland sections of the location, remained officially held in Trust by the Narok County Council on behalf of residents under the Trust Lands Act. The lack of official land registration for this Trust land area did not, however, prevent tenure transformation and the emergence of an extralegal land market, through which many non-locals, both Kikuyu and Maasai, purchased or otherwise acquired rights in land. The resulting transformation of the landscape from forest to farms and the consequent reduction of water and dry season grazing available to non-resident pastoralists brought forest preservation back into connection with the politics of land and belonging.

Notwithstanding official plans to extend land adjudication and registration to the remaining Trust land, and tacit approval of, if not participation in, the extralegal land market by members of the Maasai elite and officials in Narok District, moves were made beginning in early 1993 to evict highland residents by reclassifying the area as a forest. Despite obvious political motivations for this change of official status – the Kikuyu enclave had become a political liability for the Narok Maasai elite, and Maasai clients demanded more access and fuller control over fertile lands in the District – the move was effected with reference to official instruments of political forestry and according to an environmentalist narrative of forest and water catchment preservation. Correspondence between officials around the declaration of Enoosupukia as a protected forest remained remarkably on-message and reflect a clear awareness of the legal status of land in the area and the official means of establishing a political forest, barely betraying the underlying political motives. The paper trail leading to this political forest lends a veneer

of legitimacy to a highly contested change in legal status.[15]

The first letter in this chain of correspondence was written by area MP, William Ntimama, and addressed to his counterpart Minister for Environment and Natural Resources, John Sambu, under whose domain the declaration and gazettement of official forests fell according to the Forests Act (Cap 385) in place at the time. In the letter, Ntimama refers to a previous conversation, and reminds Sambu of the gravity of the situation:

> You would recall that I talked to you about Enoosupukia Forest which is in Narok District in the Keekonyokie area. This has been a natural forest but has been invaded by people from Naivasha – Maela area within Nakuru District.
>
> This infiltration has since created a big disaster. The forest has been cut down, the booming charcoal burning business has been going on and the rivers and streams leading to the lower areas of Suswa and Endakarlal have dried up and the people and their livestock in this lower area will have no water in the next few months, which will mean totally evacuating the people. A dam at Lelong'o which has been constructed using millions of Government funds is silting and there is a danger of that dam disappearing in the next few years.
>
> I enclose some copy of the minutes of elders and leaders from Enoosupukia Location who have sat down and resolved to request the Government to save the forest of Enoosupukia by planting trees and any other relevant environmental activities. By saving Enoosupukia forest, they would be saving lives of the people and their livestock in the lower areas.
>
> I will now be very grateful if you could appoint a high powered technical team from your Ministry to go and investigate and report on what could be done to save Enoosupukia Forest.[16]

15 I am grateful to a former Narok County Council Forest Warden for copies of these letters and minutes.

16 Letter from William Ntimama, Minister for Local Government, to John Sambu, Minister for Environment and Natural Resources, 5 March 1993. Copy in author's possession. Here, Ntimama's claims echo colonial-era discourse around resource management, territorial control, and the politics of exclusion or inclusion of non-Maasai in the Masai Reserve (Waller 1993), while denying the historical relationship between Dorobo, Maasai, Kikuyu and land at Enoosupukia, and the role of the elite in facilitating those connections. As mentoned in the previous chapter, Ntimama is alleged to have been a key player in Kikuyu immigration to Narok District during his tenure as Narok County Council chairman in the late 1970s, precisely the period during which many of the Kikuyu who “invaded” Enoosupukia established themselves there.

In response to Ntimama's letter, Sambu delegated a team of experts who found "that the area is of great conservation value that requires protection, [because] the area is a source of a number of rivers" and, through his Ministry's Permanent Secretary, requested that the Commissioner of Lands liaise with the Narok County Council "with a view to setting the area apart for gazettement as a forest".[17] The Commissioner of Lands, citing the chain of communications, in turn requested the Clerk of the Narok County Council "to arrange the setting apart of this area for Gazettment as a forest" and to "treat it urgently."[18] The Narok County Council acted on this advice, apparently after a reminder from Ntimama[19] as reflected in the following minute:

> The Council was informed of the mass destruction of Enoosupukia Indigenous Forest which is a water catchment area for the lower areas of Suswa plains.
>
> The Council also learned of a lot of suffering of people and their livestock at Suswa and the surrounding areas because the rivers and streams are drying up as a result of the destruction of Enoosupukia Forest.
>
> The Council deliberated on this matter at length and noted that it is the duty of the Council to protect forest and water catchment areas in the district. ...
>
> and it was resolved:
>
> "That the Enoosupukia Indiginous (sic) Forest which is a water catchment area for Suswa plains is a Council Forest and the Council starts protecting it from destruction immediately"[20]

While Ntimama's first letter cites and includes minutes from meetings of Enoosupukia residents calling for the protection of the forest, this was likely not a grassroots movement, nor did it directly involve a significant number of residents of the highland zone in question; rather, the "elders and leaders of Enoosupukia Location"

17 Letter from J.T.N. Sabari, Permanent Secretary, Ministry of Environment and Natural Resources, to Commissioner of Lands, 27 July 1993. Copy in author's possession.
18 Letter from Commissioner of Lands to Clerk, Narok County Council, 23 August 1993. Copy in author's possession.
19 Letter from William Ntimama to Clerk, Narok County Council, 16 Sept 1993. Copy in author's possession.
20 Narok County Council Minute 18/93, Enoosupukia Water Catchment Area. Copy in author's possession.

appear to be drawn almost exclusively from the lowland Keekonyokie area, as well as from the ranks of the ruling party. One set of these minutes, dated February 14, 1993, lists 48 men as "the elders who constitute the residents of Enoosupukia Location,"[21] all of whom were identified by research assistants as Keekonyokie Maasai with land and primary homes in the lowlands. The minutes, like the chain of letters between officials cited above, articulate the dire consequences of deforestation for these lowland residents, and "request the Government and the County Council in particular to take back the area and hold it in trust as a forest to protect these only sources of water for the Keekonyoki (sic) people of Enoosupukia Location."[22] The minutes make further reference to an earlier meeting held in September 1991, in which it was resolved to call for the conversion of the "upper part of Enoosupukia Location" into a forest. The minutes for this earlier meeting, also attached to Ntimama's letter to Sambu, list a group of 27 men and outline the case for forest conservation in much the same way as the minutes of the 1993 meeting, though in less elegant prose. The earlier minutes, however, explicitly note that the area in question is "still under Narok county council" and call for the nullification of ongoing unofficial demarcation of the area. In this second set of minutes, the composition of the group of Enoosupukia elders is clear: with the exception of the area Chief, all are identified as either members of the local KANU committee, including the location's KANU Chairman and several sub-location chairmen. Further, all but two of those listed in the minutes of the 1991 meeting were identified as Keekonyokie Maasai from the lowlands; the two non-Keekonyokie were both Dorobo: the then-Chief

21 Minutes, "An Elders Meeting Held at _____ [illegible] Primary School on 14th February 1993," appended to Ntimama letter 5 March 1993 (see note 16, above). Copy in author's possession.

22 Minutes, "An Elders Meeting Held at _____ [illegible] Primary School on 14th February 1993"

who resided near Ilkirragarien, and a well-known resident of highland Enoosupukia.[23]

Despite the environmentalist narrative, describing the serious social and economic consequences of environmental degradation, recounted in the meeting minutes and the letters between officials, the declaration of Enoosupukia as a forest must be understood as a convergence of political factors. It is no coincidence that those listed in the minutes of the 1991 meeting are all identified as KANU members, as the ethno-territorial reaction to the movement for multiparty democracy was in full-swing at the time, with local MP Ntimama as one of its most vocal leaders (Klopp 2001, 2001). With official land adjudication in progress in Kipise and proposed for Enoosupukia, the growing Kikuyu enclave posed a very real threat to Maasai politicians at both the local and parliamentary levels. For Maa-speaking local resource users, and especially lowland pastoralists, increased agricultural and domestic upstream water consumption, along with the deleterious effects of deforestation, threatened the availability of water from streams that flowed down from Enoosupukia. Further, Kikuyu presence constrained lowland pastoralsts' seasonal access to resources, in particular highland grazing, and potential Kikuyu ownership threatened to end the ability of non-local Maasai to exploit the area.[24] Official procedures designed with political forestry in mind, whereby land and resources could be brought under the control of governmental authorities, provided a means for resolving these political and political-economic tensions, allowing not only the legal displacement of current inhabitants but also freeing the land in question for reallocation to clients in reconfigured patronage networks.

23 It is not clear why no Purko were listed among the meeting participants, as they would likely have been present at any political meeting of the time.

24 I discuss this point further below.

While the potential benefits to patrons and clients alike in effecting the eviction of Kikuyu from Enoosupukia is clear, these political motivations do not completely invalidate the claims of environmental crisis against which remedial actions were proposed. In the letter sent on Sambu's behalf by his Permanent Secretary, to the Commissioner of Lands, Enoosupukia is identified as the source of “a number of rivers” specifically “Nosupukia, Kapise, Nasampolai and Lelongo.”[25] While the flow of all four streams is likely affected by the state of forest cover in the contested highland area, only the “Nosupukia/Lelongo” – which are in fact names for the higher and lower portions of the same stream– arises within the Trust land area of Enoosupukia Location. The stream identified as “Nasampolai” [Enesampolai] originates further north, beyond Sakutiek, and forms the western boundary of Enoosupukia Location, while “Kapise” [Kipise] emerges from the conjunction of two tributaries, both arising within the boundaries of Kipise Adjudication Section. Each of these streams is primarily of local importance, and none connects to any larger system; rather, all of these are absorbed either into the ground during dry seasons or into seasonal swamps during the rains, Enesampolai flowing out onto flat lands north of Nairagie Enkare (which, not coincidentally, means “a place of lying water”), while the others, along with Ololabwak, unmentioned in the correspondence, flow out into a seasonal wetland on the Suswa plains of the Rift Valley floor (see map below).

The outflow of the Lelongo stream was an early site of colonial intervention, and as early as 1915 a small dam was constructed to hold seasonal accumulations of water at a point known as Weikei, and further efforts were made to drain swamps above the

25 Letter from J.T.N. Sabari, Permanent Secretary, Ministry of Environment and Natural Resources, to Commissioner of Lands, 27 July 1993. Copy in author's possession.

dam to improve collection on the plains (Sandford 1919:105, 107).[26] A subsequent dam at Lelongo, was a site of conflict between Purko and Keekonyokie in 1929, when the District Commissioner on a tour of the area "met a party of moran who were going to a Dorobo to get their weapons sharpened preparatory to making a little war" (Narok District Annual Report 1929:17). The DC decided to cut the dam, which he indicated was "poorly constructed," to remove the source of conflict, although it was further reported that this incident was part of a larger effort by Purko to remove Keekonyokie from dry season grazing areas between Ntulele and the escarpment above the Suswa plains. The streams and their seasonal outflows remain important today, especially for the herds of Maasai livestock cited by Ntimama in his letter.

26 Also known as Oikei, from which the northern sub-section of Keekonyokie Maasai take their name (see Chapter 2).

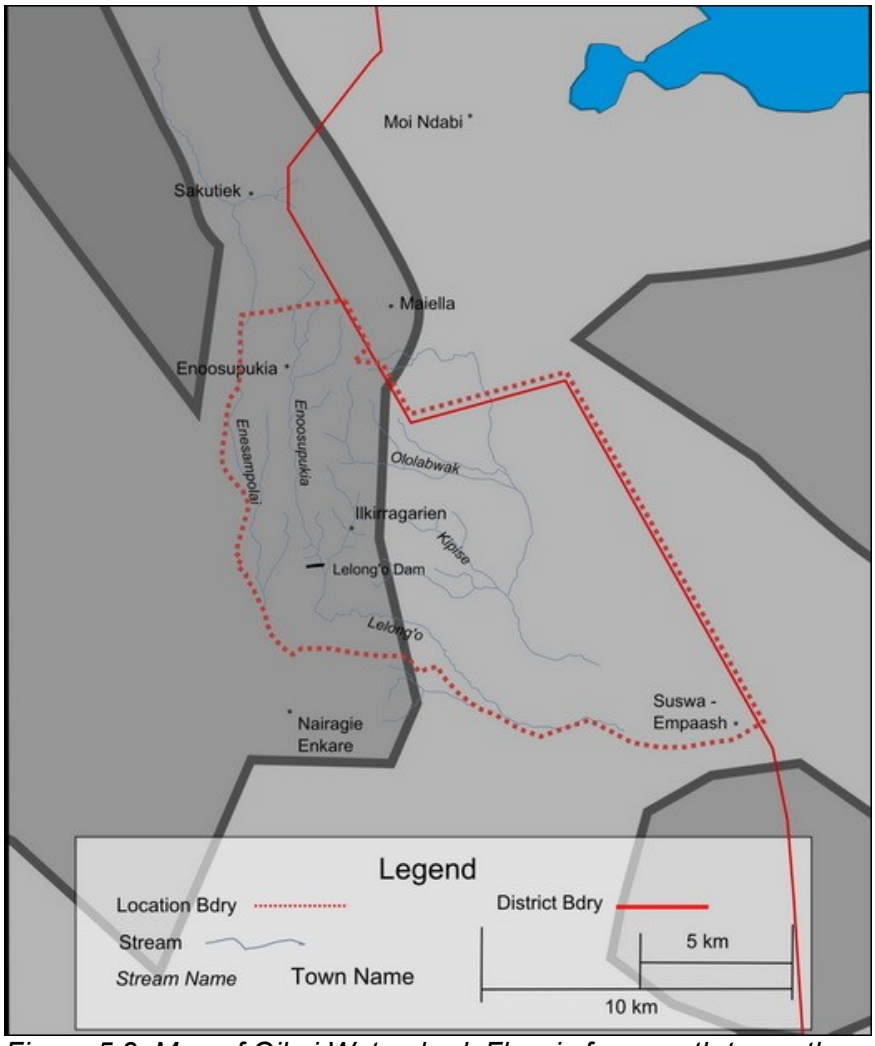

Figure 5.3: Map of Oikei Watershed. Flow is from north to south along deep valleys. Note that many of the smaller tributaries indicated here are seasonal, while the longer streams tend to be perennial.

The declaration of Enoosupukia as a forest water catchment coincided not only with elections and shifting patronage networks, but also with environmental stress due to drought, particularly biting for rangeland livestock keepers who would have historically sought grazing and water in the highlands during such periods. With increasing agricultural use of the highlands, those opportunities had become increasingly limited; as

noted in some of the correspondence quoted above, it was argued that upstream agriculture was causing downstream water shortages, so that even if they remained on their drier, lower altitude lands, pastoralists on the Rift Valley floor below Enoosupukia were struggling to maintain their livelihood. The alleged reduction of water flowing from the highlands was not only a burden for lowland residents trying to make their livelihood from pastoralism and agriculture, but also a hindrance to the functioning of a newly built dam at Lelong'o, mentioned in Ntimama's letter above, which was intended to provided piped water to Nairagie Enkare as well as serving as a point of containment and access in the dry season. It appears, however, that legitimate concerns about both water shortages and the waste of government and donor resources should the dam silt up were not well communicated and were subsumed under a thick layer of ethno-political rhetoric, as much a reinterpretation and skillful redirection of the public transcript by the victims of impending eviction as a revelation of true intentions.

According to a piece in the Weekly Review, published in response to the fallout of the forest declaration in late October 1993, the drought affecting the area was bad enough that “only one dam, the artificial Lelongo dam that was built in 1990 with German technical assistance still has any water in it” (Weekly Review, October 29, 1993:15).[27] People making use of the dam for both domestic consumption and livestock watering were reportedly coming from as far as Ntulele and Suswa, both over twenty kilometres journey. The future of the dam itself was of concern due to the deforestation of its catchment area. The same Weekly Review piece gives a detailed account:

> Mr. Marin Trojanow, the head of the Kenya-German water team of the GTZ technical assistance programme that constructed the shs 7 million dam to help

27 My attempt to verify this drought has been inconclusive. While Bush cites ongoing drought from 1992-1994 in Turkana (1995:250), Campbell cites 1994-1995 as drought years in southeastern Kajiado District (1999).

> harvest the run-off notes that, if nothing is done to protect the catchment, the dam will soon silt up. The dam has a capacity of 80,000 cubic metres (27 million gallons) when full, but its level has now dropped by about two-thirds, partly as a result of the high rate of consumption and partly due to the drought. According to Trojanow, Lelongo was the only place in the whole region suitable for the construction of a dam, first because of the large catchment area, and secondly because of the underlying rock structure. A feasibility study carried out before the dam was built gave no reason for concern about future water supply to the dam, said Trojanow, as the catchment area was then sparsely populated and consisted mainly of grassland, which allowed the rainwater to wash easily down into the valley and fill the dam; when there was no rain, both surface and subsurface springs fed the dam. But the clearing of the forest and grasslands now allows the water to sink into the soil through faults in the underlying rocks that resulted from volcanic activity. (Weekly Review, October 29, 1993:15)

As the writer of the Weekly Review piece opines, “there was never any question at all that urgent action was necessary to save the area from total environmental catastrophe; what is in dispute is the manner of carrying out such restoration. Nearly everyone is agreed that forced eviction could not have been the only option open to the Narok county council” (Weekly Review, October 29, 1993:15).[28]

The enactment of the forest declaration was put into motion amid protests from residents of Enoosupukia who claimed they had legal rights of land ownership in the highland. Even before the official announcement, an open letter to Ntimama penned by Joseph Njoroge Mburu on behalf of the National Democratic and Human Rights Organization – a contentious pro-multiparty vehicle listing such notable opposition leaders as Koigi wa Wamwere and Rev. Timothy Njoya among its officials and trustees – questioned the legitimacy of the plans to evict farmers from the highlands and demanded publication of the 'expert reports' on which the eviction was said to be based.[29] Later, the

28 The urgency of protecting the dam's catchment area may have been exacerbated by the drought conditions. In particularly rainy years, such as 2006-7, the dam overflows through a spillway outlet. The pipes and troughs below the dam have silted up, making them useless. Many people who reside in the vicinity of the dam collect water from a spring beside it, where the course of the Lelongo stream resumes and continues its flow toward the Suswa plains.

29 “Open letter to William Ntimama” from National Democratic and Human Rights Organization (NDEHURIO), 24 August 1993. Copy in author's possession. A few weeks after this letter was sent, on 18 September 1993, Koigi wa Wamwere and Mirugi Kariuki, both officials of NDEHURIO, were arrested after entering a “security operation zone” established in the wake

Enoosupukia Catholic Church, along with the Justice and Peace Commission of the Diocese of Ngong filed for a court injunction to prevent the Government from executing the official eviction of residents from Enoosupukia, arguing that the church had acquired a town plot in 1979, and that Enoosupukia had been an adjudication area "and not a trust land as contrary to the assertions by Mr Ntimama and the DC" (Njuguna 1993).

By the time the injunction had been filed and an urgent hearing date set for November, violent conflict between Maasai and Kikuyu had broken out at Enoosupukia after a series of escalating confrontations in which various parties attempted to physically assert their claims to rights in and ownership of the land in question. Tensions between Kikuyu and Maa-speakers, already polarized due to the politics of the day, were no doubt exacerbated by the drought conditions in the lowlands. When Maasai brought their livestock to Enoosupukia to graze and access water, they were faced with demands for payment; some of those non-local herders, likely encouraged by the forest declaration, are alleged to have begun a campaign of intimidation against Kikuyu in order to force them out ahead of official government eviction. By mid-October, inter-community frictions led to a fight in which both Maasai and Kikuyu lives were lost, and to escalating revenge attacks that resulted in the ultimate displacement of thousands of Kikuyu to neighbouring areas (see Chapter 4). Despite the official reclassification of the land at Enoosupukia via instruments of political forestry, eviction and enforcement of exclusion from the forest was effected through unofficial means.

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of ethnic clashes at Burnt Forest, in Nakuru District. They and six others were charged with being in possession of illegal weapons and seditious literature, and Wamwere and Kariuki were further charged with "administering an unlawful oath" (Africa Watch 1993:40). While the arrest is not directly connected to their critical letter to Ntimama, it does indicate the risks associated with speaking out against the ruling party during this chaotic period in Kenyan history.

In the aftermath of the clashes, calls for justice in the form of repatriation of displaced Kikuyu to Enoosupukia have consistently emphasized the political aspect of the conflict and highlighted claims of individual rights in land, freedom of movement, and civic belonging. Further, the widespread condemnations of uncivil, ethno-political particularism and allegations of targeted ethnic cleansing with which such protests have been associated effectively shut down discussion of the range of contributing factors as post hoc justifications.[30] Such interpretations of the motivations for and means of constructing and conserving Enoosupukia as a protected water catchment, however, are not limited to Kikuyu displacees and their supporters; rather, as the following discussion of current dynamics shows, the boundary between political forestry and forest politics is particularly fuzzy.

Interpreting conservation and challenging evictions

Despite its constitution through tools of political forestry, Enoosupukia has remained only partly legible to governmental authorities. More than 50 years after Betts' recommendation to preserve the forest in which Enoosupukia once lay, this portion of the larger Melili forest became an official conservation area, albeit on a much smaller scale than originally envisioned. In the unpublished annual reports of the Narok District Forest Office, Enoosupukia appears as one of several County Council forests,[31] and it is listed as consisting of 10,772 hectares of protected land, though neither surveys nor mapping have as yet been carried out to verify or precisely locate the boundaries and area of the

30 Consider, for example, the conclusion of the Akiwumi Commission (cited above, in Chapter 4), that ""whatever reason that was later given for the clashes or for the eviction of non-Maasai from Enoosupukia and its neighbouring areas, can only be an excuse to conceal the real reason for the clashes which was political" (Akiwumi 1999:170).

31 In meetings with officials in the District Forestry Office, on 14 and 15 November 2007, I was allowed only supervised access to these annual reports and was not allowed to make copies or type my own notes. The reports may, however, be available in the Kenya Forest Service headquarters in Nairobi.

forest.[32] Uncertainty about the boundaries and size of the Enoosupukia forest is compounded by the fact that this political forest is no longer coterminous with an ecological forest. Even using the FAO Forestry Department's technical definition of forest: “land spanning more than 0.5 hectares with trees higher than 5 metres and a canopy cover of more than 10 percent, or trees able to reach these thresholds in situ... [not including] land that is predominantly under agricultural or urban land use” (FAO 2006:169), few of the remnant stands within Enoosupukia would qualify. While the archival documents cited above indicate a relatively continuous forest over the ridges and valleys, much of the forest cover was removed between the late 1970s and 1993, and continues to be removed in both the official forest and the neighbouring land adjudication sections. A promise by then-Minister for Environment and Natural Resources that “once the area is gazetted we shall undertake to afforest it to restore the conservation value” has not yet come to pass.[33]

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32 In fact, the stated area is suspicious (not to say completely fictitious) in that it corresponds exactly with the area of the proposed Enoosupukia adjudication section listed in the 1984 Narok District Development Plan (Republic of Kenya 1984:49). The actual land area covered by the Enoosupukia forest is likely much smaller than its claimed extent, perhaps as little as the 2,750 hectares identified as the proposed Enoosupukia adjudication section in the 1989 and 1994 District Development plans (Republic of Kenya 1989: 87, 1994:111). The forest may also include a further portion of the land at the south end of the ridge between the Enesampolai and Enoosupukia streams, known locally as Sintakara and part of an off-and-on again proposed adjudication section distinct from both Enoosupukia and Kepise. In any case, the extent of the claimed Enoosupukia forest falls far short of the approximately 32,375 hectares identified by Betts as in need of preservation (see above).
Creating a careful estimate of the areal extent of the Enoosupukia forest and the neighbouring adjudication areas is beyond my expertise. While I have gathered information on the approximate boundaries of both the adjudication areas and the “forest,” an accurate estimate would require three-dimensional analysis of the landscape owing to the broken terrain, steep hills and deep valleys involved.

33 Letter from John Sambu, Minister for Environment and Natural Resources, to William Ntimama, “Re: Enoosupukia Forest,” 15 September 1993. Copy in author's possession. After years of inaction, a recent article in The Standard reports that former US President Bill Clinton has pledged to have his foundation fund the planting of trees in an area of 100,000 hectares at Enoosupukia, which is far larger than the entire location, let alone the contested highland forest (The Standard 2009). While the size of the project appears to be an ambitious overstatement, movement is being made to make this promise a reality, as I discuss further in Chapter 7.

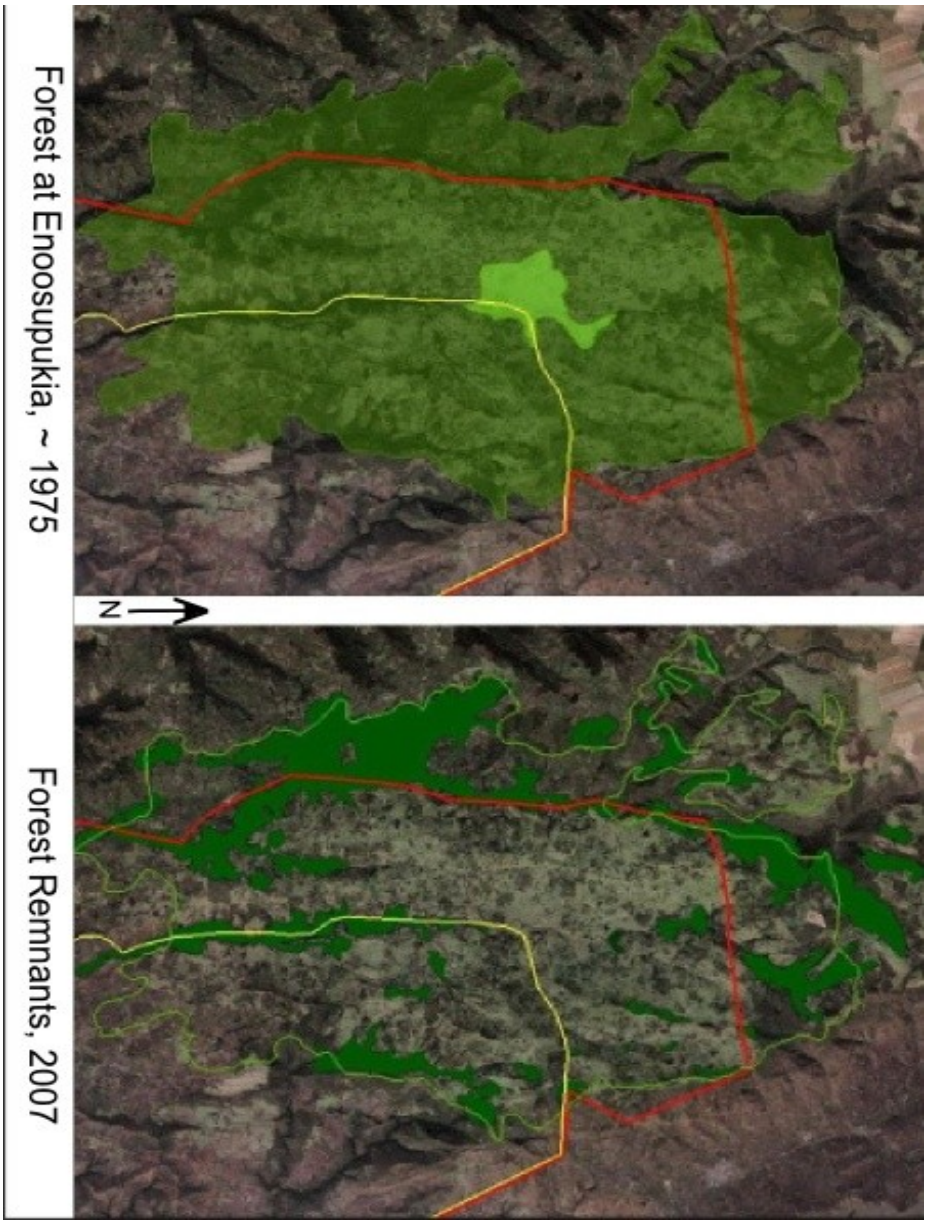

Figure 5.4: Extent of Forest Cover at Enoosupukia, circa 1975 and 2007. This image was produced in Google Earth, with a base satellite image from Google Earth. Boundaries shown include Enoosupukia Location (red), and Kepise Adjudication Section (yellow). The forest extent from 1975, (top), is based on data from a topographic map of the area, dated 1975 (Survey of Kenya, Series Y731, Sheet 133/3). The forest extent from 2007, at right, is based on interpretation of the Google Earth base image, partially corroborated with visual inspection at Enoosupukia. The light green polygon in the centre is a large natural glade.

Exclusion of resource users from the forest by official means since its declaration has been inconsistent. Since the clashes, the ability to reside and make use of resources in the forest area has been perceived by local residents and displaced former occupants to depend, in part, on the maintenance of connection between clients on the ground and political patrons as well as between those patrons and more powerful politicians at the centre of state power. Indeed, repeated threats, attempts, and operations to enforce exclusive conservation by evicting people from the forest mirror the struggles and shifts in patrimonial networks both locally and at the national level. Threats of eviction in 1998 and 2002 correlate with tensions within the Maasai elite as leaders competed for both control of client-bases and positions in President Moi's inner circle. Rumours in 2003 and an eviction in 2005 connect to further shifts in Kenyan patronage networks, and are interpreted as such by local residents.[34] In between these moments of heightened insecurity and tension, local resource users have generally been left to their own devices living with relatively stability, despite uncertainty, until the violent evictions carried out in early 2005. That apparently sudden state intervention in what is, to many at Enoosupukia, no longer a forest, should be interpreted as politically-motivated revenge for the events of 1993, is not entirely surprising; given that the state appears to know neither the claimed forest boundaries nor what goes on inside them, local skepticism about the sincerity of pronouncements of concern for forest conservation are understandable. However, the 2005 eviction heralds a renewed effort on the part of the state to assert environmental rule over its claimed forests, including Enoosupukia, in large part due to a convergence of domestic and global environmentality with a newly elected regime eager to project an image of good governance to the world. At the same

34 See Chapter 6 for more detailed discussion of these political intrigues and local susceptibility in disputes between elite factions.

time, the practical manifestations of these political and ideological shifts have been fleeting, suggesting poor planning and limited capacity in their execution. In the wake of these destabilizing events, the local social field of property was again reshaped as non-local claimants gained greater access, exacerbating the marginalization those who claim ownership on the basis of autochthony and expected recognition in future land adjudication as well as contributing to further degradation of the forest landscape. The remainder of this chapter focuses on local experiences and reactions to the 2005 eviction and its connections to ascendant environmentality, as well as exploring ongoing conflicts and negotiations between local and non-local claimants asserting access and ownership.

In late February 2005, after twelve years of relatively stable occupation of the area, residents of Enoosupukia were served with orders to vacate the forest. Unlike a previous notice in 2002, the 2005 letter gave only seven days warning before eviction would be enforced and was received at Enoosupukia only a few days prior to the stated deadline, giving the community less time to mobilize resistance.[35] Having successfully thwarted the earlier eviction threat, residents of Enoosupukia were cautious but confident that they would again be allowed to remain on the land they claimed as their own. This illusion was shattered on the evening of February 28, 2005, when, according to evictees, up to 400 soldiers – a combined force made up of Narok County Council forest and game rangers, Administration Police, and members of the paramilitary General Service Unit – began to sweep through the Trust Land from the northern boundary with Sakutiek. Driving shocked residents before them, they systematically set fire to fields of maize and potatoes and demolished houses. Two days later, the evictions were reported in the Daily

35 I have not seen a copy of this letter. It was allegedly dated 22 February 2005 and received on 24 February 2005. The date of the notice corresponds with the announcement of the Cabinet decision to improve forest protection by evicting “illegal” residents, described below.

Nation, as follows:

> One thousand people have been forcibly removed from Enoosupukia forest since the Government started evictions on Monday.
>
> Narok's new district commissioner Hassan Farah told journalists in his office that 60 houses were destroyed [and that] 50 more people fled and are camping at a local church, adding that they would be flushed out today. (Kimani 2005a)

A followup report the next day increased the number of displaced to 1200, and the number of houses destroyed to 210 (Kadida and Jeff Otieno 2005).

In the aftermath of this operation, soldiers are alleged to have stood guard over demolished houses while residents of Maiella looted the ruins of building materials and personal possessions. One relatively lucky Enoosupukia resident reported to me that he was able to bribe soldiers and retrieve some of his personal possessions, including a small black-and-white television, a radio, and clothing. Victims of this forceful display of state power took refuge wherever they could; some fled to nearby Moi Ndabi, where some of their neighbours and relatives had been allocated five-acre plots as part of an official resettlement program after the clashes of 1993, others built small shelters at one end of the local primary school's soccer pitch, aided by donations from a small number of international supporters.[36]

As the eviction operation was completed and the soldiers moved on to other forested areas, residents of Enoosupukia began to send delegations to Narok in protest and to demand compensation and resettlement. The first group, composed of six male elders, obtained a meeting with the District Commissioner, who explained that the eviction was part of a larger operation and had been approved by a cabinet decision of

36 One group of internationally-connected supporters was the Kenyan-based Dorobo Outreach Ministries, a mission of the Africa Inland Church, led by Shel Arensen. Another was a group of my friends and fellow students who together donated several hundred dollars. The money was used to buy polythene sheets to waterproof temporary shelters and sacks of maize to feed the evictees.

the Kenyan government. Indeed, in a tersely worded statement reported in the press on February 22, 2005, Francis Muthaura, head of the public service and secretary to Cabinet announced that "the Cabinet has directed the provincial administration and Forest Department to ensure destruction of forest and catchment areas is stopped forthwith and that those who have settled illegally in the Maasai Mau Forest be removed immediately" (Daily Nation 2005b).

The Government's decision was in large part due to concerted lobbying by an internationally-supported, Kenya-based organization, the Kenya Forests Working Group (KFWG), which had since 1995 been working to promote sustainable forest management across the country.[37] The Cabinet decision was a major success for KFWG and its partners, coming after years of advocacy and months of intensive lobbying, recounted in the minutes of the organization's monthly meetings. After documenting ongoing deforestation throughout the Mau Complex and organizing efforts to pursue lawsuits against the government for what they termed illegal excisions of gazetted forest outside of Narok District, the group's efforts gained significant traction in late 2004 with a key meeting hosted by the Ewuaso Nyiro South Development Agency (ENSDA), a parastatal body in charge of development in the watershed of the Ewuaso Nyiro river, with its source in the Maasai Mau and its outlet in Lake Natron, just across the Tanzanian border from Lake Magadi in Kajiado District. The meeting in Narok was attended by about 300

37 KFWG lists a broad range of international organizations among its donors, including branches of the IUCN, the Food and Agricultural Organization – Forests Trees and People Programme, DFID, UNDP, UNEP, and others. It also interacts with a wide range of partners, including some of the aforementioned donors, as well as Kenyan Government organizations such as the Kenya Forest Service and the Kenya Wildlife Service. KFWG has had remarkable success in their efforts over the years, playing an instrumental role in the passage of a new Forest Act (2005), to replace the inherited colonial document previously in place, as well as publicizing the importance of forest conservation, notably through advocacy efforts around protecting Kenya's “Five Water Towers” - the Mau, Mount Kenya, Aberdares, Mount Elgon, and the Cherangani Hills – which constitute the main blocks of indigenous forest in the country (www.kenyaforests.org). The work of the KFWG represents aKenyan manifestation of global “political forestry,” which I intend to examine further as part of a future project.

people, including Ntimama and a large contingent of Narok's chiefs and councillors, who agreed to press for enforcement of boundaries established by the County Council prior to 1986 and call for the eviction of anyone residing inside the forests (KFWG Min 846/1/2005 Forest Updates).

KFWG arranged a second meeting, this time with officials from the Government of Kenya, including Amos Kimunya, then Minister for Lands, as well as lands officers from throughout the Rift Valley, and representatives of the Forests Department, to present the issue of ongoing forest degradation. In response, Kimunya publicly declared that “the plunder of the Mau Forest” must stop, and threatened to have the Government take over management of the Maasai Mau from the Narok County Council if they could no longer adequately police the forest (Kimani 2005b). The subsequent declaration by Mathaura mentioned above provoked some ambivalence within the KFWG. While some members congratulated the individuals involved for “getting some action on this issue” others worried about the announced eviction of squatters and cancellation of title deeds and called on KFWG to pressure senior government officials to clarify what actions were being taken on what grounds (KFWG Min 852/2/2005 Forest Updates).

In response to the Government's eviction orders, seven residents of another part of the Mau Complex were granted an injunction against the Government until their suit questioning the power of the Minister for Lands to unilaterally cancel title deeds could be filed (Daily Nation 2005a). In contrast to residents of Enoosupukia, who occupy land and claim ownership without official recognition, the ability of titleholders to legally contest their eviction reveals the significance of the land registry in bolstering the power of individuals to seek legal redress of grievances. In this case, however, such powers are problematic, as much of the contested forest land outside Narok District is alleged to

have been illegally excised and title deeds issued by the KANU elite to their clients. The fate of autochthonous Ogiek communities in those forests remains uncertain: while they have suffered territorial loss and marginalization via subjugation by more powerful communities as have Dorobo at Enoosupukia (Ronoh 2002; Towett 2004), they have also been able to mobilize connections with international NGOs and the global Indigenous peoples movement and have thus gained a degree of leverage in struggles over belonging.

In spite of the temporary injunction, lobbying continued and political wrangling over the evictions heated up, both among Kenyan politicians and various local and international non-governmental organizations, presaging the battles that continue to rage today over conservation of the Mau Forest (Otieno and Kimani 2005; KFWG Min 874/6/2005 Forest Updates). For its part, the KFWG cited its success in the Maasai Mau as a beginning, emphasized that this particular forest had been given priority because “it is highly threatened,” and noted its hope that “actions taken here can be replicated in other forest blocks of the Mau” (KFWG Min 865/4/2005 Forest Updates).

After stalling for a few months due to the court injunction, the eviction operations were renewed in June 2005, with a defiant Kimunya publicly announcing that “no amount of political rhetoric or crying foul would stop the Government from carrying out its constitutional mandate of protecting the country's natural wealth for posterity” (Mwangi 2005b). In renewed operations focusing on the Maasai Mau proper, the trail of destruction left by security forces was similar but larger in scale than that left in the Enoosupukia eviction in early March: homes and churches were attacked and burned, schools were closed, and tens of thousands of residents, some 10,000 families in all, were forced out of areas identified as forests (Siringi 2005; Mwangi and Kimani 2005).

Kalenjin politicians, many of whose clients had benefited under President Moi from the allocation of or implicit permission to occupy forested lands, protested the renewal of evictions, calling for a better way to resolve the forest crisis (Mwangi and Kimani 2005). Maasai politicians were divided: a faction around Ntimama openly supported the evictions and would later declare their intention to carry out evictions by force if the Government balked at the task; Stephen ole Ntutu, Member of Parliament for Narok South and member of KANU, in whose constituency much of the affected forest stands, argued that the entire affair was being orchestrated by Ntimama to undermine Ntutu's position (Rono 2005).[38] The growing political rift over forest conservation has subsequently threatened the unity of the Orange Democratic Movement, which captured a narrow majority of parliamentary seats in the 2007 General Election, with a core group of Kalenjin politicians, who had played a significant role in delivering crucial votes,[39] openly rejecting the whole process as an injustice perpetrated against their people as retribution for the excesses of the Moi era, echoing similar sentiments at Enoosupukia. While the veracity of allegations of revenge is debatable, public moves to fight widespread corruption, including rampant land grabbing and the privatization of public forests (Klopp 2000, n.d.; Southall 2005), often still thwarted by backroom deals and a culture of impunity (Wrong 2009; Mueller 2008; Cheeseman 2008), can be seen as a clear effort by the post-KANU government to distance itself from the previous regime. Whether this constitutes an example of “extraversion” – a strategy to enhance the global

38 A full discussion of the politics of the Mau Forest are beyond the scope of this work, but, like the global connectedness of the KFWG, may lend itself well to a future project.

39 That these leaders can “deliver” the votes of their supporters was made particularly evident in the 2010 Constitution Referendum, when voters in recognized Kalenjin constituencies voted rallied behind their leaders to vote overwhelmingly against the proposed constitution while the constitution was approved by a large majority elsewhere. The visible appearance of this Kalenjin block will undoubtedly influence the negotiation of alliances in preparation for the 2012 General Election, in which President Kibaki's successor will be chosen. See also Bratton and Kimenyi (2008) for a discussion of ethnicity and voting patterns in the 2007 election.

public legitimacy of the Kenyan government (Bayart 2009) – or a deepening of democracy and ascension of environmental governance (Klopp n.d.), remains to be seen.

In light of these political dynamics, and the awareness that the primary target in the evictions had been the Maasai Mau, residents of Enoosupukia renewed their efforts to seek resettlement on the lands from which they had been chased.[40] Discouraged, but not dissuaded, by the DC's attribution of the February 28 eviction to higher powers, a local activist then organized a delegation of eight women from Enoosupukia to seek an audience with the Ntimama, which was granted and took place in mid-March. In response, the MP promised to travel to Enoosupukia in the coming weeks to visit the evictees camped near the school and to advise them on what could be done to ease their suffering. By early June, after neither the MP nor the DC had come to inspect the consequences of the eviction, the same community organizer assembled a larger delegation of some 37 women and four men, which travelled again to Narok to petition officials and leaders. According to this activist, the choice of mainly women representatives was a strategic one: the sight of dozens of women wailing and calling for justice was calculated to embarrass the MP and the DC and to provoke a sympathetic response; Maasai leaders, I was told, could not easily deny the requests of aggrieved women, nor could they use physical force to send them away. Both the DC and the MP reportedly promised again to visit the evictees and hear their complaints within two

40 In a candid discussion in July 2005, one resident of Enoosupukia explained to me that he had approached the Division Officer for Mau Division, at Nairagie Enkare, for an explanation of why Enoosupukia was being cleared. The response was that it had all been a mistake: officials had understood that they were to clear the Mau Forest, but had no idea where to start. When they looked at the map, they found Mau Division, and began there. This quite implausible explanation highlights local arguments that Enoosupukia is a forest in name only, and that officials are not even aware of its location and boundaries. A more likely reason for beginning the evictions at Enoosupukia was the proximity of security forces who just days earlier had been in nearby Maai Mahiu dealing with an outbreak of violence between Maasai and Kikuyu over water and pasture at the foot of the eastern Rift Valley escarpment (Mwangi 2005a).

weeks, but neither showed up.[41]

Instead of compensation or repatriation, evictees were treated to further violence when, a few weeks after this last lobbying attempt, County Council rangers returned to Enoosupukia and attacked their temporary shelters, neighbouring houses, and the primary school. According to the school's headmaster, the rangers destroyed property belonging to the school, spoiled instructional materials, and attempted to set fire to one of the classrooms, leading to the temporary closure of the school. When he contacted the District Education Office, he discovered that this action had been taken without the awareness of the DEO. He and the relevant officials, including the District Commissioner took steps to resolve the issue, and the school was reopened in mid-July, though nothing had been arranged to compensate the school for damage to the buildings or loss of materials. Students were particularly affected, as they lost of month of lessons. Unlike the first eviction operation, which was carried out on contested land claimed by the government as a conservation forest, this second wave of violence focused on already adjudicated land for which owners are still awaiting title deeds. The school itself has a plot of land recorded in the adjudication register, as do many of the local resident landowners whose homes were attacked.[42]

In the aftermath of the eviction and the subsequent attack, residents of Enoosupukia explained to me that they felt as though they had been left to fend for themselves, abandoned by their government and leaders. During a group interview with elders at Enoosupukia in July 2005, one man explained that:

> ... for now, people are relying on potatoes left in maize fields to survive. They are begging from neighbours. If the eviction was legal, then the government should

41 Interviews with Simon Ngayami, July 2005.
42 Interview with John ole Mebarni, Headmaster, Mpeuti Primary School, Enoosupukia, 28 July 2005.

> be supporting the evictees with food and health concerns while waiting for resettlement elsewhere. People have been told to leave, but they have not been told where to go!

Another, a member of the official land adjudication committee for Kipise Section, marvelled that the government should ignore the time and money spent on adjudication and negate the recognized rights in land of the people it had evicted. Posing a series of rhetorical questions, he asked:

> What will the government do? If this was revenge by NARC for what KANU did in 1993, will it not lead to more clashes? The government now does not fit with the community, and if in the future the community has no food, will they not become beggars or thieves in the area and create instability?[43]

Residents of Enoosupukia had multiple perspectives on the source of this new hardship, but most interpretations focused on the role of specific leaders and their political motivations, rather than on the state's desire to protect forests. Several people explained to me that the eviction, and especially the second attack, was the work of the area Member of Parliament, William Ntimama, acting on behalf of the Purko section of Maasai, of which he is a member. Some reflected on Ntimama's role in the 1993 declaration of the forest and the subsequent clashes, noting that he had then used his influential position in government and his close connection with President Moi to manipulate lowland residents into requesting reservation of the highland. Whereas in the 1993 events Ntimama had shown himself to be pro-Maasai and vocally anti-Kikuyu, the 2005 eviction was interpreted as a narrowing of his support. As one man argued:

> ... Enoosupukia is a Dorobo area, but the County Council is mostly Purko, and they're jealous of Dorobo land. Perhaps they attempted to clear the land so Purko can take over.
>
> In the past, Ntimama had protected Purko and Dorobo from this kind of thing, using his position to prevent evitions [as in 2002]. But the current eviction targeted “farmers” who were Dorobo, as this is our main activity now for subsistence. Now Ntimama is saying that people can leave livestock in the Trust

43 Interview with Enoosupukia elders, Enoosupukia, 28 July 2005.

> land, because it doesn't damage the forest, which favours Purko. Maybe their plan is to get title for the Trust land for them after some time, like maybe 10 years. They are using their influence on the County Council to get land.[44]

Others added to the speculation, arguing that Dorobo and Keekonyokie Maasai had been specifically targeted:

> The rangers who came [the second time] behaved like bandits, and there was no notice given. They attacked everything in this valley, but not a single Purko house. The eviction has to do with political partiality, and hatred is at the root of the problem. Ntimama is the source. Dorobo want to live here and will stay even if people come to burn the houses or try to kill them. Ntimama should stay away and just leave us in peace.[45]

Another interpretation of the political dynamics behind the evictions spared Ntimama and focused instead on Kikuyu links to state power. One story explained the genesis of the evictions as a meeting involving both Ntimama and Naivasha MP Jane Kihara, an outspoken advocate of displaced Kikuyu since her election in 2002:

> There was a meeting between Ntimama and Kihara in Nakuru before the evictions began, in February. Ntimama was pressed by Kihara to either resettle Kikuyu in Enoosupukia or to clear the area completely. He chose to let it be cleared. When his people complained that they had been evicted, he responded by telling them “I only told you not to cultivate there, I said nothing about grazing or living there.” Shortly after that, the place was full of livestock.[46]

Here, while Ntimama is again recognized as instrumental in both the eviction and the subsequent reoccupation of the forest by livestock herders and exclusion of the former hunters who are now farmers and claim both rights based on autochthony and recognition through unofficial land adjudication, it is suggested that his decisions resulted from being in a politically difficult position. Whereas Maa-speakers, and especially pastoralist Maasai, enjoyed close connection to the President and state power during the

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44 Interview at Enoosupukia, 28 July 2005.

45 Interview with Enoosupukia elders, Enoosupukia, 28 July 2005.

46 Interview with Father Francis Ng'ang'a, Enoosupukia Catholic Mission, 10 August 2005. The meeting referred to here is most likely a peace meeting called in Naivasha to resolve the Maai Mahiu clashes, at which Members of Parliament Ntimama, Kihara, George Saitoti, and then-Internal Security Minister Chris Murugaru were present (Mwangi 2005a).

Moi era through their patron, Ntimama, in the Kibaki era, Kikuyu were believed to have privileged access to power and thus to the protection of, or from, official state processes.

As the last quotation suggests, it was not long after the eviction that people began to reoccupy parts of the Enoosupukia forest and resume activities. While Enoosupukia occupied, for a brief period, a central position in the state's program of political forestry, and was even used in the intermission between phases of evictions to illustrate the kind of destruction that must be prevented by rigorous protection (J. Otieno and Kimani 2005), it quickly returned to the periphery. As exclusion and protection efforts shifted to the larger and more prominent Maasai Mau to the west, the forest at Enoosupukia became, once again, a kind of open-access commons, subject to patrimonial tenancy and competing assertions of the right to reside at and use resources within its unclear boundaries.

Contesting use, occupation, and ownership

While Enoosupukia forest is an officially-declared conservation area – in essence a political forest – the tools and techniques of state spatialization have not yet been fully brought to bear on this landscape. The boundaries, location, composition and extent of the forest remain largely illegible to the state, and exclusion is only periodically and selectively enforced by County Council rangers. Some of the locals forced out in the 2005 eviction have returned to places they consider their homes and assert their rights as owners on the basis of long-term occupation and recognition through the unofficial adjudication process that began in the 1960s. Non-locals, notably herders based elsewhere in Narok District, and timber and charcoal producers based primarily at Maiella, treat the forest area as an open-access commons. The uneasy coexistence of multiple resource users and claimants to ownership of the area is a source of ongoing

friction that perpetuates insecurity. Uncertainty about belonging, and about who has the right – and the power – to govern the land in question has left a space in which claims can be asserted and challenged, both in narratives and through physical acts.

When I visited Enoosupukia in July 2005, just weeks after the second round of evictions, most of the people who had lived in the Trust Land forest had taken refuge elsewhere. Many moved just across the boundary with Kepise Adjudication Section, in to the Mpeuti neighbourhood where they were hosted by friends and relatives and allowed to build new houses. Some argued that this was the most sensible option, as the land at Mpeuti was under official adjudication and would eventually be protected by title deeds; further, since the District Lands Officer had been summoned in the wake of the second eviction, the boundary was clear and the Government would no longer return to bother them. Others had fled further, moving to Moi Ndabi, an area that had been set aside for resettlement of clash victims in 1994, and where several of the established families of Enoosupukia had been allocated 5-acre parcels on which to rebuild their lives.[47] At the time, people were adamant that they should be allowed to return to Enoosupukia, but not optimistic about their prospects. In the highlands, herds of livestock grazed the hills and valleys, taking advantage of the depopulation of the area, apparently encouraged by Ntimama to do so (see above).

By 2007, a number of evicted families had returned to Enoosupukia. Most of them were recognized, long-time residents of Enoosupukia, primarly Dorobo and Purko Maasai, who justified their decision by both asserting claims to autochthony and

47 The resettlement scheme at Moi Ndabi has been subject to allegations of severe corruption. Dorobo from Enoosupukia complain that only a handful of men from their community had been allocated land, and that the majority had been given over to members of the elite, including both Maasai and Kalenjin politicians, and to their clients. An expose in the Daily Nation in 2008, prompted by newly-elected Naivasha MP John Mututho's inquiries into the matter, included a detailed list of politicians, administration, and military officials, as well as shadow companies, who were allocated land in the resettlement area (Njeru 2008).

individual ownership as well as denying the legitimacy of state claims over the "forest." Some argued that the forest had never been gazetted and did not appear on official government maps, and thus could not be considered an exclusive conservation area. Others pointed out that the forest declaration had been a device used by Ntimama to effect revenge on his political opponents and that, as his supporters, they had been told all along that they could continue to live there. Dorobo returnees supported their claims of autochthony with narratives of historic occupation for as long as anyone could remember, with members of some families stating that they knew no stories of migration into the area.[48] Members of some of the Purko families noted their long history in the area, some of them stretching back as far as the Maasai Moves after having been forced to vacate lands in Laikipia. Those I spoke with all asserted that they had been recognized as legitimate residents as far back as the 1960s when unofficial land adjudication was carried out (see Chapter 3). Many of the returnees' homes were clustered at the north end of the location, along the boundary with Sakutiek, where they had reportedly been advised by Ntimama that their occupation would be tolerated. Other returnees reestablished themselves at the sites of their former homes, intending to try to resume their lives as they had lived them before the eviction.

Timber and charcoal

One of these returnees was *Enole* (Mrs.) Kijabe, who I sometimes visited on my way in or out of Enoosupukia.[49] The Kijabe family is one of the first Purko families to have settled at Enoosupukia, where two step-brothers of the *iltareto* age set established

48 Members of other Dorobo families recalled a history of migration from elsewhere, often the Laikipia Plateau, but believed this movement to have happened in the remote past, and certainly more than 100 years ago. This corresponds with work by Blackburn showing similar histories of migration for many of the Okiek groups on the Mau (1976:68-72).

49 This account is based on information gather during several visits, including a two-hour interview on 14 November 2008.

their homes after migrating from Laikipia during the Maasai Moves. Enole Kijabe's current homestead site was established in the 1960s, during unofficial adjudication. Like most other residents of Enoosupukia the Kijabe family hosted Kikuyu newcomers, but Enole Kijabe insists that this was on a landlord and tenant basis whereby Kikuyu tenants cleared land, burned charcoal, and cultivated small plots. In the aftermath of the clashes of 1993, two of Enole Kijabe's sons were allocated land at Moi Ndabi, but she chose to remain in the highlands. In the 2005 eviction, the homestead was one of those attacked and destroyed, and a concrete water tank was all the remained standing. Nevertheless, Enole Kijabe returned to the site and rebuilt her house with the support of her sons. When I asked why she would return to this insecure area rather than live at Moi Ndabi, she explained that the lowland area is too hot and dry, and that nothing grows well there, including trees. She further explained that with only five acres of land, it would be impossible to keep livestock and cultivate food crops. People at Moi Ndabi, she explained, depend on their relatives in the highlands for potatoes and maize, access to seasonal grazing, and even charcoal to warm their homes. In addition, she explained that the government had promised to grant legitimate landowners title deeds shortly after independence, and she was willing to keep waiting for the government to honour that promise and recognize that she was, in fact, an owner and not a squatter.

Enole Kijabe cited the high price of charcoal in places like Moi Ndabi as a primary reason why trees at Enoosupukia were still being removed, despite the government's claims that it was protecting the forest. In the lowlands, a large sack of charcoal could fetch as much as six hundred shillings, in comparison to the local price of around three hundred at Enoosupukia. Timber and charcoal removal from Enoosupukia was of particular concern to Enole Kijabe, as one of the largest remaining forest stands is found

on land that her family claims as their own, and she is very proud of protecting the forest from destruction. Her family's forest, *entim ole Kijabe* (the forest of ole Kijabe) as it is known locally, is, according to her, a legacy of their decision to set apart a portion of their land from that cultivated by Kikuyu tenants. The homestead stands at the upper edge of this forest, which stretches down to the valley bottom below and across to the other side; to the west, above the homestead, a field of sporadic stumps, lonely trees, and lush grass on uneven ground belies the history of transformation and cultivation. Enole Kijabe plans to maintain her family's forest for the future, and uses it only to gather firewood for domestic use; on one of my visits to her home I found her also producing a small batch of charcoal by overturning a remnant stump, burying it, and setting the kiln alight, a scaled-down version of the usual charcoal kilns found at Enoosupukia, in which whole trees are sectioned and buried under mounds of turf to be burned. According to Enole Kijabe, she refuses anyone outside of her family permission to remove even deadfall from the forest. Given the sale value of timber and charcoal, to allow anyone access would mean being faced with countless requests. As long as she lives, she says, everyone in the area knows that the forest is off-limits. While she publicly asserts that her ability to exclude people from her family's forest is due to local recognition of her claimed ownership, her position is undoubtedly strengthened by the fact that her son is an employee of the Narok County Council. While he is stationed elsewhere, her son periodically visits home and when at Enoosupukia actively intervenes in unauthorized extraction of timber and charcoal.

Not everyone at Enoosupukia is so vigilant about protecting trees. Just as forest resources do not map on to the proclaimed political forest at Enoosupukia, nor does a sense – recognized or not – of individual ownership correlate with conservation or

consumption of forest resources. Around Mpeuti, on the Kepise side of the boundary, power saw teams were a frequent presence as local landowners contracted with them to either produce timber for local use or to make a small profit by allowing hardwood trees to be felled, processed, and transported to neighbouring areas for sale. Landowners are often paid a few shillings per foot of timber produced when the primary goal is sale; saw teams are generally compensated with a portion of the lumber produced when the primary goal is local consumption or construction. This type of extraction from adjudicated, but not yet officially individually-owned, land is not strictly legal: officially, harvesting forest produce on private land requires the permission of either the District Environmental Committee, the District Forest Officer, or the Divisional Agricultural Officer; in 2007 and 2008, however, all forests, public and private, in Narok District were covered by a moratorium on extraction.[50]

Local opinions on forest exploitation were ambivalent. While many decried the continued removal of trees and questioned the wisdom and motivations of those residents who sanctioned it, it was also recognized as an important avenue through which cash income could be earned. Likewise, charcoal production was a common occupation of many of the younger men of Mpeuti, carried out on both adjudicated land with permission of the owners, or across the boundaries of the forest. Charcoal, as mentioned above, was a valuable commodity for sale, especially in neighbouring areas where a lack of suitable trees made it impossible to produce. Charcoal was also used locally, particularly to heat homes at night and on colder days when highland temperatures might stay below 12C. Despite its utility, charcoal burning was recognized as a problematic practice, as too much would result in the loss of slow-growing indigenous trees favoured by local producers for their long-lasting bricks. Both of these

50 Interview with S.K. Mibey, District Forest Officer, Narok, 15 November 2007.

occupations also carried risks. Charcoal being transported for sale was sometimes subject to seizure by County Council Rangers on their infrequent visits to the area. Powersaws could also be impounded and their operators arrested, especially in the case of disputes between landowners and saw teams over permission or compensation for extraction. The risk, and the reward, for saw teams was heightened across the boundary of Kipise, in the official forest: while there were no clear owners to pay, harvesting was generally completed through the night and in the very early morning before local residents could insert themselves into the situation or alert local authority figures who might call officials to stop work and impound the equipment. While it was common for locals at Enoosupukia to blame continued forest destruction, on both forest and private land, on Kikuyu from Maiella – it was often explained to me that Kikuyu are naturally *ilmangati lentim* (enemies of the forest) – the situation is far more complex and locals are sometimes complicit.

In late 2008, the balance of power around access to and extraction from the Trust land forest underwent a significant shift of indeterminate durability. Returning to the field after an eight month hiatus due to the post-election violence earlier that year, I had hoped to trace commodity chains for forest products to better understand the political-economic consequences of the area's apparently open-access status. Within a few days it became clear that this would be impossible; the drone of powersaws that had previously been a near constant was no more. When I inquired about this among residents, one local leader explained to me that a “community decision” had been taken to ban the chainsaw teams and to more seriously pursue environmental stewardship. Details of this meeting, how it was arrived at, and by whom, were not forthcoming despite my attempts to elicit information. Other local residents, by contrast, made no

mention of such a decision, pointing instead to the high-tension climate in the midst of inter-community conflict between the Kikuyu residents of Maiella and their Maasai neighbours (see also Chapter 4). While residents of Enoosupukia had, to that point, refrained from joining in the fighting, relations with Maiella had chilled. Not only were saw teams and charcoal harvesters no longer venturing up the escarpment, let alone in the middle of the night as they had done before, but residents of both areas were abstaining from transborder interactions: Maiella, formerly a favourite market and transit hub due to both its proximity and the regular availability of goods and vehicles, had become off-limits for Maa-speakers, even those not directly involved in hostilities. In terms of the power to enforce exclusion from the practically ungoverned forest, while threats of arrest and police extortion had been of little influence, the risk of physical violence and even death appeared be eminently persuasive.

Crops and cattle

While timber and charcoal are used to supplement household incomes at Enoosupukia and in neighbouring areas, the primary activity of most is mixed-farming, with small cultivated plots of maize, potatoes and additional crops as well as the maintenance of small herds of cattle or small-stock. After having their crops destroyed in the 2005 eviction, many of the returned evictees were hesitant to plant again, but by mid-2007 people had begun to prepare fields. One man, ole Nkalo, explained that he had recently directed his eldest son to move back to Enoosupukia, where he would plant fast-maturing crops, such as potatoes and greens on land the family was allocated in the unofficial adjudication of the 1960s. These crops would help to feed his family who remained at Moi Ndabi where the younger children attended primary school. He hoped that by next year he would be able to plant a crop of maize, which could be harvested

and stored, but worried about the investment of up to nine months before the maize ripened as opposed to three months required for potatoes.[51]

Renewed cultivation in the official forest became a point of friction between returnees and herders making seasonal use of the area. This was explained by ole Nkalo's son, Amos, when Simon Ngayami and I visited him in August 2007, interrupting his work of applying Round-Up to an area he intended to cultivate so I could collect information for a preliminary community census. After completing the questionnaire, Amos asked Simon, the locally-appointed “chief” who acts as the primary liaison between Enoosupukia residents and Kenyan and Narok County Council officials, if they could discuss a pressing issue. Amos explained that there had been increasing tension between non-local herders and the returnees. These herders had been letting their animals stray all over the neighbourhood, even letting them wander into people's newly planted crops, either through negligence or malevolence. Hoping to prevent similar damage to the crops he would soon plant, Amos had confronted a group of herders only to be aggressively told that he was the one causing problems by planting crops in an area where cultivation was prohibited; this was a government forest, and both County Councillors and the Member of Parliament had made it clear that while seasonal grazing was permitted, cultivation and permanent settlement would not be tolerated. Simon promised to convene a meeting between the herders and local residents to dispel the tension and establish an arrangement that would accommodate everyone's interests. I decided to seek out and interview herders about their claims to grazing rights in the

51 Interview with ole Nkalo (oseuri), Kimondi/Enoosupukia, 25 August 2007. In his most recent book, James Scott has pointed out the utility of certain types of crops in “escape agriculture” (2009:196-197). Whereas his anarchist, state-evading upland farmers in Zomia appear to be using crop selection as a positive political choice and a means to evade incorporation into states, farmers at Enoosupukia seemed to be making these choices as a defensive strategy, more in line with those Scott notes for eighteenth-century Prussian rulers, designed to mitigate losses due to foreign invasion, in this case by state agents enforcing conservation.

highlands.[52]

Over two days in November, 2007, I spoke with five herders camped on the Trust Land at Enoosupukia. In discussions with these "temporary" herders, it became clear that this area is an important component of a seasonal cycle of livestock migration. The herders with whom I spoke were all in charge of livestock whose primary home was near Nairagie Enkare, at the foot of the highland, through which the herders and their stock would pass as they moved from dry-season grazing at Enoosupukia to lowland areas once the rains had fallen. For some, the rains would take them to the Suswa plains, towards Maai Mahiu, onto Kedong Ranch, officially controlled by the Agricultural Development Corporation, a Kenyan parastatal, but currently left unutilized except by neighbouring Maasai. Others would drive their animals onto Suswa Group Ranch, where their fathers or employers are registered members or have relatives and friends who are. Similar migration patterns are reportedly used by herders based at Sakutiek, to the north of Enoosupukia, and Ntulele, southwest of Nairagie Enkare, each of which has, like Nairagie Enkare, passed through the process of official land adjudication so that residents now possess title deeds to their land.

Generally, the herders I interviewed agreed that the land they used at Enoosupukia was officially a conservation forest, owned and regulated by the Narok County Council. One of the herders went further to explain that NCC ownership means that essentially Enoosupukia is "*enkop oolmaasai*" (Maasailand), collectively owned by, or held in trust for, all Maasai, and that there was thus no need to pay anyone for access or grazing, as would have to be done on privately held land.[53] As other herders had told

52 Interview with Amos ole Nkalo, Kimondi/Enoosupukia, 23 August 2007.

53 Interview with ole Metauwuo, 8 November 2007, Olanka/Enoosupukia. "Renting grass" is an emerging trend throughout Maasailand, where Group Ranches have been subdivided into private holdings, and is one of the numerous ways in which practices of mobility are evolving in interaction with new legal and practical institutions of ownership as well as with processes of

Amos Nkalo, a corollary to maintaining Enoosupukia as Maasai grazing reserve is that it is not be used for permanent settlement or cultivation, both of which were explained as environmentally destructive in comparison with temporary grazing. Not coincidentally, permanent residence and cultivation are physical means of asserting rights in land and ownership, which, if recognized, would complicate the situation for non-local livestock owners and increase the costs of owning cattle. Local tensions between non-local herders and local residents, some of whom practice a variety of mixed-farming that includes both small-scale cultivation and livestock husbandry, is thus symptomatic of larger processes of social change.

It is no mere coincidence or reproduction of ancestral practices that the bulk of the herds of stock-owners based in adjudicated, titled areas spend so much time away from home, on lands held in common, either through group title or de facto open-access maintained under ethno-territorial claims and persisent insecurity. On titled lands, Maasai landowners at Nairagie Enkare, Sakutiek, and Ntulele have taken up cultivation, ploughing and planting their land with wheat, a potentially lucrative cash crop, and with potatoes[54]. On uncultivated land on these titled farms, a core milking herd is kept, often consisting of hybrid or “grade” cattle better suited to low-mobility grazing. While the larger herds may pass through home and spend some time there each year, this tends to coincide with the wheat harvest, when stubble remains on the fields and provides good forage. The availability of communal pasture, uncultivated and without clear owners, allows Maasai landowners to maintain a store of wealth in livestock in the face of range

livelihood diversification. Recent works that address changing mobility patterns appear to focus more on a dialectic of migration and sedentarization than on the creative adaptations that people seem to be developing (e.g. Homewood 2008; Homewood, Kristjanson, and Trench 2009; Lesorogol 2008).

54 Nairagie Enkare has occasionally been referred to by one of my young Maasai friends in Narok town as *Nairagie Inkuashin*, jokingly transforming “the place of lying water” into “the place of lying potatoes.”

fragmentation and livelihood change and to remain “people of cattle” while also benefiting from “modern” practices and forms of property.

While inequalities between non-local livestock owners and herders and the local mixed-farmers who claim ownership of the contested forest are often cast in terms of sub-ethnic discrimination – e.g., against Dorobo by Purko – and interconnected with patronage politics in local discourse, political-economic factors appear to exert influence along with cultural-political ones. Debates about individual versus collective rights to land, not always made explicit in struggles over belonging at Enoosupukia, are also about growing tensions connected to changing livelihoods and differential access to resources. For those who already own individual land elsewhere, Enoosupukia's value as an open-access commons is particularly high; access costs them little and the benefits of resource exploitation include more economically productive use of the individually-held land from which they are legally empowered to exclude others. The “tragedy of the commons” here is not one of resource depletion, but rather of inequality and exclusion deriving from the differential ability of people empowered to different degrees in different ways to access resources and exploit insecurity. This tragedy, however, is not a result of the complete absence of government but an unintended consequence of partial penetration and highly disruptive governmental failures to encompass the local social field of property. The resultant uncertainty and insecurity privileges those who benefit from security elsewhere to challenge the ability of marginalized locals to exercise their claimed rights in land and belonging. As Peters has recently emphasized, the negotiability of property can have severely negative implications (Peters 2002, 2004, 2006).

Political forestry beyond patrimonial politics

Enoosupukia, constituted as a political forest and officially claimed by the state as a local authority forest, has remained peripheral to the main stream of political forestry in Kenya. Instead of establishing exclusion for purposes of conservation, institutions of political forestry have, in the past, been used to perpetuate insecurity, leading to unequal access and negating of claimed rights. Thus far, the forest at Enoosupukia has not been fully environmentalized: it remains only partially legible to the relevant authorities, no clear “regulatory community” has emerged, and some of the claimants who argue in favour of conservation appear to do so for its consequent maintenance of an open-access grazing area that supports livelihood diversification elsewhere, rather than as environmental subjects who have come to embody a global discourse. However, the eviction of 2005 and corresponding shifts in political forestry in Kenya suggest that this may soon change.

Kenya's new Forest Act, which was passed in 2005 and came into force in early 2007, amounts to an institutional revision of political forestry in the country, and was designed with international input and sustainable forestry in mind. The Act not only revamps the Forest Department with the creation of the Kenya Forest Service [KFS], but also incorporates both gazetted forests – that is, those under direct KFS and central government control – and local authorities forests, like Enoosupukia and others officially managed by County Councils. According to the provisions of this new act, each forest must be managed “in accordance with a management plan that complies with the requirements prescribed by rules made under this Act” (Forests Act, 2007: 35(1)). Further, section 38 of the Act makes provisions whereby all local authority forests are subject to semi-annual inspection and, if it is found they are not being managed in accordance with the management plan, may be transferred to the responsibility of the

KFS. The Act makes further provision for community participation in forest management, through registered “Community Forest Associations” with stringent guidelines and particular rights in terms of both management and forest resource use specified in the Act. In time, the establishment of such organizations and their incorporation into the discourse and practice of political forestry may lead to the production of disciplined “environmental subjects.” However, it is not inconceivable that these new structures and institutions will be appropriated into Kenya's moral economy of patronage and transformed in ways that reproduce inequality, exacerbate marginalization, and inhibit conservation.

In late 2007, Narok County Council with the assistance of the KFS and international donors were in the process of developming the first comprehensive management plan for the Maasai Mau forest, which, as demonstrated above, was of clear priority in comparison with other forests in Narok District. The on-again off-again political battles over conservation, especially through eviction of people who have settled in forests, which continue to rage today and have impacts at the highest levels of government in Kenya, will play a vital role in determining the future of political forestry in the country. In due course, faithful implementation of the new Act, and flexible evolution of the discourses and practices around political forestry may produce the kind of “governmentalized localities” and “regulatory communities” described by Agrawal in his work in Kumaon, India (Agrawal 2005). In addition to overcoming patronage networks, which continue to be socially reproduced not by top-down control but through ongoing relations of reciprocal obligation between clients and the elite, other key factors in the emergence of environmentality around Kenya's forests will include the availability of financial resources to effectively run the KFS and enforce official rules; these resources

seem, so far at least, to be sorely lacking.

In the meantime, local residents lobby for resettlement onto forest - but no longer forested – land, participate in schemes to bring portions of that land under official adjudication and titling, and increasingly turn to direct occupation of land they claims as their own. Lobbying efforts for resettlement and repatriation, like those pushing for completion of land adjudication and titling for Kipise Adjudication Section, in process since 1977, and for the distribution of resources for development from government sources, tend to be targeted at “leaders,” rather than impartial bureaucratic institutions of state governance. These leaders, whether Members of Parliament, County Councillors, administration Chiefs, or officials in various government offices, are understood as present and potential patrons of whom claimants to Enoosupukia can become clients. This moral economy and local clients' engagement with it during the campaigns for the 2007 General Election are the subject of the following chapter.

Chapter 6

“We have no leaders:” negotiating patronage from below

The recent history of Enoosupukia reads like a litany of conflict: the clashes in 1993, threatened evictions in 1998 and 2002, the double-eviction of 2005, all of which centre on disputes about rights in land and belonging. Insecurity and uncertainty persist, both on the adjudicated-but-not-titled lands of Kipise claimed as private property by individuals, and on the unofficially-demarcated-but-not-adjudicated lands of Enoosupukia claimed as a forest by the state, as a communal grazing area by non-local herders, and as individually-owned land by those who have lived there the longest. Tenure insecurity at Enoosupukia is here associated with hardship exacerbated by a low level of infrastructural development. To many residents of the area, Dorobo and Maasai, these problems are not merely an inevitable outcome of historical processes linked to tenure transformation; rather, they are ubiquitously explained by the same key statement, repeated frequently in interviews and informal conversation throughout my time in the highlands: “*mikiata ilairikok*” (we have no leaders).

It is not that there are literally no leaders; there are. But those who are in office, whether elected or appointed, and statutorily responsible for residents of Enoosupukia are alleged to be predisposed against them, biased by Maasai sub-ethnic discrimination against Dorobo, or by Purko against Keekonyokie. As at the national level in Kenya,

politics in Narok District, and in Enoosupukia Location, are beset by disputes and contestations that highlight the problematic articulation of moral ethnicity and political tribalism. For many at Enoosupukia, their marginal status is decidedly a result of the latter. This sentiment is clearly explained in the following statement, made by a friend during a long evening of conversation:

> The problem, you see, is these leaders of ours. When we have a problem, for example, when we hear announcements on the radio that people will be chased from the Mau forest, we fear that we'll be chased as well. But if a Dorobo goes to the county councillor, or to any of the other leaders who might help us, they'll just ask, “Oh, who are you?” And if you say “I'm ole Omerae,” or “I'm ole Nashur,” they'll say “Oh yes, you come from Enoosupukia, right? Well, just go back home and wait for me to come.” You see, we don't have leaders who will stand up for us and make sure that we can get development and reach where other people have reached. And we don't have leaders who will help us when we have problems. If we have a problem like these evictions, we need to go see the District Commissioner, or the Provincial Commissioner, or even the Prime Minister. But if we don't have a councillor or a chief who will help us, how can we go to see those other leaders? You see, even if we go to the leaders who are there, we know that they don't like Dorobo.[1]

Evidence of marginality and disconnection from leaders is abundant in local discourse: long delays in the completion of land adjudication are rumoured to be a result of interference by influential figures hoping to appropriate land for themselves or their clients; evictions from the Trust Land forest in 2005 are alleged to have been facilitated by a shift at the top that simultaneously increased the distance between Ntimama – the most powerful leader in Narok District – and the Presidency and left local residents vulnerable to the application of official rules of political forestry. Even the occupation of land by growing numbers of “outsiders” during the late 1970s and 1980s is sometimes explained with reference to the power of leaders vis-a-vis local landholders: unable to refuse the requests of the Chief, who was believed to be acting at the behest of his own patrons, local residents claim they had little choice but to accept and accommodate

1 Jack Omerae, interview with Jack Omerae and John Nashur, Mpeuti, 18 November 2008.

newcomers. Conversely, other people are perceived to be better connected to leaders at various levels and to enjoy the preferential benefits of such connections.

Since 2002, when the KANU regime was finally removed from office by the broad-based National Rainbow Coalition (NARC) and Mwai Kibaki ascended to the Presidency after a decade in Opposition, the local sense of marginality has been exacerbated by fears about how the Kikuyu – Kenya's largest ethnic group, from which Kibaki hails – would benefit. Given the expulsion of Kikuyu settlers from Enoosupukia via the manipulation of disjunctures in the area's land tenure plurality for a combination of political and ecological reasons, these worries are not without basis. The resettlement of clash victims across the country, including those chased from Enoosupukia in 1993, has been a perennial plank in the opposition platform (e.g. Daily Nation 1998, 1998), and the plight of those displaced from Enoosupukia receives frequent mention in Kenya's newspapers (e.g. Njuguna 1999, 2001; Agutu 1999; Daily Nation 1999, 2002; Kamau 2002; Thumbi 2004; Miano 2004). Toward the end of July, 2003, led by Koigi Wamwere, Parliament passed a motion calling on government to take immediate measures to effect resettlement, further raising concerns that the new government would upset the post-clash balance, whereby Maa-speakers enjoyed access to the area officially declared a conservation forest based on a range of claims including historical occupation, intended land adjudication, and ethno-political affiliation to the area's Member of Parliament, William ole Ntimama, who had been a major player in the KANU regime since the late 1980s.[2]

2 In fact, Ntimama had, along with a host of others including Raila Odinga, Kalonzo Musyoka, and Simeon Nyachae, deftly managed the transition from KANU to NARC by publicly defecting from KANU in advance of the 2002 election and aligning himself with the eventual election victors, preserving his – and his clients' – connection to power. The mass defection from KANU was ostensibly in protest against still-reigning President Moi's appointment of Uhuru Kenyatta as his successor as KANU's Presidential candidate, rather than then Vice-President George Saitoti (Ochieng and Gatheru 2002; Rugene and Otieno 2002; Orlale 2002; Rugene and

Anxieties about Kikuyu resettlement at Enoosupukia were readily apparent by the middle of 2003, just a few months into Kibaki's first term. On an early visit to Enoosupukia with an elected leader from Nairagie Enkare and his entourage, we met two of his supporters along the road as they returned from a meeting near Maiella. Their report was that Jane Kihara, the newly-elected Member of Parliament for Naivasha, in which Maiella lies, had told a meeting of Kikuyu displaced from Enoosupukia that the time was ripe for resettlement: pointing to the hills, she was alleged to have told them “go back home now and take what is yours.” The Nairaigie Enkare leader's response was that the Maasai would never allow this to happen, and would fight to the death if necessary to prevent it. But the rumours about Kihara's directive turned out to be hyperbole. As reported in the Daily Nation (2003) and confirmed in an interview with Godfrey Lemiso of the Catholic Diocese of Ngong Justice and Peace Commission, the meeting had in fact been organized by NGOs and the Church to commemorate the clash victims and to present a memorandum, which they asked the MP to transmit to the President, calling for resettlement and the establishment of a Truth and Reconciliation Commission. While she supported these requests and called for the arrest of those responsible for the violence in 1993, Kihara's statement, according to Lemiso, was decidedly more tame than the rumour: addressing the assembled crowd she sympathized with them, and stated that if she “were in charge they wouldn’t be talking about resettlement, they would have gone there yesterday,” but she also tempered her statement with an appeal for patience while the government initiated an official, legal process of reconciliation and resettlement.[3]

Muriuki 2002). Ntimama's position in the new government was tenuous, however, owing to his involvement in the clashes of the 1990s as one of the most vocal proponents of President Moi, and he subsequently joined many of his co-defectors in the Orange Democratic Movement forged during the campaign for the 2005 Constitution Referendum.

3 Interview with Godfrey Lemiso, Catholic Diocese of Ngong, Justice and Peace Commission, 6 August 2003.

After the resettlement motion was passed in Parliament, very little movement was made to either establish a Truth and Reconciliation Commission or effect the resettlement of Kikuyu displaced from Enoosupukia during the clashes. In the highlands, however, the subsequent forest evictions were interpreted as the outcome of bargaining between powerful members of the elite over the question of resettlement. As described in Chapter 5, faced with a presumed ethno-political alliance between Kihara and Kibaki and given a choice of allowing Kikuyu to return to Enoosupukia or agreeing to the enforcement of exclusive conservation there, Ntimama acquiesced to the latter, subjecting local residents – thought to be his own clients – to violent displacement by government security forces. For some, this action signified a new rupture, as well as the marginalization of both Ntimama at the national level and residents of Enoosupukia at the local level. The growth of this rift after the 2005 referendum, further signified by Ntimama's prominent membership in a new opposition coalition, the Orange Democratic Movement, was cause for concern: as the de facto Maasai leader,[4] his potential failure to regain a position in Cabinet, or even to retain a position in the ruling party, could result in major changes at Enoosupukia. In the days before the 2007 General Election, one voter at Enoosupukia remarked on the alignment of candidates, summing up her opinion by stating plainly: “If Kibaki wins the seat, the Kikuyu will come back here.”

Statements such as these highlight both the sense of insecurity felt by residents of Enoosupukia, and their perception of the importance of connection to Kenya's political and administrative elite for mitigating uncertainty. The frequent refrain at Enoosupukia –

4 Despite several recent public events at which his supremacy was announced, this claim is not uncontested. For a fascinating and insightful account of the factional dynamics of Maasai politics, see Oduol (2001), who describes two generations of conflict, beginning with rivalries between Justus ole Tipis of Narok and Stanley Oloitipitp and John Keen, of Kajiado, and continuing with alliances and fueds involving Ntimama, George Saitoti of Kajiado, Julius Sunkuli of Trans Mara, and Stephen ole Ntutu of Narok South.

that people there “have no leaders” – is at once a lament about disconnection from patronage networks and an assertion of rightful, if neglected, membership in local and Kenyan polities. If security and development are the fruits of independence, those at Enoosupukia also claim the right to eat. Connection is both an end in itself and a means to other ends, signifying recognition of belonging while also providing avenues through which to assert claims of belonging, whether on land at Enoosupukia or in social and political networks that transcend the locality. However, patronage connections alone do not guarantee tenure security on contested lands. Instead, connection works in concert with other avenues of claiming rights and belonging, for example by asserting autochthony or official recognition in an adjudication register, to bolster claims rather than to secure them outright. Rights in land and belonging at Enoosupukia are thus subject to the operation of a plurality of logics, including the politics of patronage.

In this chapter, I explore the politics of patronage, central to the negotiation of rights in land and belonging at Enoosupukia, from “below.” Informed by recent works on African politics (e.g. Bayart 2009; Chabal and Daloz 1999; Chabal 1992; Daloz 2003; Berman 1998), I begin by discussing the evolution of the patronage state in Kenya, underwritten by a historically-produced and socially-reproduced form of governmentality in which the moral economy of patronage has become fused with state institutions of administration and representation. In particular, I focus on the postcolonial appropriation of electoral politics and bureaucratic administration into patronage networks, which has served to enhance the legitimate authority of the ruling elite and facilitate both the exercise of centralized control and the personal accumulation of wealth. I then examine the dynamics in play at the lower, local end of patronage networks, where clients bear the brunt and reap the rewards of the fracture and repair of networks. In the context of

growing inequalities and the repression of authoritarian rule, as experienced in Kenya under both presidents Kenyatta and Moi, vertical relations “between leaders and followers, rulers and ruled, are to be understood in terms of asymmetrical reciprocity” which do not “reduce the extremes of social wealth and status,” but rather “make such inequalities more legitimately bearable than they would otherwise have been” (Chabal and Daloz 1999:41-42). In effect, while this moral economy of patronage means that “even the lowliest client can expect to benefit from his affiliation to a patron ... the truly destitute are those without patrons” (Chabal and Daloz 1999:42). While residents of Enoosupukia locate the source of their present hardship in their disconnection from leaders, they are not without hope for the future. Here I discuss a few of the strategies of engagement employed by people at Enoosupukia in their efforts to gain and maintain connection, secure their claims to rights in land, and pursue local development: first, long-term lobbying to have a local, Dorobo resident appointed into the Provincial Administration as Assistant Chief for Enoosupukia Location, and second, participation in the 2007 General Election as supporters at campaign rallies and as voters, in particular in the race for the county council seat for Enoosupukia Ward.

The patronage state in Kenya

The emergence of the patronage state in postcolonial Kenya has been the product not of atavistic regression or failure to modernize but of ongoing social and political dynamics associated with the colonization, decolonization, and governance of a plural polity. Kenya's political history is composed of refractions rather than revolutions, in which precolonial moral economy, colonial organizational structures, and postcolonial realities have led to the merger of old and new institutions in a particular manifestation of the dominant African governmentality that Bayart has characterized as “the politics of the

belly" (Bayart 2009). In the colonial encounter, administrative structures of indirect rule meant to legitimize colonial authority helped to reproduce precolonial moral economies while in some cases also allowing for the exercise of "decentralized despotism" (Mamdani 1996), exacerbating inequalities, and contributing to class differentiation. Kenya's independence in 1963 was not a radical break, as an emerging African elite took the place of the white colonial elite, accumulating both wealth and positions of power (Leys 1975; Kitching 1980; Leo 1984). However, the new climate of democratic self-government demanded new means of legitimizing rule and enhancing governmental authority and stability. In response to these challenges, the ruling elite led by Jomo Kenyatta appropriated the structures of administrative bureaucracy and political representation, facilitating the management of patronage networks that further served to centralize control, legitimize authority, and produce a centripetal force that fostered national cohesion despite sometimes radical diversity and inequality. In this postcolonial moral economy, patrons and clients were bound through relations of reciprocal, if asymmetrical, obligation: clients at various levels could gain security on land, preferential access to other resources, or appointments to positions from which wealth and power could be accumulated and wielded; in return, patrons earned loyalty, often in the form of electoral support. While patronage has become institutionalized in Kenya and continues to resist reform and anti-corruption initiatives (e.g. Wrong 2009), particular relationships between patrons and clients remain subject to perpetual negotiation and require ongoing maintenance, resulting in a degree of volatility and a constant risk of disconnection.

Colonial governance

The institutional roots of the patronage state in Kenya are to be found in the colonial encounter, specifically, in the establishment of indirect rule by which the British

hoped to graft the colonial apparatus onto local political systems. A result of political struggles among administrators, settlers, and native Africans (see Sorrenson 1968 and Chapter 2), the demarcation of native reserves and construction of native authorities was based on both a need for administrative efficiency and an "invention" of African political tradition: believing that all Africans belonged to tribes, European officials sought to determine and liaise with tribal authority, generally in the form of chiefs. As Berman has noted, colonial rule in Africa "did not reproduce the full range of European institutions and culture;" rather, in terms of political organization, it reproduced "the bureaucratic institutions of political domination, particularly the prefectural field apparatus developed for the control of outlying provinces and largely agrarian populations, with deep historical roots in absolutist ancien regimes" (Berman 1998:313-314). Supported by an "ideology of patriarchal bureaucratic authoritarianism" and backed by the coercive power of military and police organizations, colonial authority facilitated "decentralized despotism," though it was far from absolute. Rather than cultivating liberal political subjects, one of the main goals of indirect rule was to minimize dissent and trans-ethnic mobilization, "and the power of chiefs and their control of patronage was a fundamentally conservative instrument of political fragmentation and isolation" (Berman 1998:318). The colonial encounter further laid the groundwork for ongoing renegotiations of "moral ethnicity" – a process of boundary maintenance, identity formation, and politics that included debates about social responsibility between leaders and followers, or the wealthy and the poor – as well as competitive "political tribalism" – struggles between members of emerging social groups for access to power and resources, especially those bound up with state institutions and practices (Berman 1998; Lonsdale 1994; Berman and Lonsdale 1992).

For Maasai, this period involved the reconfiguration of socio-spatial boundaries, both amongst Maa-speakers and between them and non-Maa-speaking "Others," as well as a shift from cultural and political hegemony in the Rift Valley region to confinement on a territorially delimited reserve and marginalization vis-a-vis the centres of political power. Inside the reserve, administrators produced several iterations restructuring official political institutions premised on better representing Maasai social organization and extending official authority to enhance administrative control, especially by duly appointed elders over warrior groups and often with only limited effectiveness (Sandford 1919; Hailey 1950). Over time, institutional reformulations led to a dual system, involving both appointed chiefs and headmen as administrative officials linked to the Colonial Administration through the District Commissioner to the Provincial Commissioner, and then to the Governor, and elected representatives sitting on Local Native Councils at the District level, which served as consultative and legislative bodies with limited official scope and powers but also often enabled organized Maasai resistance to colonial penetration and control (Mueller 1984:404-405; see also Chapters 2 and 5). Mirroring dynamics elsewhere in the colony, election or appointment to official positions became a profitable experience, and leaders gained individual wealth and status, amassing clients and supporters while trafficking in permits for resource use and residence inside the Maasai Districts (Waller 1993; see also Chapter 4).

Representative politics and other "institutional forms of the European liberal state" (Berman 1998:314), which could provide some means for African engagement with legislative and policy process at the level of colonial administration, were a very late entrant to the sphere of colonial governance in Kenya. The country's first "pan-tribal political organization" (Ajulu 2002:255), the East African Association, arose in 1919 with

leadership drawn from the dominant ethnic groups of Nairobi's early labour market, driven by a political agenda that “reflected the frustrations of an embryonic urban working class confronted with the demands of typical settler colonial accumulation strategies” (Ajulu 2002:255). Protests against excessive taxation, forced labour, and restricted African movement throughout the colony evolved into riots in Nairobi in 1922, which resulted in the arrest and deportation of several of the association's leaders and an apparent colonial resolution to discourage the formation of trans-ethnic political movements. For the next twenty years, African politics in Kenya were dominated by a proliferation of “tribal” organizations “whose activities were similarly confined to narrowly defined tribal 'issues'” (Ajulu 2002:255). By the middle of the 1940s, Kenyan officials were ready to experiment with African participation in government, in part as a means to diffuse the growing political-economic crisis in the colony. The nomination of the first African member of the Legislative Council was accompanied by the state formation of an organization to act as an advisory body; this organization quickly gained momentum and by 1946 was reconstituted as the Kenya African Union (KAU) with an explicit goal of uniting Kenyans under a single political organization. The KAU was joined, in 1947, by Jomo Kenyatta and the political constituency of the Kikuyu Central Association, as well as by the labour movement and its militant urban constituency. While it strove for a broad political base, Ajulu notes that “it is important to emphasize that... [KAU] was in essence the political home of the urbanised, proletarianised and educated sections of the society. Ethnic groups from the periphery of capitalist development had probably not even heard of KAU” (Ajulu 2002:256).

Like the EAA before it, the KAU soon proved too radical for colonial tastes; the declaration of the Mau Mau Emergency in 1952 provided the justification for the arrest of

the entire KAU leadership as well as for a related ban on all African political parties. When the ban was lifted toward the end of 1954, African (and Asian) participation in national government was to be carefully controlled. Political parties were allowed to reform in June 1955, but "only at district level and with the discretion of colonial officers who approved parties for registration. National parties were not permitted" (Anderson 2005:549). Colonial micro-management of African politics in the 1950s had two main effects: first, it hindered the formation and expression of national political aspirations while nurturing local politics; and second, it allowed the British "to reward their allies while punishing their enemies" (Anderson 2005:549). In districts where the population had been more uniformly loyal, as among the Maasai and Kalenjin, officials encouraged and supported emerging politicians and organizations, whereas in Central Province, the Kikuyu – thus understood to also be the Mau Mau (Lonsdale 1990) – heartland, registration of parties was not permitted. This not only constrained the development of national, pan-African political organizations and movements, which were officially proscribed, but also contributed to a trend of leaders building localized power bases, which in turn helped to connect electoral politics at the national level to local moral economies (Barkan 1992:169).

Governance and the politics of decolonization

By 1959, the African representatives in the colonial Legislative Council had begun to circumvent the ban on national political organization by dividing into two voting blocks, composed of eight and six members each. The two blocks were split ideologically to a degree, with one, drawn from the rural loyalists whose political growth was fostered during the emergency, having "embraced the notion of regional politics, advocated gradual political reform and adopted a broadly conservative political ideology" (Anderson

2005:551), and the other pushing a nationalist perspective, more rapid political change and a more radical, progressive policy agenda. In the following months, a series of realignments and mergers led to the formation of two broad coalitions out of a proliferation of regional, ethnic, and even clan-based organizations.[5] In talks at Lancaster House in England, where negotiations aimed at achieving the now-declared British goal of Kenyan independence were held, and in successive elections to increase the number of African members of the Legislative Council, the nationalist, progressive Kenya African National Union (KANU) confronted the regionalist, more conservative Kenya African Democratic Union (KADU), and each sought to further consolidate their power bases, characterized by both ethnic and class distinctions. Through these collaborative and competitive confrontations, the key point of contention to emerge was the question of the future shape of Kenya's government, with KANU favouring a centralized, national framework and KADU, in association with the liberal, but White-Kenyan-dominated, New Kenya Group, promoting regional devolution.

Differences over the question of regionalism versus nationalism were not merely ideological, but rather situated around problems of control of and marginalization from power and resources that reflected the composition of the two main alliances. On one hand, KANU was the self-proclaimed successor to KAU and derived the majority of its support from four of Kenya's five largest ethnic groups, the Kikuyu, Luo, Kamba, and Kisii, while also enjoying strong support among Embu and Meru, all of which had engaged extensively with the colonial political-economy both at home, on Rift Valley farms, and in Nairobi. Thus, “in essence, KANU became the coalition of 'the bigs,' 'the mobilized,' and 'the haves,' and drew the core of its support from groups that constituted

5 The details and dynamics of these negotiations are well-described by Ajulu (2002:257-259), and Anderson (2005:549-552).

60 percent of Kenya's population" (Barkan 1992:169). KADU, on the other hand, was a coalition of the smaller, less mobilized, "'have nots,' in that it was composed of district organizations located in relatively undeveloped areas inhabited by smaller ethnic groups who had not participated in KAU" (Barkan 1992:169-170), and had weaker credentials in terms of the anti-colonial struggle for independence as well as a much smaller base of support. For KADU leaders, regionalism had come to be seen as a potential defence against economic and political marginalization by the more populous, educated, wealthy, and powerful groups constituting KANU. In this KADU's position mirrored that of the white minority that had first proposed devolution as a means to retain control over the White Highlands in the face of African self-rule. Regionalism, popularly identified by the term "*majimboism,*" adapted from the Swahili for "state" or "province," also gained traction among KADU supporters as a means to prevent, or at least slow, the expected Kikuyu colonization of the Rift Valley (Anderson 2005:552), believed by Kalenjin and Maasai in particular to be rightfully theirs after colonial expropriation earlier in the century. Highlighting the perceived stakes of this debate and presaging its resurgence in the 1990s (see Chapter 4), majimboism was counterposed early on with violent defence of minority rights when it was launched under the slogan "Regionalism or Civil War" in the early 1960s, and it was popularly associated with ethno-regionalism, in political rhetoric if not necessarily in law (Ajulu 2002:258-259).[6]

By early 1962, majimboism had become a central part of constitutional negotiations at Lancaster House, with the KADU and NKG delegations co-presenting a draft "majimbo constitution" based on American and Swiss federalism. If successful, this

6 Ajulu further notes the popularization of more descriptive slogans, such as "*Wabarra Kwao*! (Up country people, Back to their own homes) and *Kila mtu kwao*! (Every person to his or her own home)" (2002:259), that carried threats of violent enforcement. Such sentiments were echoed in the "majimbo" rallies of the early 1990s, convened to mobilize opposition to the newly-legalized multi-party opposition (see Chapter 4).

proposal would

> ... create six regions, alongside the federal capital territory of Nairobi. A bicameral legislature would comprise an upper house representing the regions, to which each region would elect seven representatives from their own Regional Assembly, and a lower house elected by universal adult suffrage in 71 constituencies. The two tiers would have equal powers of legislation, but the upper house would approve key appointments to the courts and armed forces. A Federal Council of Ministers would comprise 10 to 15 members, at least one but no more than three drawn from each region. The Council would elect its own chairman as Head of State, a post that would rotate on an annual basis. Each region would have its own Assembly with legislative powers and an executive headed by a President, who would be elected from among members of the Assembly. Each region would have its own civil service and its own police — who would implement federal laws as well as regional legislation. (Anderson 2005:556)

However, despite some support from British parliamentarians, KADU could only extract a vague commitment to the formation of regional assemblies, with British authorities particularly concerned about the cumbersome financial costs of establishing such a framework.

In the end, Kenya did enter the world of independent postcolonial states with a regionalist constitution, with a bicameral National Assembly and eight regional governments, including one for the Nairobi area, each with its own regional assembly and executive, but constrained in its autonomy by the powers of the executive, headed by a Prime Minister appointed from parliament by the Governor-General.[7] Specifically, the executive authorities of the regions were constitutionally bound “not to impede or prejudice the exercise of the executive authority of the Government of Kenya” (Constitution of Kenya, 1963; S 106(2)(a)) and “to ensure compliance with any provision made by or under an Act of Parliament applying to that region” (Constitution of Kenya, 1963; S 106(2)(b)). Further, Parliament was empowered, under section 70 of the

7 In its constitution as a parliamentary democracy, including the British sovereign represented by a Governor-General, with semi-autonomous Regional Assemblies, Kenya's first iteration as an independent state bears a striking resemblance to the political structure of Canada, also a former British Colony.

constitution, to assume powers to make laws for any region after a resolution declaring the region in contravention of section 106(2) supported by a two-thirds majority vote of the overall National Assembly. KADU leaders elected to head Regional Assemblies under this arrangement, including future-President Moi, quickly realized that "far from consolidating their political power, ... they had been marginalized" (Anderson 2005:562).

The seeds of a centralized national framework, sown during the several years of meetings and debates over the terms of Kenya's independence and constitutional structure, began to sprout in earnest in the May, 1963, election, conducted under the interim majimbo constitution. During the campaign, KANU had openly begun to deride regionalism and made it clear that, when its expected electoral victory was realized, KANU "had little intention of operating the constitution that British compromise and KADU had forced upon it" (Anderson 2005:561). While threats of secession by KADU leaders at the final Lancaster House conference had ensured the slightly revised majimbo constitution would be officially adopted, KANU's overwhelming strength in the National Assembly and control in half of the regional assemblies left KADU with little power after independence was formally declared in late 1963. By November, 1964, less than one year after independence, the dissolution of KADU amidst numerous defections allowed the KANU government to begin to overhaul the constitution and officially remove regionalism, leaving in its place a Presidential system with a strong executive and a national parliament, as well as local government at the district level.[8]

8 As Gertzel (Gertzel 1970:174-176) describes, a series amendments were made over a period of five years, with an Act passed in 1969 consolidating the changes and presenting a new constitutional document.

Postcolonial patronage and centralization

Shortly after its birth as a decentralized state, Kenya evolved into a highly-centralized political system through a combination of both official institutional changes and unofficial, but practically hegemonic, patronage practices. The centralization of administrative bureaucracy was facilitated by the collapse of party politics within a year of Kenya's independence. Despite having the appearance of a two-party state governed by KANU and with KADU in the official opposition, the issues separating the two alliances were “mainly distributive rather than programmatic in nature” (Barkan 1992:170). Owing to the localized, clientelist nature of politics in the colonial and transitional periods, leaders elected to office in the 1963 elections “began to scramble for state resources to pay off clients in their home areas” (Barkan 1992:170). In effect, this contributed to the development of what Barkan has called a “no-party state” in Kenya: given KANU's dominant position in government and Kenyatta's power within KANU, demand for patronage resources made it relatively easy to negotiate floor-crossings by KADU representatives fearing marginalization if they remained in opposition. But while political participation continued to be ostensibly organized through the party structure of KANU, patronage dynamics were at the centre of both the government's popular legitimacy and the executive's further centralization of control. After the transition of Moi's succession to the presidency in 1978, patronage remained crucial while KANU was resurrected and fused with the executive. Under both presidents Kenyatta and Moi, institutions of local government were, along with the Provincial Administration, further co-opted into centralized rule and used as instruments of both patronage and control. While these moves contributed to the increasingly authoritarian exercise of political power, control over official bureaucratic institutions facilitated circulation of state resources for local development to local “big men,” and was central in balancing the regional and

ethnic autonomy with loyalty to the centre.

The collapse of the multi-party system, which began with a trickle of defections between the 1963 elections and the official attainment of independence later that year, was engineered through skillful use of both coercion and repression (Mueller 1984; Widner 1992; Gertzel 1970). After the folding of KADU in 1964, factional conflicts within KANU resulted in the emergence of a new opposition party under the name Kenya People's Union (KPU) when a group of 29 MPs led by then Vice-President Oginga Odinga “crossed the floor.” This move was met with the Government's use of the

> ... country-wide monopoly of sanctions and resources inherited from the colonial period to suppress the KPU. ... From 1966-9, the Government restricted the KPUs freedom to compete with the dominant party by refusing to register many of its branches and sub-branches, by prohibiting it from holding public meetings, and by passing a number of laws having to do with elections and detention that worked to the disadvantage of the opposition. (Mueller 1984:408)

In addition to constraining the KPU through the exercise of such authoritarian techniques, threats of disconnection and promises of rewards for loyalty were also employed to coax dissidents back to the fold. Between 1966 and 1969, KPU members and their clients lost numerous lucrative positions on government bodies and parastatals, while others who saw the error of their ways were welcomed back with appointments. Negotiations were not only carried out behind closed doors, but also in public, before audiences of voters who relied on their patrons to deliver resources and development projects. Mueller has reported two particularly striking examples recorded during public meetings in 1969, in which both explicit and metaphorical appeals were made:

> If you vote for KANU, schools will be built, roads graded and brought to the border. If you don't, you are lost ...
>
> If you don't unite with the Government, all secondary schools we are now trying to build will disappear. Kenyatta has sugar. Let's go lick his hands. (Mueller 1984:423)

This dialectic of coercion and repression would continue to be used throughout Kenyatta's presidency, and was intensified under Moi (Widner 1992; Barkan 1992), to maintain a de facto single-party state, and after 1982 a de jure single-party state, until the beginning of political liberalization in the early 1990s. Even after the 1992 elections, promises of patronage were used as bribes to bring MPs elected on an opposition ticket back into the ruling party (Holmquist and Ford 1994).

While the formation of political parties other than KANU and other open and covert threats to KANU's hegemony and Kenyatta's primacy in both the party and government were not tolerated, competition at lower levels within KANU was fostered and used to further consolidate Kenyatta's centralized control. Rather than trying to impose national unity and build support for the single-party, Kenyatta made use of the proliferation of personalized political organizations run by local notables; instead of “suppressing leaders who sought to maintain and fortify their local power bases, Kenyatta assisted and manipulated their efforts by selectively dispensing or withholding patronage needed for this task” (Barkan 1992:171). Rival factions within the ruling party were able to struggle with one another for power, while leaders of different ethnic groups or of multi-ethnic coalitions fought for state patronage, often in the form of funding for new development projects. In nation-wide elections beginning in 1966, rising stars and other “challengers remained free to oppose incumbent Members of Parliament and even powerful Cabinet Ministers” (Throup 1993:378), especially in the system of primary elections instituted once KANU had become the sole registered political organization in the country. The 1969 general election was a testament to the emerging dynamics of patronage and loyalty: Throup reports that five Cabinet Ministers, fourteen Assistant Ministers, and sixty-seven backbenchers were defeated at the polls and replaced with

newcomers, mainly due to distributive rather than programmatic complaints by voters (Throup 1993:375). Similar, though slightly less dramatic, turnover occurred in the 1974 election, and incumbents enjoyed increasing success in subsequent elections, as politicians began to be more attentive to the demands of their constituents after coming to understand that elections had effectively become “local referenda on the ability of individual incumbents to secure state resources for their home areas” (Barkan 1992:172).

In addition to channelling dissent and constraining challenges to Kenyatta and KANU's authority, the dynamics of parliamentary elections allowed for the further strengthening of the executive and for the legitimization of the entire system. Allowing incumbents, and even Cabinet Ministers, to fall in popular elections ensured that Kenyatta incorporated new blood into his regime while discarding those who had lost the support of their constituents. After the 1969 elections a pattern of promotion within government began to emerge: those re-elected for a second time could expect to be rewarded with appointments to Cabinet, while those re-elected for the first time could expect to be made assistant ministers, with newcomers kept on the backbench until they had proven themselves.[9] Thus, “the basis of Kenyatta's system of patronage was not mere loyalty to the regime, but loyalty coupled with a demonstrated ability to represent a public constituency and renew one's electoral mandate” (Barkan 1992:173). MPs could enhance their prominence in their constituencies, where they wielded the power to allocate development resources and make important connections for their clients to secure appointment in the Civil Service and elsewhere in the state bureaucracy, while

9 There were notable exceptions to this rule: George Saitoti, who eventually became Vice-President and continues to be a major figure in Parliament, was initially appointed directly to Cabinet, as Minister for Finance, from his academic post in the Department of Economics at the University of Nairobi in 1983. I thank Stephen Moiko for pointing out this example.

also being dependant clients of Kenyatta and the entrenched elite around him. Local notables thus "constituted a critical link between central government and local constituents, and also acted as mediators between different constituencies" (Klopp 2001:82). MPs remained somewhat accountable to both their constituents, who demanded provision of services, and to those at the centre of power, who demanded both loyalty and the provision of popular support. The tensions inherent in this system, in which neither the electorate, nor the members of the National Assembly, nor even the President were entirely independent from one another, allowed each a degree of freedom and helped to buffer excesses (Hornsby 1989:277-278). Despite a significant tendency towards authoritarianism and increasing disparities in wealth and power between the political and economic elite and the relatively poor majority, a certain balance and predictability was maintained as long as the players conformed to the rules of the game (Barkan 1992).[10]

While electoral politics at the parliamentary level were an important site of legitimization and circulation of patronage, they were not the only avenue used by the increasingly authoritarian Kenyatta regime to achieve these ends. In particular, the Provincial Administration was appropriated into what Branch and Cheeseman (2006) have called a "bureaucratic-executive state" able to exercise authoritarian control and act as an interface between the executive and society in both urban and rural areas. In the transition to independence, the colonial administration was set to be replaced with the system of devolved democratic regional government proposed in the majimbo

10 Barkan in particular notes that the dynamics of the Kenyatta era lead to the emergence of a "governance realm," in which "clear norms and procedures were evolved for regulating the relationship between state and society – norms that were accepted by both the rulers and the ruled, and that remained constant over time" (1992:168). In essence, he is describing the emergence of a form of governmentality through which legitimacy, authority, and accountability were negotiated.

constitution. With its dominance in government and disdain for the regional framework, KANU opted instead to maintain the centralized colonial structure to facilitate dissemination of policy and development projects from government down to localities (Gertzel 1966). The reinforced role of the Provincial Administration in Kenya's governance produced frictions between the civil service and elected politicians, as it led to questions of leadership, with two distinct groups with legitimate claims. On one hand, Administrative Officers, including the Provincial and District Commissioners, their subordinate officers, and even Chiefs, had been explicitly assigned the role of “leaders of their communities” by the President (Gertzel 1966:202). On the other hand, representatives in both Parliament and local authorities had been popularly elected and were bound to their supporters by reciprocal obligations in the emerging politics of patronage. In practice, these lines of connection and rule were not distinct, but rather they intersected as local administrative bureaucratic offices could be used by higher-level patrons to monitor their constituencies and as positions allocated in reward for loyalty from their clients.

Despite the official devolution of the administration to the regions and the establishment of an independent Public Service Commission to oversee its operation in the majimbo constitution, by late 1964 the administrative system remained almost unaltered from its colonial form (Gertzel 1966; Barkan 1992; Klopp 2001). The structure of the Provincial Administration was, and remains, hierarchical. Each of the country's eight provinces are governed by a Provincial Commissioner (PC), and each District is likewise managed by a District Commissioner (DC) under the supervisory authority of the PC under whose jurisdiction the district falls. The DC is similarly in a position of authority over a number of Divisional Officers (DO), each responsible for an administrative division

which may be composed of one or more locations, each with one or more sub-locations. At the locational level, the Provincial Administration is represented by appointed Chiefs and Assistant Chiefs. While PCs, DCs, and DOs, may be drawn from outside the areas they govern, with members of a given ethnic group often appointed outside their group's "home" area, Chiefs and Assistant Chiefs are drawn from the local community in order to facilitate their work and legitimize their authority. This mirrors the racial divide in the colonial administration, whereby PCs, DCs, and DOs, were Europeans, and Chiefs, Assistant Chiefs, and Headmen were members of the local African community.

Shortly after independence, control over the Provincial Administration was transferred to the Office of the President, effectively installing the President at its head as the colonial governors had been. Presidents Kenyatta and Moi both relied heavily on the administrative bureaucracy to project the authority of the central government throughout the country, and they both reportedly maintained daily contact with all of the Provincial Commissioners (Barkan and Chege 1989). As Barkan explains, under Kenyatta the PCs

> ... were given considerable autonomy over the administration of their areas but reported directly to the President. PCs were rarely transferred, and their tenure in the same province often lasted from five to ten years. The result is that PCs often became powerful lords in the realms they administered. District commissioners also held their positions for a minimum of two to three years, sometimes more. The result was the presence in rural Kenya of a strong and competent administration that enjoyed the confidence of the president – the "steel frame" of the Kenyan state. (1992:174)

Appointment into positions in the Provincial Administration was further connected to the operation of the politics of patronage, and presidential control over appointments to office allowed "the president the means to reward a coterie of clients. These clients are, in turn, patrons for a constellation of sub-clients at a local level. At the furthest reach are the chiefs and their extremely poorly paid assistants, sub-chiefs and headmen or women" (Klopp 2001:95). Appointees need not be direct clients of the President; rather,

more powerful clients, such as the loyal and successful elected officials who have become Cabinet Ministers may be able to negotiate appointment for their own clients to the position of DC or DO outside their home districts. Local bosses may also have significant sway over the appointment of chiefs and assistant chiefs in their own districts from among their loyal supporters. Klopp sites a 1970 study by Nyangira, which reports that although sub-chiefs were “officially appointed by the DC, about one quarter of sub-chiefs owed their appointments to former MPs from the constituency who used their influence with the provincial administration to reward them for their work in the KANU Youth Wing” (Klopp 2001:96). As will be discussed below, such connections between elected leaders and the appointment of administrative officials figure prominently both in the strategies employed over many years by people at Enoosoupukia to have a local resident appointed as an Assistant Chief and in the interpretations of their continued lack of success.

The Provincial Administration ruled by Kenyatta was an extensive and populous apparatus. The eight PCs with whom the President maintained daily contact in turn oversaw 40 DCs, “between 150 and 180 divisional officers, and over 3,000 chiefs and sub-chiefs” (Barkan and Chege 1989:438). While the chiefs and sub-chiefs were generally residents of the locations over which they were responsible, the bureaucracy as a whole was widely perceived to be under Kikuyu control, owing to the disproportionate number of Kikuyu serving as PCs and DCs at the time. This apparent bias, which is frequently employed in political rhetoric as a warning of things to come should Kikuyu continue to enjoy occupation of the Presidency, likely derives from a combination of skewed recruiting and promotion based on patronage with unequal levels of education, and thus qualifications, across the country due to differential engagement

with the colonial political-economy. Under Moi, the structure of the Provincial Administration was maintained intact, though the occupants of high offices changed. Between 1978 and 1980, all but one of the PCs appointed by Kenyatta had been retired, and approximately half of the DCs were transferred out of the Provincial Administration into other branches of the Public Service (Barkan and Chege 1989:439). In their place, Moi preferentially promoted and appointed members of his own Kalenjin ethnic group (Barkan 1992:186-187), signalling a shift in the composition of patronage networks, though not of the underlying logic.

Moi's rule also saw more prolific use of the administrative bureaucracy as an instrument of repression and patronage, especially through his resurrection of the relatively feeble party, KANU after a failed coup against him in 1982. Chiefs, sub-chiefs, DOs and DCs not only exercised their authority to ban meetings and harass dissident leaders – to especially great effect in the early 1990s around the return of multi-party democracy – but also, until the late 1990s,

> ... collected KANU membership dues and saw it as their duty to promote KANU in their area of jurisdiction. While some administrators attempt to carry out their duties relatively impartially, a great many continue to operate on behalf of the office that appoints them, the Office of the President, and there are incentives to act in this way. This also means that while these administrators provide assistance to KANU MPs, they also serve as a means to keep them in line. (Klopp 2001:97-98)

While the Provincial Administration thus formed an important part of authoritarian rule in Kenya, facilitating top-down control over dissent and managing the distribution of patronage, it also provided an avenue of connection from localities through low-ranking administrative officials to more influential leaders. In this way, the co-opted bureaucratic structure could be utilized not just for patronage and policy distribution from the centre out, but also for the voicing of claims and demands from the periphery. In the

postcolonial era, appointment of chiefs and assistant chiefs could signify not only ethno-territorial belonging, but also membership of individuals and whole communities in patronage networks that unite the wealthy and powerful elite with poorer, more marginal clients, constituents, and supporters.

Chiefs, sub-chiefs, and lower-ranking administrative officials are not the only point of interface between the populace and the politics of patronage in Kenya. Institutions of local government in the form of municipal, town, and county councils also constitute semi-autonomous extensions of the same system. These councils are the postcolonial successors, and often the continuations, of the late-colonial Local Native Councils organized by administrators to act as advisory and legislative bodies inside the reserves, and though they were progressively stripped of nearly all powers and autonomy under presidents Kenyatta and Moi, they remain a site of political competition, patronage connection, and factional dynamics. In the first years after independence, local authorities struggled to implement services due to a organizational weaknesses and financial shortfalls. Revenue collection was among the first duties from which local authorities were relieved with the implementation of a Graduated Personal Tax in 1965, to be collected by administrative officers coordinated under the Provincial Administration (Southall and Wood 1996:506). Their effective operation was further hampered by an inability to recruit qualified and trained staff who were attracted to positions within the rapidly expanding central government, as well as by the fact that

> ... councils were regarded as important channels of patronage and influence, and elected councillors, few of whom had any experience in public office, had rather less concern for the public good than their more immediate political advantage. In turn, connections with local councils gave prominent politicians a local base, and transformed local government into an 'arena for fractional politics'. (Southall and Wood 1996:506)

Financial disarray in local authorities and a concomitant failure to deliver the services demanded by their constituents provided the pretext for the central government to officially assume almost all of the remaining obligations of local government with the promulgation of the Transfer of Functions Act in 1970. This effectively left local government in the position of being "neither local nor government" (Southall and Wood 1996:503).

In addition to stripping local councils of their functions and responsibilities, the executive maintained a strong role in determining the composition of local bodies. Local authorities were officially supervised by the Ministry of Local Government, which had the constitutional authority to "establish, disestablish or upgrade local authorities, and to set rules regarding the election and composition of councils" (Southall and Wood 1996:507), and these powers were routinely used for political ends. In particular, the Minister in charge was legally empowered to appoint up to one third of the members of any local council, on grounds that this was necessary to supplement the elected membership with competent leaders and those representing special interests, who almost invariably turned out to be loyal to the executive and to the local parliamentary boss.[11] Local government was further disempowered under Moi, when, in 1984, the Public Service Commission was granted the authority to recruit and employ local authority staff, such as council clerks, treasurers, engineers, and medical officers, making these "senior council officers into central rather than local government employees" (Southall and Wood 1996:507). This evisceration of local authorities and curtailing of their autonomy from

11 In particular, Southall and Wood discuss the nomination of almost 600 councillors, including KANU loyalists who had been defeated at the polls, by William Ntimama, in his capacity as Minister of Local Government after the 1992 multi-party election (Southall and Wood 1996:512). The procedure was eventually amended and the Electoral Commission of Kenya delegated the responsibility of determining the proportion of nominations to be drawn from each party.

central government was taken to its extreme in 1993 when the Minister published a circular “clarifying” the role of Mayors and council Chairmen as primarily “ceremonial” in presiding over meetings. Further,

> ... they were described as having no authority to act or speak on behalf of the councils without the written authority of their council or town clerks [centrally appointed through the PSC], they were forbidden to visit their offices more than three days a week, a host of restrictions were placed on their access to official transport and telephones, and their allowances, which were previously granted in advance, were now only to be granted on submission of accounts. In contrast, town clerks and clersk to councils were described as chief executives, with the responsibility of coordinating councils' work, convening their meetings and communicating their decisions. (Southall and Wood 1996:514)

Having been progressively stripped of their powers and resources, local authorities became practically inconsequential in terms of policy formation and service delivery.[12] At the same time, in much the same way as local political competition within the party framework had been fostered amongst aspiring and incumbent parliamentarians, local authority elections provided a site for the establishment and operation of patronage networks and the legitimization of authoritarian rule by popular elections. Seeking to further extend and consolidate their power bases, district bosses forged alliances with candidates in county council and municipal wards who would stand against candidates allied with rival leaders. Factions, often organized around membership in ethnic or sub-ethnic collectivities coalesced into patronage pyramids, in which clients and supporters rallied behind higher-level local patrons locked in competition for connection with still higher-level patrons (Scott 1972:96). For example, in the 1970s and 1980s, multiple “big men” vying for electoral legitimization as a district

12 In the mid-1980s, a degree of “deconcentration” of power was carried out, after Moi announced the District Focus for Rural Development (Barkan and Chege 1989; Wallis 1990). However, while the District Focus devolved the process of planning and proposing development initiatives to the district level, guided by a District Development Committee, funding and decisions about which projects would be implemented ultimately rested with the executive, maintaining central control while giving the appearance of enhancing local autonomy.

boss cultivated networks of clients that included candidates for local authority councils, resulting in factional slates encompassed under the single-party banner of KANU. As described above, repeated electoral success often translated into increasingly close connections with the executive, meaning Cabinet appointments for parliamentarians and the enhanced flow of resources and status to local authority clients, who in turn would be able to transfer some of the benefit to their local constituents. The multi-party era of post-1991 Kenya has allowed factional politics within districts and across the country to flourish, with the constant possibility of defecting from one political party to join another, which may then serve as a re-election vehicle rather than an ideological home (Southall and Wood 1996). However, as Klopp has pointed out, "the lack of issue-based politics [has] allowed for remarkably quick accommodations between formerly opposed individuals and factions" (Klopp 2001:86) at all levels. The constant negotiation of connections between elites at the top, patrons and clients in the political and administrative apparatus, and between leaders and their political constituents and patrimonial clients, which includes the circulation of resources and influence and contributes to the legitimization of authority and power, makes Kenyan politics a kaleidoscopic field, the dynamics of which play out like a soap-opera in both the Kenyan professional media and "*radio trottoir*" (Ellis 1989).

Negotiating connection from below

While the stakes of the fission and fusion of patronage networks are high for those close to the apex of power, who can be left out of the allocation of positions and resources and thus fail to secure reelection after coming to their supporters relatively empty-handed, connection to powerful patrons through local leaders is likewise important for those at the bottom of the hierarchy, who rely on the patronage of intermediaries to

benefit from the power of those at the top. As described in the first section of this chapter, residents of Enoosupukia are keenly aware of the stakes of factional conflict in Kenya's patronage state. In addition to interpreting the 2005 forest evictions as a result of power shifts at the top, in which their de facto – by virtue of ethnicity and constituency – patron, Ntimama, was marginalized from power, there appear to also be correlations between earlier eviction threats, in 1998 (Daily Nation 1998) and 2002 (Daily Nation 2002), and conflicts among Maasai "big men" for privileged connection to Moi and the state. In both cases, orders to evict people who had "encroached" into the protected area of Enoosupukia forest coincided with rising tensions and public rows between Ntimama and one of his emerging rivals for predominance, Julius Sunkuli, then Member of Parliament for Kilgoris and Minister of State for Internal Security (Warigi 2001). In 1998, these tensions coincided with Ntimama's sudden willingness to openly criticize KANU and Moi for corruption and interference after the government refused to sanction a meeting of the Narok County Council intended to remove the Chairman – a member of the Loita section and a political rival of Ntimama's Purko clients on the Council – through a vote of no-confidence (Kihuria 1998; Tanui 1998; Mshindi 1998).[13] Ntimama's public complaints were met with opposition from the opposing faction of the Narok County Council, which openly called for Ntimama's resignation for his betrayal of the party and the President and was publicly supported by Sunkuli. Threats of eviction from Enoosupukia around this time were targeted at Purko Maasai, many of whom had come to reside in the forest after the clashes of 1993, and supported by councillors from Enoosupukia and two other neighbouring, Keekonyokie-dominated locations, who "warned that they would not allow

13 In the Narok rumour-mill, tensions between Loita and Purko leaders are connected to disputes about proposals to initiate official land registration in the locations that comprise the colonial-era Loita sectional territory. Loita have refused adjudication, sometimes arguing that it is a pre-text for Purko land-grabbing; likewise, they have resisted relinquishing local community control of a considerable block of forest to the County Council on similar grounds.

any other communities to resettle in the forest except the Keekonyokie" (Daily Nation 1998).

The public dispute between Ntimama and Sunkuli continued, with occasional escalations, including a letter to the editor by Sunkuli's Narok South ally, Stephen ole Ntutu, deriding Ntimama (Ntutu 2001), as well as violent confrontations between supporters of the factions, when convoys carrying the two leaders met at Suswa and Ntimama's car was pelted with stones (Opondo and Kimani 2001). In the latter incident, the source of the fighting appears to have been Ntimama's endorsement, on behalf of "the Maasai," of George Saitoti, then Vice-President, as a potential successor to Moi in the upcoming 2002 election, which Sunkuli, a member of a rival faction within KANU, bitterly opposed. A few months later, in April 2002, the factional conflict became a local crisis for residents of Enoosupukia, when the Rift Valley Provincial Commissioner ordered the eviction of "squatters" from the forest, quite possibly after urging by Sunkuli who, in his capacity as Minister for Internal Security, was closely linked to the Provincial Administration (Warigi 2001); the order was subsequently belayed after Ntimama urged residents to disobey, claiming that the PCs eviction order was "not supported by the law of the land" (Mugonyi 2002), an ironic reversal of his position in 1993, discussed in Chapter 5. The defeat of the 2002 eviction threat, and thus of the Sunkuli faction – at least in this particular battle – demonstrated Ntimama's abiding strength on the national scene, though, as described above, this continues to wax and wane. At the local level, Ntimama's support is neither taken for granted nor is it believed to be universally available to all Maa-speakers who occupy Enoosupukia.

While Enoosupukia lies within Narok District, and Narok North constituency, the seat of Ntimama's electoral might, its residents are nevertheless tenuously connected to

this powerful patron. Whereas Ntimama is a member of the Purko section, dominant in Narok and wielding significant influence as the largest Maasai section in Kenya, Enoosupukia has long been recognized as a historically Keekonyokie location, and its contested highlands are further associated with Dorobo. Among Maa-speakers, despite his vociferous support of all things Maasai, Ntimama is sometimes alleged to be a staunch Purko nationalist, favouring members of his own section in both patronage appointments and preferential appropriation of official institutions to grant and protect access to land and other resources. For Dorobo and Keekonyokie residents of Enoosupukia, this implies social, and thus patrimonial, distance and a degree of risk due to the importance of a supportive patron for their enjoyment of access to and use of the land on which they still reside. The sectional and factional dynamics of patronage politics in Narok, through which connection to the executive could be gained and maintained, help to shape the strategies employed by highland residents of Enoosupukia to negotiate connection from below. Here I consider two such strategies: the long-term efforts by Dorobo to achieve recognized social and political belonging by having one of their own appointed Assistant Chief, and their involvement as both public supporters and individual voters in the more volatile and unpredictable negotiations surrounding the race for the position of Enoosupukia Ward councillor in the 2007 election.

A Dorobo chief

In the colonial era, appointment of an official chief or headman signified recognition of legitimate belonging in a native reserve. When making decisions about such appointments, administrators responsible for the Maasai considered both the size and status of sections; the relatively small, scattered population and localized political organization of Dorobo in Narok District made the appointment of a chief an

administrative challenge, which, as discussed previously, colonial officials declined to meet. Nevertheless, Dorobo were not completely disconnected from the colonial administration, and for at least a brief period were represented by an unpaid headman serving under an officially appointed Keekonyokie Chief (see Chapter 2). After independence, appointment as a Chief or Assistant Chief took on new meanings, signifying not only social and territorial belonging, but also favourable connection to the patronage state, albeit at the bottom of the administrative hierarchy. While administrative Chiefs were responsible for executing official orders, keeping peace and maintaining security, and, during the Moi era, were essentially the forceful arm of authoritarian political power, their connection to higher-ranking officials, who in turn were connected to the most powerful members of the national elite, made these appointed local leaders a potential conduit of information and appeals from the ground up. As in the colonial period, residents of Enoosupukia remained only tenuously connected in these political networks via a local headman, delegated once again by the Keekonyokie Chief to be oversee local development and maintain law and order in the forested highlands.

By the early 1970s, this local headman, Ketei ole Kereto, and other residents of Enoosupukia sought to gain a more secure and official – and perhaps more lucrative – role in the administration.[14] In 1972, ole Kereto had sent a formal request for promotion to the Narok District Commissioner, who was officially responsible for administrative appointments, detailing his contributions to development and nation-building in his area of jurisdiction. The DCs reply, sent via the Divisional Officer for Mau Division, in which Enoosupukia lies, instructed the DO to convey to ole Kereto that “the Government appreciates the voluntary work he is doing towards the development of the area. We

14 Details of this local history are drawn from an incomplete archive of letters collected from several residents of Enoosupukia through the tireless work of Simon Ngayami.

have no vacancy for an Assistant Chief given to us yet, but as soon as this is done I shall remember to include his name on the list for consideration." Further, "Mr Ketei should not slacken but should continue to lead his people into progress."[15] Approximately two years later, another attempt was made, this time by trying to manipulate patronage connections to influence the outcome. Addressing their plight to their popular and powerful Member of Parliament, Justus ole Tipis, an unnamed group of "Citizens of Enoosupukia" sent the following letter:

> Dear Sir,
>
> We all as residents of Enoosupukia area have the honour to submit this application to request you to assist us in all ways possible.
>
> We have many times been requesting our Honourable Government to give us an Assistant Chief for Enoosupukia area but all in vain. We have been taking our problems to Mr. Ketei ole Kereto and we would be most grateful if he could be established as an Assistant Chief.
>
> Although he is Ndorobo by tribe, we mind less of that provided he is a Kenyan and again his leadership for a long period of years has given us a path towards progress and unity and we hope you will also appreciate this as building of our Nation.
>
> His projects for Harambee in the area has proved his ability; i.e., building a school, a through road from N/Enkare to Maela, etc. For further details you may consult with both the District Officer N/Enkare and the Chief of Keekonyokie.
>
> The purpose of writing this letter to you, Sir, is to request you to ask the authority concerned to give us an Assistant Chief.
>
> We remain, Sir,
>
> Yours faithfully,
>
> Wananchi [Citizens] of Enoosupukia[16]

15 Letter from District Officer, Narok, to Ketei Kereto, Enoosupukia, 11 July 1972. Copy in author's possession.

16 Letter from "Wananchi of Enoosupukia" to Hon. J.K. Ole Tipis, 23 November 1974. Copy in author's possession. Of particular interest here is the statement that "although [Kereto] is Ndorobo by tribe" the citizen group was asking for recognition of his role as a progressive and accountable leader. It is unclear who the "Wananchi" were, though given that the letter was dated 1974, they were likely Maa-speakers rather than the Kikuyu who began to populate the highlands in the latter half of that decade. As such, mention of Kereto's Dorobo identity may be

Lobbying their MP appears to have had some impact, as indicated in a subsequent document written by ole Kereto, apparently at the request of the DC. In this two-page, hand-written missive, Kereto reiterated his application for an official appointment, describing in detail his activities as headman between 1962 and 1975, during which time he operated as a local delegate of the Keekonyokie Chief, Keko ole Kodonyo. Here, Kereto noted that he had been appointed to cover the highland areas, including Enoosupukia, Sintakara, Kimondi, and Range, as far as Oloirua (at the foot of the escarpment) by Chief ole Kodonyo, and that he had been responsible for all manner of projects and benefits, including the maintenance of law and order, encouragement of agricultural development, payment of taxes, as well as the construction of a road, a nursery school, and a primary school. In light of these significant contributions to the nation, he respectfully asked the DC to "think of a way so that [he] could be given a proper title"[17] These claims are evidence of more than just a contribution to national progress; they also suggest that Kereto was making effective use of resources in doing his part to help bolster the political legitimacy of the patronage state and of KANU. In light of his loyalty and efficiency, it was only natural that Kereto and his local supporters should seek recognition of belonging and the concomitant rewards of still better connection.

Kereto's repeated requests were never fulfilled, but by the late 1970s, Enoosupukia had become a recognized sub-location and granted an official Assistant Chief. The first was a Keekonyokie man from near Ilkirragarien, who recalled in an interview in November, 2008, that by the time of his short, one-year tenure, the highlands

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a statement of deference by Dorobo to a powerful and influential Maasai leader, or perhaps a sly wink between Maasai in acknowledgement of the historical legacy of Dorobo cultural-political inferiority.

17 Letter from Ketei ole Kereto, Enoosupukia, to District Commissioner, Narok, 5 February 1975. Copy in author's possession.

had already become a thriving agricultural area, populated by increasing numbers of Kikuyu.[18] By 1978, the position had been reallocated, in unclear circumstances,[19] to William ole Letiet, a Dorobo whose family composes a significant portion of the Lorkumi local group in the hills above Ilkirragarien and below Enoosupukia. Letiet's success in attaining the position in comparison with Kereto's failure despite many years of loyal service may in part be explained by Letiet's higher level of education and his alleged previous employment in the Land Adjudication department of the Ministry of Lands. While I was unable to confirm the dates of his tenure as Assistant Chief, locals recalled in informal conversations that while Letiet was in office, the area experienced peaceful relations between newcomers and long-time residents and, more importantly, local economic prosperity. Further information about the succession of administrative officials responsible for Enoosupukia is similarly sketchy and I have been unable to get confirmation of the end-date of Letiet's appointment, or of the number and tenure-dates of subsequent officials. For the past several years, and perhaps as long as fifteen years, Enoosupukia Location has once again been under the authority of a Keekonyokie Assistant Chief, whose primary home is in the lowlands, near Suswa-Empaash, and who is unpopular among highland residents, who argue that he rarely ventures into the highlands, except during crises when he is explicitly ordered to do so.[20]

Dissatisfied with the current situation, highland Enoosupukia residents have again sought to have one of their own appointed as their official administrative officer. In 2005,

18 Interview with Philip ole Kurrarru, Enoosupukia, 18 November 2008.

19 Details from interviews are contradictory and sketchy, and I have been unable to obtain sufficient documentary evidence of Letiet's tenure. One man explained to me that Letiet was elected to the position, somehow sneaking through the process when rival Keekonyokie factions split his opposition.

20 This may not be entirely accurate. The chief was among the group of Keekonyokie who guided me on my first trip from Suswa to Enoosupukia, in 2003, and I subsequently met him at Ilkirragarien, during the meeting to close Kipise Adjudication Section, in October, 2008.

this local candidate, who is also my primary research assistant and close friend, Simon Ngayami, explained to me that if appointed chief, he would be able to effectively plead the case of his community with more senior officials the next time an eviction order was to be issued, highlighting the widely-held local perspective that administrative officials are two-way conduits in the circulation of information, authority, and power. While he has not yet been officially appointed, Ngayami is nevertheless respected among both local residents and those in neighbouring communities as a leader, and he is commonly addressed by those who know him as “Chief,” and is often called upon to help mediate local disputes. In this Ngayami has the blessing of local elders, who have appointed him as a spokesman in a role similar to the Maasai age-set spokesman (*olaiguenani* pl. -*ilaiguenak*).[21] Explaining the importance of this honour, one elder told me that Ngayami

> ... can go anywhere to speak for the community without fear, because he's been given responsibility by the elders. When he does so, he should speak from the heart to defend the land, and now people's hearts are bitter because of their hardship. There is no single leader for these people in government, so if only Ngayami could be given that responsibility, he could lead them well.[22]

With the community's support, Ngayami has taken on much the same role as Kereto had in the 1960s and 1970s. During my time in the field, he was routinely called upon by the DO and the DC to participate in decision-making processes on behalf of the community at Enoosupukia, such as the local environmental committee convened periodically by the DC and the district representatives of the Ministry of Environment.

21 Ngayami's position is, however, distinct from the traditional *olaiguenani* , though it may represent an evolution of local practices with respect to that institution. Among Maasai, *ilaiguenak* are officially chosen in the ceremonies prior to the opening of a new circumcision group, which will eventually go on to form the right and, later, the left hand age sub-sets that subsequently unite as a single age set after the closure of their period of warriorship. By contrast, Ngayami was chosen at a later age, sometime after he completed his secondary school education, though local community members note that he had always been regarded as specially skilled. Further, while traditional *ilaiguenak* tend to be separate from the appointed administrative chiefs and deal primarily with local cultural and domestic concerns, including resolving disputes within the community, Ngayami was explicitly tasked with interacting with government on behalf of the Dorobo of Enoosupukia.

22 Interview with Marura ole Omerae, Enoosupukia, 10 August 2005.

Ngayami also engaged with officials in Maiella Location, in Naivasha District, as well as with representatives of other neighbouring locations in a cross-boundary security commmittee, especially in times of high tensions, and has been able to use his education – he is a secondary school graduate – to participate in civil society, previously holding employment with the now-defunct Ogiek Welfare Council,[23] and a voluntary position with the Kenya Human Rights Commission, among others. Despite this level of activity and repeated applications for official appointment, Ngayami has thus far not been able to secure the position of Assistant Chief, a fact which many of his friends and supporters at Enoosupukia allege is due to political interference by Ntimama.

These allegations surface in rumours, repeated here as a third-hand story: In mid-2006, Ngayami travelled to Narok town to write Civil Service examination, a mandatory step in the application process. Shortly after writing the exam, he received word from a friend in the District Administration, that he had achieved the top score among the candidates for the Enoosupukia position. However, rather than being appointed as expected, Ngayami was subsequently informed that the process had been cancelled and a new search would be conducted. He was encouraged to reapply, but warned that new criteria had been introduced, including the stipulation that applications have five years experience in the Public Service. Among Ngayami's supporters at Enoosupukia, it was alleged that this new criterion had been introduced by Ntimama himself, meddling in district affairs, in hopes of disqualifying the competition and

23 The Ogiek Welfare Council was formed as a pan-forager organization to advocate for the rights of the small and marginalized, historically forest-dwelling communities. OWC was able to engage successfully with transnational minority and Indigenous rights organizations, such as Survival International and others, and established a significant presence in Kenyan civil society. The organization appears to have been riven by internal tensions, including over the politics of belonging and identity, and has since been succeeded by a number of more localized community-based organizations, including a nascent one at Enoosupukia, named the Community Empowerment Project on advice from an official in Narok District who warned against using an ethnonym in official registration documents.

securing the appointment of his preferred candidate, a secondary school teacher (and thus Public Service employee) and the son of Ntimama's age-mate and close friend.

As it turns out, the specified qualifications were not a nefarious invention of Narok's political boss alone, but rather part of a revised Scheme of Service for Chiefs and Assistant Chiefs, issued in December 2006 by the Public Service Commission as part of reforms to improve the quality of Chiefs and the effectiveness of their work. In this document, the specified qualifications for appointment as an Assistant Chief include that the appointee is to:

i) have worked in the Public Service for a minimum period of five (5) years;

ii) be in possession of Kenya Certificate of Secondary Education (KCSE) mean grade C or its approved equivalent with C in English or Kiswahili;

iii) be in possession of Certificate in Public Administration/Management, Social Work/Community Development, Teaching, Disaster Management or equivalent from a recognized Institution;

iv) be thirty five (35) years old and above;

v) be a resident of the particular Sub-Location and a person of integrity who commands respect; and

vi) possess good communication skills.

Despite the existence of these official criteria, it is widely understood that concessions could be made to ensure that each sub-location has an appointed administrative officer, even if not suitable candidate is found who fulfils all the requirements. Some residents further argue that they would far prefer Ngayami, who is known and respected locally, over a technically more qualified candidate unknown to them. While local allegations of elite manipulation appear to be inaccurate in this case, they nevertheless show how contentious state policy and actions are interpreted in terms of the moral economy of patronage. As they did for resistance and lobbying in the aftermath of the 2005 forest evictions discussed in the previous chapter, such interpretations form and important

basis for action, including strategic engagement with perceived potential patrons, such as in the encounter described below.

The question of Ngayami's appointment was again raised in June, 2007, in a meeting with Naivasha MP, Jane Kihara. The meeting had been arranged through the Kikuyu chief of neighbouring Maiella Location, where a number of those displaced in the 1993 clashes had taken up residence. Since her election in 2002, Kihara had been a vocal supporter of clash victims, which would seem to pit her against the Dorobo and Maasai who currently occupy Enoosupukia; however, her political and ethnic affiliation with President Kibaki made her a potentially influential patron with whom to negotiate for the resolution of the many issues faced by people at Enoosupukia. In preparation for the meeting, the Enoosupukia delegation met and drafted a hand-written statement, which I was recruited to type and print, briefly explaining their claims to rights in land, the hardship they currently suffer, and calling for urgent action to resolve these issues. The letter was addressed to the Ministers for Lands and Settlement, Natural Resources, and Internal Security, deemed by the delegation to be jointly capable of overseeing land registration, the reversal of the forest declaration, and ensuring protection of the population from politically-motivated reprisals. While the letter was also separately sent to each Ministry, Kihara was asked to personally deliver and bring the letter to the attention of the responsible ministers. Though Enoosupukia lay outside Kihara's Naivasha constituency and its inhabitants could not support her with their votes, the delegates were able to offer her a valuable pledge: in recognition of her efforts to help them secure their rights in land and belonging by facilitating provision of title deeds for residents of Kipise and steps towards recognized ownership of Enoosupukia, grateful landowners would be willing to open their holdings to Kihara's predominantly Kikuyu

constituents, in particular those residing at Maiella, and to grant them agricultural access on rental and leasehold bases.

During the meeting, a member of the delegation reminded Kihara that she had earlier been made aware of the efforts of Enoosupukia people to have Ngayami appointed chief. She agreed that his apppointment would be a positive step in maintaining neighbourly relations between Maasai at Enoosupukia and elsewhere in Narok and the Kikuyu community of Maiella. The Maiella chief also spoke in favour of Ngayami, citing their work together on the trans-boundary peace committee. Coincidentally (or not), Kihara received a phone call during the meeting that she claimed was from the Rift Valley Provincial Commissioner, whose influence would be crucial in the matter to override the alleged manipulations by Ntimama. This phone call was later discussed by members of the Enoosupukia delegation as a very positive sign, and as evidence of Kihara's willingness to extend her patronage to them. By the time of the General Election, in December, 2007, no further movement had been made with respect to Ngayami's appointment as an assistant chief, but neither had anyone else been given the job. Any potential deals struck at this meeting, however, became moot after the election, as Kihara was defeated by John Mututho in a disputed election.[24]

24 Both Kihara and Mututho were aligned with the PNU, the re-election vehicle for President Kibaki that was essentially a very loose conglomeration of distinct parties (Nic Cheeseman 2008; Khadiagala 2010), and thus both made claims on potential patrimonial connections with the sitting President. While Kihara ran on a Narc-Kenya ticket, linking her with Martha Karua, Mututho ran under the KANU banner, connecting him with Uhuru Kenyatta, the son of Jomo Kenyatta and a (losing) presidential candidate in 2002. Their split thus represents factional alignments among Kikuyu politicians. Mututho and Kihara topped a field of eighteen candidates (compared to eight in Narok North, see below). The tallying centre for Naivasha constituency was beset by chaos as party agents and candidates observed and disrupted the counting process. In the aftermath, Mututho was declared victorious, a result challenged (unsuccessfully) by Kihara in court (Kiplagat 2008; Cheploen 2008a, 2008b). Kihara has remained involved in politics, however, recently coming out in support of the proposed constitution in referendum campaigning, along with numerous other former MPs, moves which are being interpreted in the Kenyan media as preparations for the 2012 election.

Voters, supporters, and clients

The appointment of a Dorobo administrative chief would, in theory, provide a relatively stable connection to the patronage state and thus to flows of power and resources, including demands or requests from local residents to the national elite, in whose capable hands they expect problems could be resolved. At the same time, it will only occur as a result of persistent and skillful lobbying over the long-term, if at all. On the other hand, electoral politics provides regular opportunity to engage with potential patrons and to forge new links or maintain old connections, which, like appointment into the Provincial Administration, are both an end in themselves – recognition of belonging – and a means to other ends – negotiation of patronage and support for local projects, including the completion of land adjudication and issuance of title deeds as well as protection from future evictions. The lengthy campaign period provides ample opportunity for engagement in the form of private and semi-private meetings, such as the one with Kihara described above, as well as in public campaign events, often in the form of *barazas*, sites of political performance that bring together patrons and clients (Haugerud 1995). Such public events are a classic example of the type of occasions through which moral economy operates (Scott 1976), and they occur both during and between electoral campaign periods. In non-campaign years, patrons who refuse to attend or at least send a representative may become subject to rumours and allegations of selfishness or inability to provide; further, it may be taken as a sign of trouble in the patrimonial relationship and of weakening ties. With an election on the horizon, supporters can attempt to extract patronage, whether material goods or promises of future action, from leaders, who in turn hope to secure the votes of their supposed clients. At campaign rallies convened by candidates or their local agents, such meetings may close with the provision of an immediate reward: in large rallies in support of national candidates well-

connected to a major party, t-shirts, hats, and posters emblazoned with party logos and slogans, or even small amounts of cash, may be given to attendees; in smaller, local events, *chai* (tea) and *mandazi* (sweet, fried dough) may be an expected gift.[25]

Both during and outside campaign periods, patrons are often invited to public events hosted by their clients, such as fund-raising celebrations for schools, graduates hoping to pursue further studies, church construction, and even baby showers – locally referred to as "*chai*," apparently because of the tea provided to guests – that have, at Enoosupukia, come to take the place of traditional Maasai and Dorobo naming ceremonies. During the campaign season for the 2007 election at, these kinds of events, and the number of leaders invited, almost always candidates for local office, increased dramatically at Enoosupukia. From early August until late December, at least one such event was scheduled each weekend, if not directly in the Mpeuti neighbourhood, then in the larger area of Enoosupukia location. In mid-August, Simon Ngayami hosted "chai" for his young daughter, born in March and named after my mother, to which the entire neighbourhood and most of the already declared candidates for councillor were invited. Preparations had been underway for some time; on one of my trips back to Nairobi I had been provided with a shopping list including numerous sacks of rice, bags of wheat flour, and containers of cooking fat. The cost of these items would be offset by the donations and gifts of invited guests, given in public displays at the event itself. The strategy of inviting multiple candidates was two-fold: as a local opinion leader, Ngayami sought to bolster his reputation as a patron of local residents by providing a lavish celebration and

25 After one local meeting, called by a supporter of a County Council candidate at Mpeuti, a young friend – who was, coincidentally, not a registered voter – estimated the total expense incurred by the candidate buying more than 50 attendees chai and mandazi at one of the local tea houses (perhaps around Kshs 1,000 or about US$15 at 2007 rates), exclaiming "we really beat him!" Later during the campaign period, after several such events had been held feting different candidates, the shopkeeper explained to me that he did not attend them meetings because he does not care for politics, but he appreciated the surge in business.

by marshaling his connections to bring in more influential leaders; those leaders would compete for standing and reputation by rivalling one another's contributions to the family, and, perhaps more importantly, simultaneously reinforcing their connections to the people of Mpeuti as clients by demonstrating their ability and willingness to provide.[26]

In preparation for the event, Ngayami also invited a group of young men from Mpeuti who had formed a singing group, called *Enchapalung'u*, to perform. The night before the party, the group arrived at the Ngayami house for a rehearsal of its upcoming performance, playing a number of original tunes and adaptations of older Dorobo songs, detailing life in the highlands. One in particular stuck out that evening: verses recounted the many hardships people had experienced as a result of the evictions of 2005; the chorus, repeated between each verse, admonished a particular candidate, ole Kiseento, to help resolve these problems:

> *eisapuk osina, Kiseento;* (hardship is overwhelming)
>
> *enkaji olpuya amanya, Kiseento;* (I live in a house covered by a plastic sheet)
>
> *yau maendeleo, Kiseento!* (bring development, Kiseento!)[27]

Simon was happy with the tone of the song, but asked the singers to be sure to include all of the candidates who would be present the next day, adding that singing this kind of praise song to just one candidate would make the others feel less welcome at the event. This again suggests a double strategy: praise songs are often designed to elicit material

26 This analysis does not imply that material calculations are the only reason for inviting potential patrons. In many cases, invitations are extended out of genuine hospitality and contribute to maintaining interpersonal friendships that intersect with the moral economy of patronage when friends are of unequal status and connection. Like the rest of the people whose events I attended, Ngayami is an eminently good host, sincerely concerned that guests feel welcome.

27 The tone of this song differs dramatically from the standard praise song format among Maasai, in which singers extoll the virtues of their subject, often a local leader or favoured political candidate, and wish them success (see Doherty 1987:287-288). Here, the singers are recounting their own hardships and requesting the subject of the song to help alleviate their suffering.

support from their subjects (or targets!), and extending the praise and requests for allocation of development resources to other candidates could elicit the kind of competitive giving hoped for in a fund-raising event; further, by broadening the content of the song to include all candidates, it would not specifically identify the singers, and by extension, Mpeuti, with one candidate to the exclusion of others, thus furthering the negotiation of patrimonial connections with all of them as the election approached. This was prudent because it was not merely support for a given candidate that was useful in ensuring future rewards, but also the ability to show that one had not seriously supported other, unsuccessful candidates once the election results were in.

Figure 6.1: Enchapalung'u performs at Mpeuti, 11 August, 2007.

Early in the 2007 campaign period, the political talk of the neighbourhood focused on the qualities of particular candidates. For example, ole Kiseento was mentioned as a favourite by many because he was educated and experienced in administration: he had apparently been a primary schools inspector in Narok District for years. He was also a local candidate, a resident of the highlands, albeit at Ilkirragarien where hardship and

tenure insecurity is not as pronounced as at Mpeuti and Enoosupukia. Kiseento's education and experience were well-suited to accessing development funds, from CDF and LATF[28] because he could not only direct resources to his voting clients, but also write proposals and mobilize his personal networks within the administration to do so. Many of the other candidates were allegedly illiterate, and all but one other were residents of the lowlands, closer to Empaash. A drawback of ole Kiseento stated by some at Enoosupukia was his age; he is a member of the *oseuri* age set, and has a grown son of approximately my age, making him older than many of the other candidates who tended to be one age set younger, that is, members of *ilkitoip*.[29] This was seen as a potential liability because, to a certain extent, local politics is a young man's game and a stepping stone to future endeavours. Kiseento also proclaimed his support for Kibaki, though his party affiliation was not made clear, on grounds that Kibaki's government had brought development to Kenya, even if it had also presided over the eviction of residents of Enoosupukia. This position was viewed with some ambivalence by highland residents trying to navigate shifting alliances: Ntimama, who had become a foe of many in the highlands by not preventing the evictions had joined the ODM and was closely associated with its presidential candidate, Raila Odinga, who sought to unseat Kibaki. These complex and dynamic relationships call into question assertions of ethnically-based voting strategies, suggesting the salience of local history along with identity in

28 CDF, the Constituencies Development Fund, consists of money allocated by the government of Kenya to each constituency, and its disbursement is governed by a constituency-level committee, chaired by the Member of Parliament. This fund was ostensibly set up to minimize corrupt allocation of resources by politicians and to alleviate them from the burden of patronage demands by clients on their personal earnings. The LATF, the Local Authorities Transfer Fund is money allocated to county councils, also governed by committees struck by the county council and intended for local development projects. In Narok, the allocation of CDF money has allegedly been done along patronage lines, rather than according to the quality of proposals or in the interest of fair distribution across the constituency (Mwangi 2006).

29 Members of the oseuri age set were born approximately between 1940 and 1953. Members of ilkitoip were born approximately between 1950 and 1965.

voter decision-making.

The other educated candidate was one of the younger candidates, ole Lengues. He had formerly been the right-hand man of the incumbent, ole Lila, and had been among the small entourage of people who accompanied ole Lila and me on my first trip to Enoosupukia, in 2003. Like Lila, and unlike Kiseento, Lengues is a resident of the lowland portion of Enoosupukia. His youth and education led many at Enoosupukia to view him favourably, and he staged by far the most exciting and well-organized rally of those I attended in the highlands during the campaign, featuring an arrival by convoy (whereas most other council candidates arrived by foot), accompanied with supporters from across the location (whereas other candidates came alone or with a few supporters from their home neighbourhood), and including a performance by a women's singing group brought in from his neighbourhood.[30] Lengues' flashy campaign was supported, in part, by his affiliation with the Orange Democratic Movement and with its local leader, Ntimama, but this affiliation to the incumbent member of parliament was divisive at Enoosupukia. While some argued that Ntimama would surely take the seat and remain in power, thus meaning a direct connection to power if they supported Lengues, others argued that Ntimama was to blame for their recent woes and would not allow Lengues to support residents of Enoosupukia as clients. Lengues found further favour at his Enoosupukia rally by speaking at length about the forest, pointing out that it was indeed Trust land, rather than a gazetted forest, and promising to advocate for the extension of official land adjudication to the contested land. In the weeks after the rally, however,

30 The decision to bring a group of women singers from his home area was controversial and incited a women's leader at Enoosupukia to ask why he had not recruited local singers, whose skills were unrivalled. Implied in the question was a statement that local women also deserved an opportunity to reap some benefit of praise-singing at the rally, as mention of a particular individual, family, or clan, can elicit immediate cash donations from the subject. For other examples of similar practices in musical performance see Askew (2002) and White (1999).

rumours began to circulate that he had misled voters at Enoosupukia and that his true intentions in bringing land adjudication to the area were to ensure that Purko, both from Enoosupukia and from elsewhere, could acquire land at the expense of the rightful, that is Dorobo and Keekonyokie, owners. These rumours were based in part on his connection to Ntimama – a strident Purko nationalist – and to his allegedly mixed ancestry: while his father is a Keekonyokie from Enoosupukia location, his mother is a Purko Maasai from elsewhere, and thus so are his maternal relatives. The rest of the field claimed pure Keekonyokie Maasai heritage, apart from Kiseento who was alleged to be a *nusui* (of mixed Maasai and Kikuyu ancestry), or even an assimilated Kikuyu.[31]

As the election neared and increasingly large campaign events were held in the more populous lowland parts of the location, the more politically active young men from the neighbourhood devoted a great deal of time to participating in rallies, joining campaigns, and disseminating information and gossip through Mpeuti and Enoosupukia. One of the most important details to come up in reports on distant rallies was the size and composition of the crowds. This was more than simple descriptive material; it became clear to me through participating in local conversations about politics and the upcoming election that some at Enoosupukia were trying to calculate and predict the eventual winner based on each candidate's visible support during the campaign. While Kiseento remained a favourite among many at Enoosupukia, not least due to his loose party affiliation with the Kibaki re-election campaign and thus potential links to the

31 At the time of research, I did not pursue the identity of the candidates to the level of clan, but it also plays an important role in the formation of patrimonial alliances within Maasai, and between Maasai sections, which clan organization transcends. When identity was explicitly mentioned in speeches at political events, it tended to be in the form of admonishments that despite the diversity of the Location, including as it did Keekonyokie, Purko, Dorobo, and Kunono, they must all join together and support the right candidate and that it was absurd to think of particular individuals as a “Keekonyokie leader” or a “Purko leader.” Interestingly, one of the speakers who repeated these sentiments at several local rallies self-identifies as Kunono and can thus be considered a member of a socially marginal group.

presidency if both were successful,[32] others argued that a vote for Kiseento was wasted (*pesho*) because he would never carry the location. The argument in this case was that Kiseento was viewed by many lowland, pastoralist Maasai as a Kikuyu or *nusui*, and thus either not worthy of Maasai votes or not trustworthy in general; besides, it was pointed out, the Keekonyokie of the lowlands had their own candidates running in a tightly contested race and they would focus their support there. The argument continued that it was better to vote for someone with a chance of winning the seat than to throw it away on someone who could not. This was especially so because, despite the use of the secret ballot, voting is a semi-public affair. All the candidates, including the eventual winner, would have access to voting results for each polling station, collected during election day by campaign agents as well as in the official reports posted at each station once tallying was done.[33] Producing a significant number of votes for the winning candidate could help to cement patrimonial relationships negotiated and nurtured through public displays of support performed at campaign events; conversely, being revealed to have voted for the vanquished opposition could indicate that a given

32 The party affiliations of most local candidates, and several parliamentary candidates, on the ballot at Enoosupukia remained uncertain up to the day of the election. While the party affiliation of the presidential candidates was well-known and publicized, the parties of the principals did not necessarily encompass all subordinate candidates. In part this is because both the ODM and the Party of National Unity (PNU) were essentially cobbled-together coalitions of localized parties, PNU moreso than ODM (Khadiagala 2010). Failure to achieve nomination by parliamentary candidates did not always result in the end of their campaign, but rather in their shift to a new, sometimes previously unknown party. Primary elections for local candidates may not have actually taken place in Enoosupukia Ward, though they were rumoured to have been planned to take place in Suswa and carried out by queueing rather than secret ballot. Further, some candidates appear to have negotiated party membership and nomination by virtue of being willing to stand for election.

33 In their research into the outcomes of the local-level elections during the 1992 General Election, Southall and Wood (1996) note that the relative unimportance of local government elections to the big players - "those who were contesting seats for local government were [believed to be] fighting for the scraps left over by the bigger politicians" (Southall and Wood 1996:511) – meant that little attention was paid to registering the full results, let alone publishing summaries of local contests, and even "the Electoral Commission proved unable (rather than unwilling) to provide a summary" (Southall and Wood 1996:511). Despite improvements in the ECK, my own experience in trying to obtain the official results for Enoosupukia Ward has been similarly frustrating.

neighbourhood was not loyal and thus not deserving of reward.

Figure 6.2: Election day at Mpeuti Primary School polling station, Enoosupukia, 27 December 2007. Voters display their registration cards and inked fingers (left); residents watch vote tallying through the windows (right).

When the votes were counted at the polling station in Mpeuti Primary School in late December 2007, the result was surprising. The early highland favourite, Kiseento, finished in third place, with only 39 votes (13% of the 299 votes cast at this station). Unsurprisingly to me, he finished ahead of the incumbent, ole Lila (26 votes, about 9%), who had reportedly made only two visits to Mpeuti in his five years in office, although one of those involved a campaign pledge to provide funding for the Mpeuti Primary School. Lengues, popular with many but regarded with suspicion by others, finished in second, with 96 votes (32%), almost identical to the tally of his patron, the incumbent MP, Ntimama. The winner at this polling station was ole Muntet, a Keekonyokie from the lowlands, aligned with President Kibaki's Party of National Unity ticket. Overall, the race was between close between ole Lila and ole Muntet, with the incumbent, Lila, taking the seat by 30 votes. The result was initially challenged by Muntet, but was upheld in the end.[34]

34 I have thus far been unable to obtain a total accounting of the votes for each polling station, or the totals, for Enoosupukia location for the 2007 election. Repeated visits to the electoral commission's Narok office were fruitless, as was an attempt in 2008 to get the data from the ECK's Nairobi headquarters. See note 33 (above).

Candidate (Party)	Votes	Percent
Muntet (PNU - ?)	119	39.8
Lengues (ODM)	96	32.11
Kiseento (PNU – Kenda?)	39	13.04
Lila (PNU - ?)	26	8.7
Linti (?)	14	4.68
Mukaret (?)	5	1.67
Total	299	100

Table 6.1: Result of Election for County Councillor, Enoosupukia Ward, Mpeuti Primary School Polling Station, 27 December 2007.

Candidate (Party)	Votes	Percent
Kenta (KENDA/PNU)	142	47.49
Ntimama (ODM, MP)	95	31.77
Kamwaro, Martin (UDM)	43	14.38
Lempaka (?)	9	3.01
Kamwaro, Hassan (?)	5	1.67
Ololdapash (?)	2	0.67
Nteka (?)	2	0.67
Kamwaro, Nick (?)	1	0.33
Total	299	100

Table 6.2: Result of Parliamentary Election for Narok North Constituency, Mpeuti Primary School Polling Station, 27 December 2007.

Candidate (Party)	Votes	Percent
Mwai Kibaki (PNU)	185	62.08
Raila Odinga (ODM)	112	37.58
K. Musyoka (ODM-K)	1	0.34
Total	298	100

Table 6.3: Result of Presidential Election, Mpeuti Primary School Polling Station, 27 December 2007.

Parliamentary and presidential results also revealed interesting patterns. At the parliamentary level, as mentioned above Ntimama received an almost identical number of votes as his local authority counterpart (95/299; 32%), while the ODM presidential candidate, Raila Odinga, received slightly more (112/298; 38%). The presidential winner

at this polling station was President Kibaki, with a large majority of 185 votes (62%), nearly identical to the total achieved by the three candidates for county councillor connected, through different allied parties, to the re-election vehicle Party of National Unity. This pattern suggests two things: first, it appears that voters primarily stuck to the "three-piece suit" rubric of choice, by choosing allied presidential, parliamentary, and local authority candidates. In the 2007 election, the fragmentation of coalitions, with a single presidential candidate at the top and a proliferation of parties with competing candidates at lower levels, meant that the elements of the three-piece suit came in slightly different shades or patterns. Second, these results show voters splitting essentially into two camps, favouring PNU and ODM respectively. Considering local history, especially interpretations of the 2005 evictions and continued tenure insecurity, along with the diversity of sentiments expressed during the campaigns, several factors are at play here. Voter preference for Kibaki, whose successful re-election was expected by some to lead to the return of Kikuyu displaced in the clashes of 1993, may have been connected to perceptions that Kibaki would win nationally, and thus represent an effort to be seen supporting the victor rather than his opponents. At the same time, the affiliation of Ntimama with ODM and thus with Odinga could have been a decisive factor in driving many voters away from Odinga. For many at Enoosupukia, Ntimama was seen as a greater enemy than Kibaki, and a presidential victory for Raila almost certainly meant a powerful cabinet post for Ntimama, from which he might continue to wreak havoc.

Less likely, but still possible, voters may have been influenced by cultural factors to avoid Odinga. In popular Kenyan political discourse, it is sometimes said that Kenya will never elect a Luo president, because the Luo do not practise circumcision. For the majority of Kenyan ethnic groups, circumcision is a rite of passage through which

adulthood is attained; to remain uncircumcised is to remain a child, not capable of full participation in political life, much less assume a position of leadership. While such claims do not appear to have swayed voters elsewhere, as Odinga may in fact have received the most votes of the three main presidential candidates and ODM had achieved a narrow majority in parliament, they remain meaningful diacritica by which to make assumptions about an individual's character, a fact that was made starkly visible as I and a group of Enoosupukia residents awaited the announcement of the official election results. Watching the KBC television broadcast from the election headquarters at the Kenyatta International Conference Centre in Nairobi we speculated about the delays and the eventual outcome. On the second day of waiting, ODM candidates and agents had begun to disrupt announcements of parliamentary results with allegations of fraud and corruption. By the third day, Sunday, December 30, the counting hall had twice been cleared by soldiers in an effort to maintain order. Late that afternoon, the official presidential announcement was halted by ODM protests and the head of the Electoral Commission of Kenya escorted out of the room under police protection to a private location from which to proclaim Kibaki victorious. One of my colleagues expressed his disdain with ODM's tactics, saying that they were obviously afraid to lose: “Those dirty Luo, they're horrible people” he spat, “they have no respect (*meeta enkanyit*). They're not even circumcised!”

Reproducing patronage

The consequences of Mpeuti's clear support for losing candidates, both for the local authority seat and, more importantly, for Parliament, remain to be seen. Given the protracted post-election crisis and eventual negotiation of a coalition government bringing together, but not nearly uniting, ODM and PNU, it is reasonable that any post-

election fallout in the form of patronage manipulations would be delayed. More broadly, questions about the long-term outcomes of engagement in the moral economy of political patronage in efforts to secure rights in land and pursue local development also remain unanswered. Like other forms of “corruption” (e.g.Smith 2001), political patronage is socially reproduced: it lives in the interactions of patrons and clients as they pay old debts, negotiate new relationships, and form new obligations of reciprocity. In the process, inequality and marginalization are also reproduced and insecurity is perpetuated, especially on the part of clients whose access to resources, and thus their livelihoods, depend in part on the goodwill and political connections of patrons.

Participating in the moral economy of political patronage is just one of several avenues through which residents of Enoosupukia seek to secure their claims to rights in land: some continue to lobby for the completion of official land registration, which may liberate them, at least as far as tenure security is concerned, from the contingency of connection. Further, there are divisions among the local actors involved in claiming rights in land and belonging at Enoosupukia – from local autochthons with nowhere else to go, to non-local pastoralists making seasonal use of the area while they capitalize on their private holdings elsewhere through cash crop production – and these groups frequently work at cross purposes. These divisions and the inequalities in terms of social, economic, and political capital between members of these groups are likely to prevent a conclusive result from emerging, and to perpetuate the plurality through which rights in land are claimed and challenged. For the time being, patronage is a game that local residents of Enoosupukia must continue to play, as it operates in conjunction with other means of claiming and challenging rights in land and belonging and lends the weight of political power and connection to claims voiced in terms of historical occupation, official

recognition, and unofficial purchase. In the final chapter of this thesis, I offer a summary of my argument and briefly discuss the continuing negotiation of competing claims through plural logics, as well as continuing shifts in connections, this time on the global scale, which may have dire repercussions for the local residents of Enoosupukia.

Chapter 7

Conclusion: struggles over belonging

Throughout the chapters of this thesis I have sought to demonstrate how various actors navigate the dynamic social field of property at Enoosupukia, and how they engage in struggles over belonging to negotiate access to and control over land and landed resources. These ongoing struggles not only determine who gains or maintains access and control over material resources, including soil, water, grass, and trees, but also reshape the range of possibilities that help to determine who has the right to do so. The world of concrete practices is thus interwoven with the conceptual universe of categorical principles. Negotiations between social units – individuals, communities, state organizations – with respect to their physical presence on the landscape are simultaneously moments of intense cultural politics in which meanings are contested and remade. Property dynamics are laden with power. Not only does access to resources depend on the power to assert claimed rights, and sometimes on the power to exclude other claimants and effectively negate competing claims, but also the ability to define the field of possibilities rests on the power to marshal support or overcome resistance. Inequalities of power, never isolated from political, economic, social, and cultural inequalities, are thus also subject to contestation and renegotiation in disputes and debates about belonging on land and to whom land belongs.

The property field within which struggles over belonging at Enoosupukia are carried out is, like others elsewhere if perhaps to a more extreme degree, characterized by plurality. There exist a range of principles and practices by which to make and seek recognition of claims to rights in land, though not all of these are available to each of the social actors involved, nor are all of them equally effective, authoritative, and socially-legitimized. The claimants who seek access and/or control are likewise diverse, ranging from autochthonous former foragers who now pursue small-scale mixed farming and Kikuyu cultivators who purchased rights of access – if not necessarily ownership – and transformed both the landscape and livelihoods, to pastoralist Maasai with recognized claims of belonging elsewhere, often secured by official registration and possession of title deeds, as well as members of the political elite who sometimes manipulate local uncertainty in their struggles with one another. Increasingly, as discussed in Chapter 5, the state itself as a governmental apparatus is asserting claims and applying force in its bid to gain recognition as a legitimate claimant to authoritatively regulate access and exclusion. Amidst this proliferation of actors, uncertainty prevails as to not only who has rights to use which resources in what ways, but also which, if any, of these actors can legitimately assert rights to exclude others and thus close off certain possibilities and negate a portion of the categorical principles and concrete practices contained within this mutable field.

To a large extent, the substance of rights lies in their recognition. This is as applicable in “ungoverned” places like the de facto open access forest at Enoosupukia as in closely-regulated state spaces. The authority of institutions – through which valued objects are defined, social units delineated, and the relationships between them determined – is legitimized through practice, that is, the actual manifestation and

negotiation of social relations with respect to things; the durability of concrete relationships of possession, use, and alienation depends on recognition, which constitutes acceptance – whether implicit or explicit – of the categorical principles expressed in action. At Enoosupukia, physical presence on contested land is at once an assertion of rights and a sign of recognition, though it implies neither security nor permanence, and may simply suggest an inability of others to effectively challenge such embodied claims. The inability to exclude competing claimants may have various sources. For example, the state, wishing to enforce conservation in an effort to protect Enoosupukia as a water catchment and benefit from transnational connections by establishing good environmental governance, may be hampered by its imbrication with patronage relationships between the political elite and non-elite constituents and clients that compromise the bureaucratic application of policy. Similarly, those who claim freehold ownership of land at Enoosupukia may be powerless to prevent outsiders from freely exploiting either forest resources, to produce timber and charcoal, or the abundance of grazing and water in the highlands due to both their socially marginal position and the legacy of their own previous eviction from the area by state force. Here again, differential connection in patronage is presumed by disempowered local owners to be a motivating principle, though this is always somewhat intangible, existing in interpretations of past events and threats of future action.

Property – that is, asserted and imagined rights as well as material access or exclusion – is negotiable, and negotiations occur in an array of practices. Some property negotiations at Enoosupukia have taken place in the form of bargaining in the sense of reaching agreements, making compromises, and striking deals. Examples of this kind of negotiation include the extralegal dealings and transactions for present and future rights

in land discussed in Chapter 4, as well as offers of access extended to extract reciprocal gifts of support, as in the semi-clandestine meeting between Enoosupukia residents and Naivasha MP Jane Kihara described in Chapter 6. Negotiations can also be more conflictual, as in the confrontations between non-local herders and resident farmers in the ostensibly protected forests, described in Chapter 5, or the deadly and destructive conflagration of 1993, in which thousands of Kikuyu were chased from the highlands after being defeated by local and non-local Maa-speakers who appeared to have the backing of contemporary rulers, if not of “the state” per se, as discussed in Chapter 4. The negotiability of property thus has positive and negative aspects, and these are often enjoyed by distinct actors empowered to different degrees and in different ways. For those with the ability to assert their claims, access to resources can be gained and maintained despite challenges from other claimants or efforts to exclude. But the negotiability of property also implies renegotiation, and access can be lost, effectively negating claimed rights, either temporarily, as for some but not all of those affected by the 2005 evictions, or more permanently, as for the Kikuyu victims of violence since the clashes of 1993.

Pluralism, uncertainty, and insecurity at Enoosupukia have been historically produced and reproduced in struggles over belonging over many decades, especially through efforts to reimagine Enoosupukia as a place and to reconfigure the topography of the property field. In particular, this has been the result of problematic articulations between the state and the semi-autonomous local social field. State attempts to encompass the locality, two of which are discussed at length in this thesis, have remained incomplete: official land adjudication and registration, as explained in Chapter 3, has been in progress for more than 30 years and has essentially stalled, and though

the process is now inching closer to completion, no one yet holds that symbol of official recognition – the title deed; despite the official reclassification of the highland still held in Trust by the Narok County Council as a protected forest on grounds of being an important water catchment, state forestry institutions at both the local and national levels know neither the extent nor the location of the forest's boundaries and, notwithstanding the brutal eviction of 2005, they have so far lacked the resources to enforce exclusion and repair previous degradation. Enoosupukia remains semi-legible to the official eyes of the state, and while these projects have introduced new principles and practices to the property field, they have not overwritten older ones, nor have they prevented the emergence of hybrids and novel species.

Some of the social actors claiming rights and exercising the ability to access resources at Enoosupukia benefit from the state's tenuous grip on lived realities in the highlands. For example, the transient herders, who arrive without warning and depart without notification, and the nocturnal entrepreneurs, who harvest timber and produce charcoal under cover of darkness and cloud of suspicion, reap their rewards not least because the partial penetration of the state has dislodged others who claim ownership, stewardship, and the right to exclude. Across the boundary between the Trust land and Kipise Adjudication Section, the process of land registration itself has invited manipulation by those who could mobilize social connections of kinship, clanship, or patronage to acquire a place on the land and in the register.

Those who have suffered, and continue to suffer, incursions by outsiders sometimes call for better engagement and closer connection with the state in efforts to gain recognition and enhance their security, but this is a risky endeavour. Those seeking recognition of their claims of individual ownership in the forest lobby for the extension of

official land registration as a means to establish belonging not only on the land but also as Kenyan citizens, subject to equal protection and access to additional state resources to facilitate local development. But the opening of official adjudication would likely necessitate the acceptance of a range of non-local claimants, perhaps including some of the Kikuyu displaced in 1993 along with socially and politically connected Maasai, whether as a concession to official state agents or a result of a fusion of official practices with the pervasive but unofficial politics of patronage. Conversely, while more successful "environmentalization" of Enoosupukia as a political forest would, in principle, effect the exclusion of local claimants from intensive occupation and use of the area, it may also create forums for negotiation that reshape both the practice of conservation and the local property field.

For example, the 2005 Forests Act makes provision for "community participation" in co-management through the establishment and registration of community forest associations that can play a role in determining management plans, including setting rules and procedures for continued access. However, engagement with such processes requires a significant reserve of political, social, and economic capital to not only liaise with officials in the Kenya Forest Service but also to obtain government permission to form and register an association. Further, "community" is a notoriously nebulous concept and tends to obscure social inequalities and power disparities.[1] There is no guarantee that the official procedures outlined in the Forests Act will suffer any less from appropriation and manipulation than has land adjudication in its implementation. Likewise, widespread optimism at the promulgation of Kenya's new constitution in August, 2010, which promises to reconfigure the state by devolving power to reorganized counties, will not be immune from power-laden negotiations and reinterpretations.

1 For a thoughtful and oft-cited discussion of the problem of "community," see Li (1996).

Emerging public debates – perhaps more accurately termed “disputes” – over the fate of the Provincial Administration and the inscription of new spatial boundaries, both at the level of counties – expected to reconstitute the spatial configuration of the transition to independence – and in their internal subdivisions, suggest that struggles over ethnic, political, and spatial belonging remain central.

In the highlands of Enoosupukia, these struggles are ongoing. Recent events, which I have tried to follow from afar since the completion of my time in the field, further illuminate the dilemmas of the continued negotiability of property. On October 24, 2009, I received an email from Rahab Nyambura, the extremely dedicated nurse who operates the local dispensary at the Enoosupukia Catholic Mission. Much to my surprise, in addition to reminding me of my promise to seek private donors to support the provision of adequate and affordable medical care for the area's residents, her letter included the following:

> ... everyone is well in Enoosupukia. There is plenty of rain and the land is green and beautiful. Yesterday a big celebration was held here and Enoospukia was given back officially to the indigenous inhabitants. Its no longer a Trust land. Now people are at ease, all they are waiting for is surveying of the land.

A phone call to Simon Ngayami elicited some clarification, upon which he elaborated in a detailed report sent to me via a colleague.[2] According to his notes, the move came about after (Narok North MP) Ntimama “discovered” that the Narok County Council was in the process of dividing the forest land into large private parcels for the establishment of tea plantations by councillors and well-connected investors. Seeing this as a great injustice Ntimama arranged to “give the land to the genuine owners.” Initially, Dorobo and local Purko had been excluded, but when they began to hear news of impending allocation of

2 The quotations in this account are drawn directly from Ngayami's written report and subsequent communications.

lands, they assembled a delegation of dozens of highland residents and marched to the Mau Division headquarters, in Nairagie Engare, to protest. Upon hearing their complaints, the DO promised to investigate, and in mid-July held a public meeting at Sintakara to announce the nullification of the proposed adjudication committee and ordered the inclusion of the long-time highland residents in the process.

In mid-October, the District Principal Lands Officer, Mr. Laku, was sent to the community to hold a meeting and to supervise the election of demarcation and adjudication committee members from among the four "sections" recognized as having some legitimate claims to the land – Dorobo, Keekonyokie, Purko, and *Nusui* (Kikuyu-Maasai). By the end of the meeting, a group of nineteen elders had been selected, including eleven Keekonyokie, four Purko, three Dorobo, and one Nusui, with a Keekonyokie chairman and Purko vice-chairman. A week later, once the documents had been processed by the Ministry of Lands, Ntimama himself convened a meeting in the highlands at which the Narok District Commissioner, Mau Division Officer, local chiefs and councillors from Enoosupukia and neighbouring locations, as well as the District Land Officer were in attendance. At this meeting, Ntimama "directed that a portion of land be separated from Enoosupukia Trust land and attached to Sintakara, to be given to the genuine squatters who do not have anywhere else to live." This combined section of land was subsequently officially gazetted as Sintakara Adjudication Section.[3]

Two weeks later, the elected committee members were called to another meeting, at which they were sworn-in and given instructions on how the exercise was to be carried out. The committee members were appraised of the boundaries of the section and told

3 I have not yet acquired a copy of the official notice of adjudication, which should list not only the description of the area under adjudication and its boundaries, but also the composition of the adjudication committee.

that the long ridge from a place called “Olanka” (directly west from Mpeuti Primary School, across the boundary with Kipise) to an area known as “middle Sintakara” (perhaps four kilometres to the south and coinciding with the southern extent of the 2005 eviction) was to be divided into new plots for beneficiaries, in particular all those who had been evicted from the forest in 2005. The lower part of the newly-created Sintakara Adjudication Section was to be surveyed and registered as is, except for some minor straightening of boundaries, as its occupants had not been disturbed by the eviction and had no significant interpersonal boundary disputes. This arrangement appears to be a compromise designed to both satisfy local demands for registration and provision of title deeds and preserve a portion of the conservation forest. While the portion of the adjudication section set aside for resettlement of “squatters” appears, by a rough calculation, to cover approximately 1000 hectares, the remaining forest is somewhat larger, at approximately 1600 ha.

During this initiation meeting, the committee members were further advised that their role in the process was to collect the names of legitimate claimants and forward them on to the committee chairman, who would subsequently create a master list from which to demarcate and adjudicate claims. The Ministry officials leading the meeting admonished the committee that “no newcomers were to be registered as members,” a warning to resist temptation and inducements. By the end of November, 2009, the committee had pegged out public utility lands, including a town centre at the northern end of the area, bordering what would be left of the Trust land forest, and begun to sub-divide the rest of the land into individual parcels. A surveyor had been seconded to the committee from the Ministry of Lands in order to begin mapping the demarcation. In his report, Ngayami estimated that approximately 500 parcels had already been

demarcated, but that more were needed as the expected beneficiaries numbered between 800 and 1000. He further noted that each “genuine” member was to be allocated five acres (about 2 ha), suggesting that a total area of between 4000 – 5000 total acres (approximately 1600 – 2000 ha) would be necessary to accommodate them all.

In spite of the guidance by the District Lands Officer, that no newcomers were to be registered in the adjudication process, by the time the committee began their work on the ground rumours were already swirling that outsiders were bribing committee members for inclusion. A text message I received from a friend with a plot near Mpeuti Primary School, in Kipise section, in which he asked for a loan of Kshs 10,000 to secure two parcels in the Sintakara registration, alerted me to potential problems before I received Ngayami's written notes. The committee took a holiday hiatus from mid-December until early January, but by the first week of February, 2010, had resumed their activities. In a follow-up email from Simon explained that with the resumption of demarcation and adjudication, “the happenings on the ground are becoming more mischievous day-by-day. The committee is corrupt and parcels are being allocated to non-deserving members.” In a follow-up text message, Ngayami added that this corruption had resulted in the process being stopped indefinitely.

While the allocation of lands in Sintakara appears to have entered a state of limbo, further developments have begun to take place with respect to the remaining Trust land forest, with an intensification of environmentalization involving not just government but also non-governmental organizations. While he had not been chosen as a member of the Sintakara land adjudication committee, Ngayami's position as a local opinion-leader and unofficial chief contributed to his gaining access to these processes. In June, 2010,

he wrote to me from Nakuru, where he had travelled to take part in a community consultation exercise coordinated by the Greenbelt Movement, an environmental organization founded by 2004 Nobel Peace Laureate, Wangari Maathai. Explaining his involvement, Simon noted that he had been “appointed as an Ogiek/Dorobo elder to represent Eburu and Enoosupukia forests” in a “national screening and livelihood evaluation process” from which a register of recognized Ogiek and Dorobo forest-dwellers would be compiled with a view to “resettling them permanently.” From what I have managed to ascertain, this process is being undertaken in conjunction with preparations for the resettlement of people from the Mau Forest Complex, which has been politically fraught and highly contested. That process has stalled pending allocation of funds, from as-yet-unknown sources, to compensate the thousands of people slated for removal.

At Enoosupukia, however, reclamation of the forest appears to be proceeding. Just a few weeks ago I received word from a colleague in Narok, an environmentalist and human rights activist with extensive forestry experience, that he had recently completed a Participatory Rural Appraisal for a reforestation project there. According to him, the lead agency in the project is the William J Clinton Foundation, which appears to represent a realization of a pledge by Bill Clinton, reported in the Standard newspaper in September, 2009, to plant trees at Enoosupukia “because the situation [there] looks grave” (The Standard 2009). This pledge came during a public meeting with Raila Odinga “on the sidelines of the UN General Assembly in New York.” I have thus far been unable to garner additional information on this project and its participants and will thus conclude with some provisional comments linking past dynamics with potential future predicaments.

Both the adjudication of Sintakara and the reforestation of Enoosupukia can be seen as opportunities for further engagement and negotiation of rights in land and belonging. That Dorobo and Purko claimants to Enoosupukia were able to negotiate direct representation on the land adjudication committee in a location still dominated by Keekonyokie Maasai suggests a degree of power to at least assert demands for recognition. In the event that Sintakara Adjudication Section is successfully completed and title deeds issued, and likewise that the hundreds of outstanding objections in Kipise Adjudication Section are resolved, facilitating the completion of the process there, it is not clear that this will bring about an end of negotiations, though it will certainly shift both their terms and the balance of power among the range of social actors involved. While residents of Enoosupukia, expectant beneficiaries of official land adjudication and freeholders-in-waiting, use the metaphor of the title-deed-as-shield to convey its centrality to enhancing security and conferring upon its holders a sense of permanence, acquisition of title does not imply finality. Rather, as has been the driving ideological force behind land tenure reform, provision of registered title opens doors to new forms of negotiation with different partners, including banks – for loans – and potential tenants and purchasers. Provision of title has the potential to empower landowners through official recognition and to grant them legal recourse in case of disputes. However, these official, legal and regulatory benefits of land adjudication are predicated on the engagement of registered owners and other parties to negotiations with official institutions, such as the Land Control Boards. While these, too, are slated for reorganization after the adoption of a new National Land Policy by the government after several years of consultations, deliberations, and, yes, negotiations, their operation and their successful encompassment of local practices depends in large part on their use and legitimation in practice, rather than simply via parliamentary adoption. Further, and more

pressing for residents of Enoosupukia, ongoing land adjudication and registration will be a site of intense contestation, and the outcome of these processes will depend in large part on determination, perhaps through consensus and perhaps through conflict, of not only who gets what, but on what bases the resultant concrete relationships between people and land can be considered legitimate and just. These questions again point to the cultural politics of property and to the role of inequality in reshaping both the concrete practices and the categorical principles of which the social field is composed. Given the still marginal position of Dorobo, and to a lesser extent Purko, at Enoosupukia, it may be optimistic to expect they will be granted equal recognition.

The apparently imminent incorporation of Enoosupukia into not only local or national forest politics but global, neoliberal political forestry presents a different set of opportunities and challenges. At the global level, wherever that may be in practice, there exist well-known convergences between environmentalist and Indigenist discourses, though these articulations too are rife with frictions (Igoe 2005, 2006; Hodgson 2002a, 2002b, 2009; Niezen 2003; Sylvain 2002). That Dorobo, and, more prominently, Ogiek, are being given special consideration not just as citizens of Kenya but as Indigenous forest-dwellers is a product of long and arduous struggles over belonging, waged not just by Ogiek and Dorobo activists and organizations within Kenya, but by countless other marginalized peoples both in the halls of the United Nations – e.g., in the Permanent Forum on Indigenous Issues, in New York, and the Working Group on Indigenous Populations, in Geneva (Muehlebach 2001) – and around the world on their homelands, where states have been built around and encompassed them in various ways. Belonging in these processes as Indigenous people, though not necessarily recognized as such by the government of Kenya, can strengthen the position from which Dorobo negotiate the

reconstitution and conservation of their “forest” home at Enoosupukia.

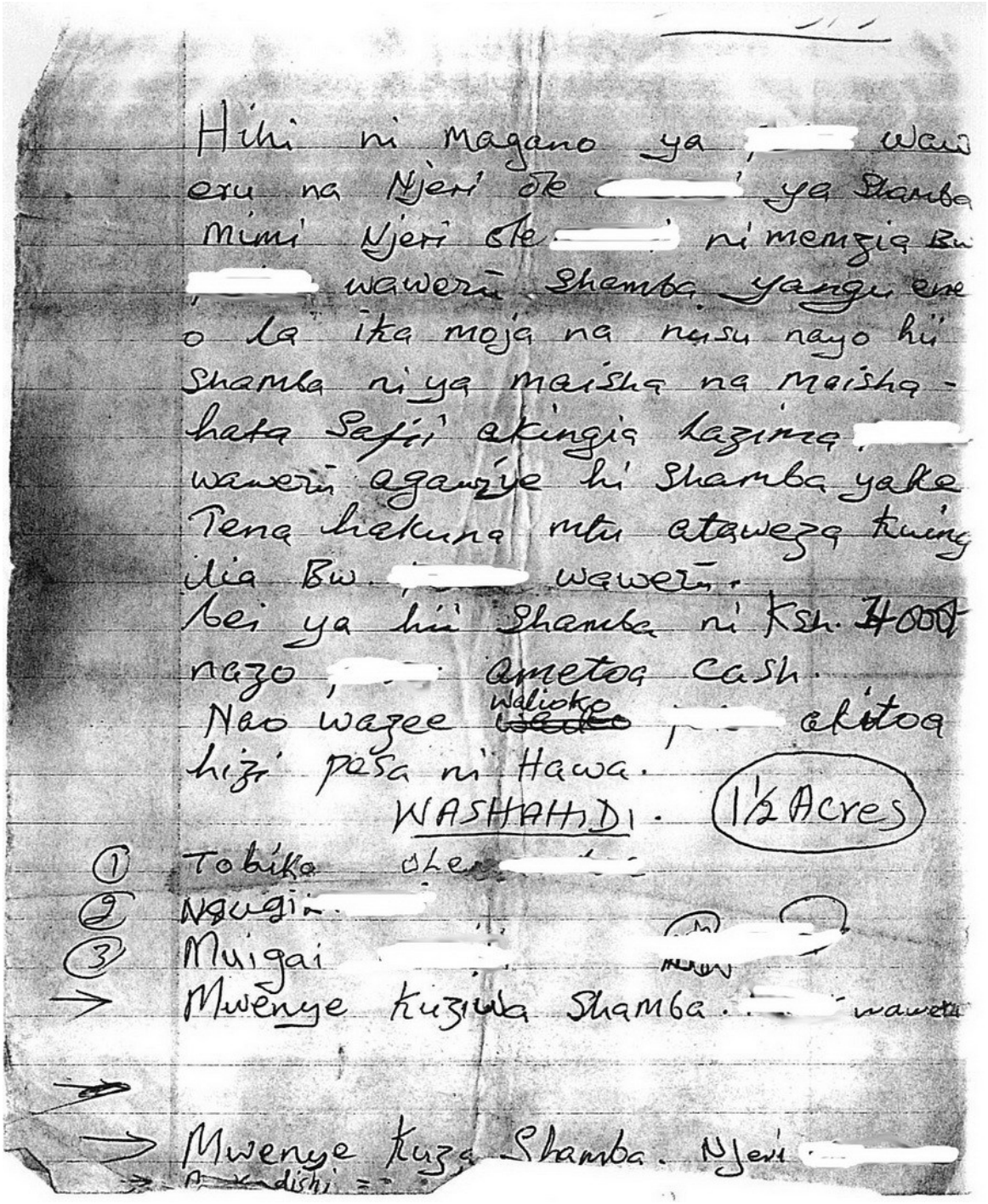
At the same time, political forestry is increasingly becoming entangled in the much larger political-economic crisis of climate change. As carbon sinks – net consumers of the greenhouse gases widely accepted to be causing global ecological disruptions – forests are a site of both potential salvation and profit. African forests are particularly important targets of intervention, for example through the UN-REDD (Reducing Emissions from Deforestation and Forest Degradation in Developing Countries) Programme, as well as for investment, for example by powerful corporations and “green” capital investment firms seeking to acquire carbon credits to offset their own contributions to climate change or to trade for profit on the open market. With regulation, and perhaps even ownership, of places like Enoosupukia being centred at ever greater distances, and controlled by ever more globally – though not necessarily locally – powerful social actors, outcomes of these changes are, thus far, unpredictable. It remains to be seen whether global capital will trump, in both principle and practice, the claimed rights of local actors, or whether, like the colonial and postcolonial Kenyan state interventions described in this thesis, global penetration and encompassment of this locality will be partial and incomplete, reconfiguring, but not obliterating the semi-autonomy of the local field of property.

Faced with challenges and opportunities to renegotiate the terms of belonging, people generally have two choices: to engage or to evade. Dorobo, like other African foragers and “stateless” peoples around the world, have been historically ascribed a near-mythical ability to move away and to melt into the forest as a means of preserving their social and political autonomy from encroachment and constriction by outsiders, whether neighbouring non-foragers or the state. At Enoosupukia, perhaps to a greater

extent than elsewhere in the Mau Forest Complex, there is nowhere left to go to evade encompassment. The neighbouring lands have been adjudicated, the forests have been cut down and former foragers have become small-scale farmers, dependent on land for their livelihoods. In this context, to refuse to engage is to risk exclusion and dispossession. To lose the land they claim as their own by ancestral right, historical occupation, or official allocation, is to lose the only site, and the only source, of belonging they have.

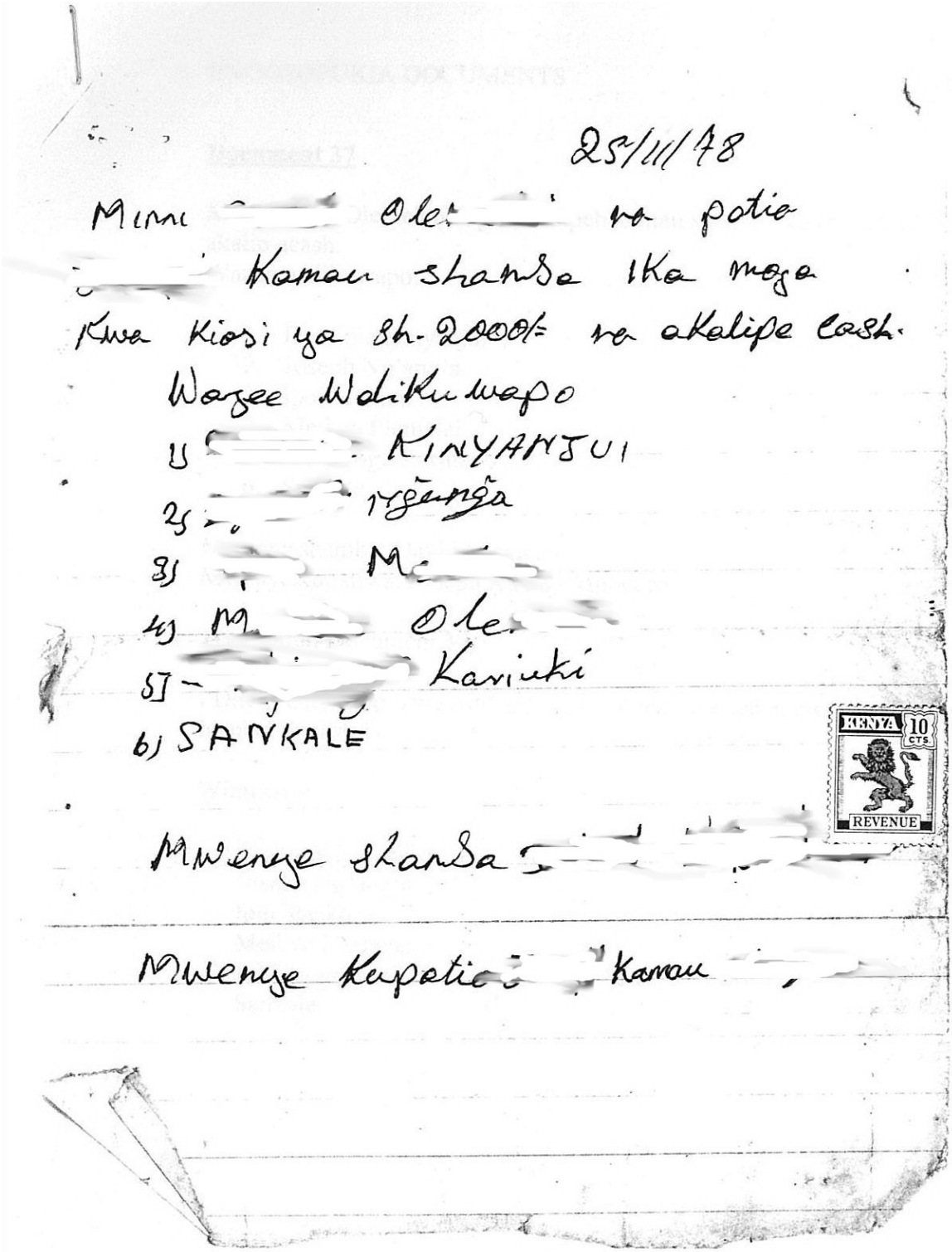
Appendix

Transaction documents

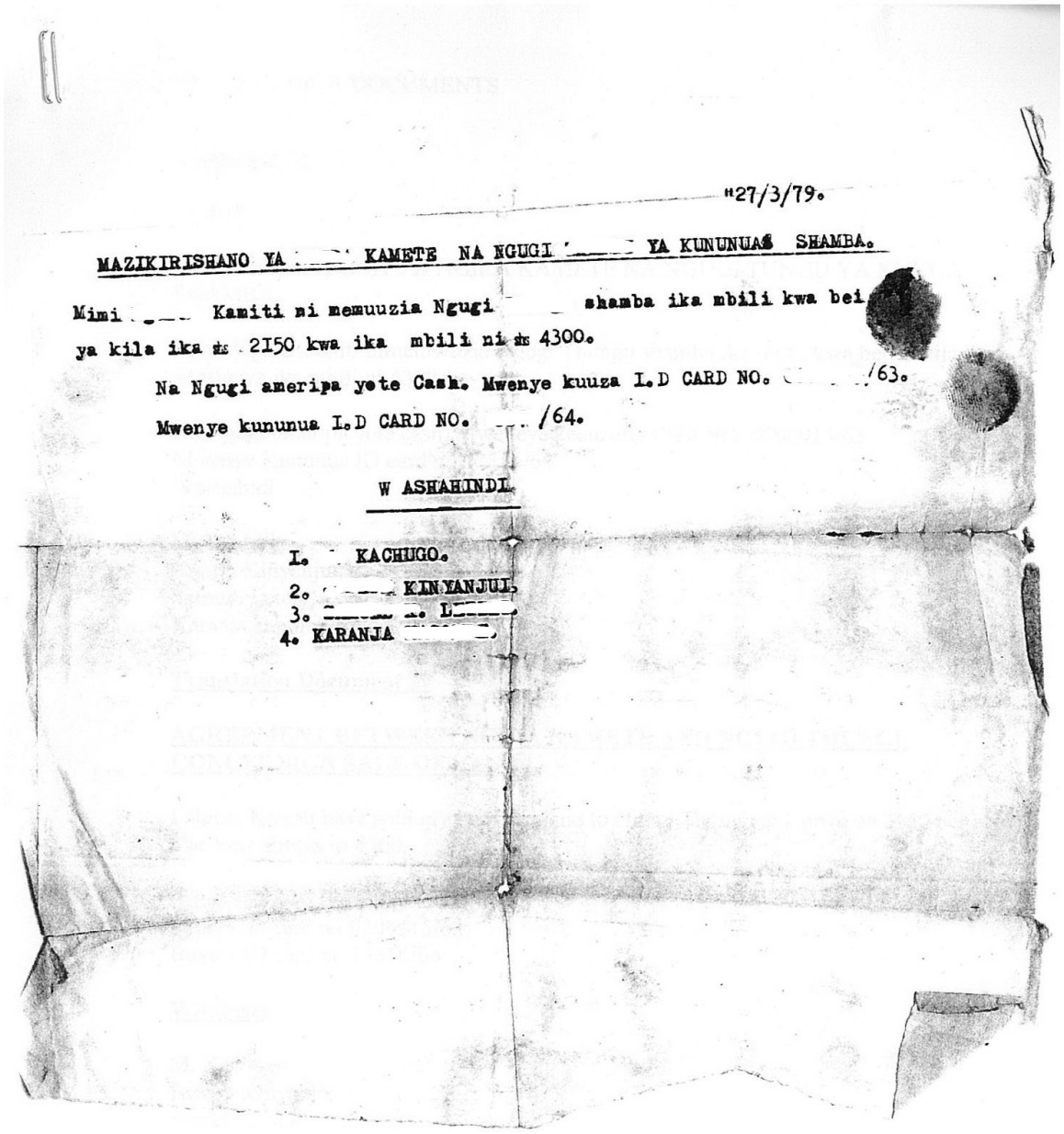


Hii ni Magano ya [redacted] wawili eru na Njeri ole [redacted] ya Shamba Mimi Njeri ole [redacted] ni mmiliki Bw. [redacted] wawili Shamba yangu ene o la ika moja na nusu nayo hii Shamba ni ya maisha na maisha - hata Saji akingia lazima [redacted] wawili aganiye hi Shamba yake Tena hakuna mtu ataweza kuing ilia Bw. [redacted] wawili.
Bei ya hii Shamba ni Ksh. 4000 nazo [redacted] ametoa cash.
Nao wazee waliokuja [redacted] akitoa hizi pesa ni Hawa.
WASHAHIDI. (1½ Acres)
① Tobika ole [redacted]
② Nawgi [redacted]
③ Muigai [redacted]
→ Mwenye kuuziwa Shamba. [redacted] wawili
→ Mwenye kuuza Shamba. Njeri [redacted]
Nairobi

Example 1


25/11/78
Kwa Kiosi ya Sh. 2000/= na akalipe cash.
Wazee Wakikuwapo
KINYANJUI
KENYA 10 CTS REVENUE

Example 2



"27/3/79.

MAZIKIRISHANO YA [redacted] KAMETE NA NGUGI [redacted] YA KUNUNUA SHAMBA.

Mimi [redacted] Kamiti ni memuuzia Ngugi [redacted] shamba ika mbili kwa bei ya kila ika sh. 2150 kwa ika mbili ni sh 4300.

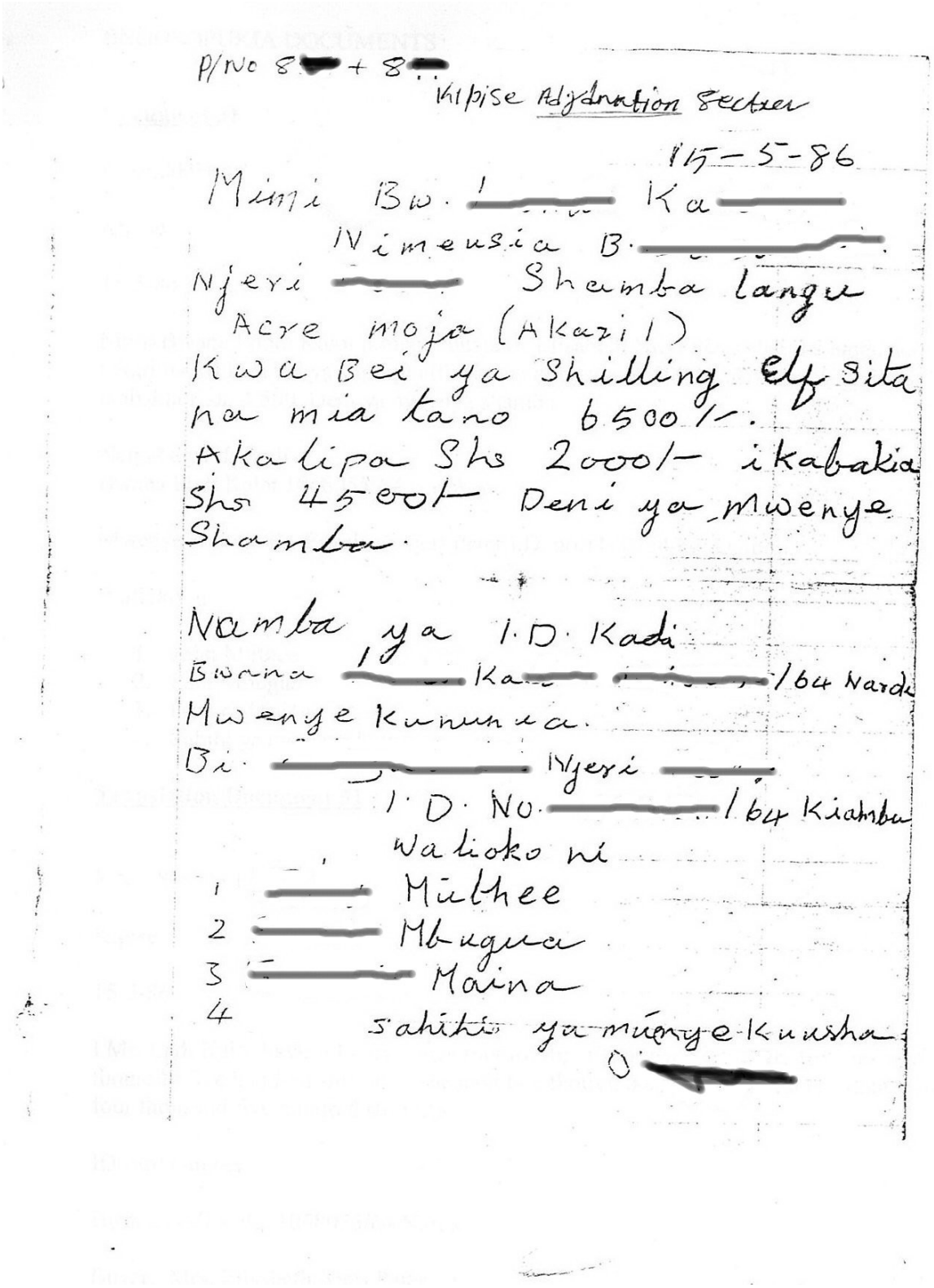
Na Ngugi ameripa yote Cash. Mwenye kuuza I.D CARD NO. [redacted] /63.

Mwenye kununua I.D CARD NO. [redacted] /64.

W ASHAHIDI.

1. [redacted] KACHUGO.
2. [redacted] KINYANJUI.
3. [redacted] L[redacted]
4. KARANJA [redacted]

Example 3



P/No 8[redacted] + 8[redacted]

Kilpise Adjudication Section

15-5-86

Mimi Bw. [redacted] Ka [redacted]

Nimeusia B. [redacted]

Njeri [redacted] Shamba langu

Acre moja (Akazi 1)

Kwa Bei ya Shilling elfu sita

na mia tano 6500/-.

Akalipa Shs 2000/- ikabakia

Shs 4500/- Deni ya mwenye

Shamba.

Namba ya I.D. Kadi

Bwana [redacted] Ka [redacted] /64 Nardi

Mwenye kununua.

Bi. [redacted] Njeri [redacted]

I.D. No. [redacted] /64 Kiambu

Walioko ni

1 [redacted] Muthee

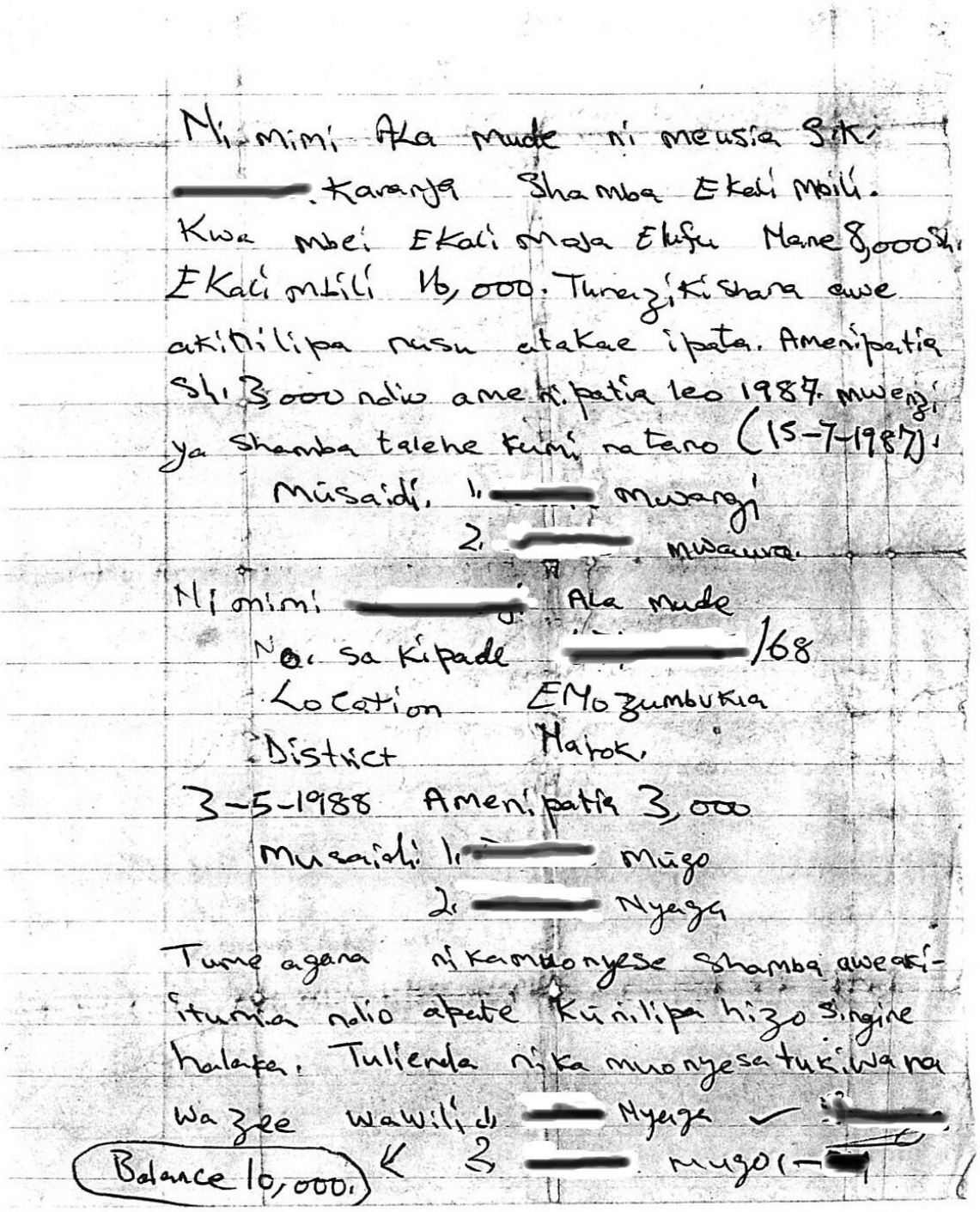
2 [redacted] Mbugua

3 [redacted] Maina

4 Sahihi ya mwenye kuuza

O [redacted]

Example 4


Ni mimi Aka mude ni mwusia S/K.
[redacted]. Karanja Shamba Ekali Mbili.
Kwa mbei Ekali moja Elfu Nane 8,000/=
Ekali mbili 16,000. Tunaziishara ewe
akinilipa nusu atakae ipata. Amenipatia
sh. 3,000 ndio ame ni.patia leo 1987. mwenzi
ya Shamba talehe kumi na tano (15-7-1987).
Musaidi. 1. [redacted] mwangi
2. [redacted] mwanwa.
Mimi [redacted] Aka mude
No. sa Kipade [redacted]/68
Location EMozumbukia
District Nakuru.
3-5-1988 Ameni.patia 3,000
Musaidi 1. [redacted] Mugo
2. [redacted] Nyaga
Tume agana ni kambonyese Shamba aweaki-
ituma ndio apate kunilipa hizo Singine
halafu. Tulienda nika muonyesa tukiwana
wazee wawili di [redacted] Nyaga [redacted]
Balance 10,000. 3 [redacted] mugo [redacted]

Example 5

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