

**The Vanishing Commons: Tenure Reform, Individuation and
Dispossession of Land in the Pastoral Rangelands of Kajiado District,
Kenya**

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**“Land belongs to a vast family, of which many are dead, few are living, and
countless numbers are yet unborn”**

Yoruba Chief (Berry 1993: 106)

ABSTRACT

Countries in the developing world, in attempts to promote investment in land and agricultural productivity, and to establish frameworks for economic development, have regularly embarked on extensive tenure reforms designed to replace customary forms of tenure with private individual forms. In the Kenya rangelands, the Group Ranch system: a hybrid tenure system that allows communal ownership and use of titled land, was created and implemented in the rangelands where private tenure was thought to be unsuitable. This thesis discusses the failure of the Group Ranch system in Kajiado District, and the parallel transformation of Maasai communal lands into private, individual holdings, which has eroded land security, facilitated land loss to non-residents, created local socio-economic disparities, and made difficult the sustainable practice of pastoral livelihoods. From this discussion it is suggested that communal tenure systems may be useful in preventing and addressing land and resource related problems, and that tailoring land policies and tenure reforms to clarify and strengthen customary systems can play a significant role in promoting land conservation and productivity in the African rangelands and enhance security for the people that depend on them.

RESUME

Dans le but de promouvoir l'investissement dans les terres et la productivité agricole, en plus d'établir des cadres de développement économique, les pays en voie de développement se sont souvent lancés dans de vastes processus de réformes foncières destinés à remplacer les formes de propriétés coutumières par des formes de propriétés privées et individuelles. Dans les prairies du Kenya, le système de ranch communal (Group Ranch system), un système hybride permettant à la fois la propriété communale ainsi que l'utilisation de terres attitrées, fut créé et mis en application dans les prairies où il fut jugé que la propriété privée n'était pas appropriée. Ce mémoire porte sur l'échec du système de ranch communal dans le District de Kajiado ainsi que sur la transformation des terres communes massai en propriétés privées et individuelles qui en résultat. Cette situation eut pour effet de remettre en question les droits sur ces terres, de faciliter la perte de terres aux mains de non-résidents, d'engendrer des disparités socio-économiques locales, en plus de rendre plus ardue la pratique d'un mode de vie pastoral soutenable. Cette étude nous mène à croire que les systèmes de propriétés communales sont peut-être plus utiles pour prévenir et résoudre des problèmes concernant les terres et les ressources. Il est aussi suggéré que l'adaptation des politiques concernant les terres ainsi que les réformes foncières, dont le but est de clarifier et de renforcer les systèmes coutumiers, peuvent jouer un rôle important dans la promotion de la préservation et de la productivité des terres dans les prairies africaines, en plus d'accroître la sécurité de ces gens qui dépendent d'elles.

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While I am in gratitude to all those I have mentioned above for their valuable contributions to this work, I must convey that all errors and imperfections that might be found herein are entirely my own

MAP OF KAJIADO AND NAROK DISTRICTS

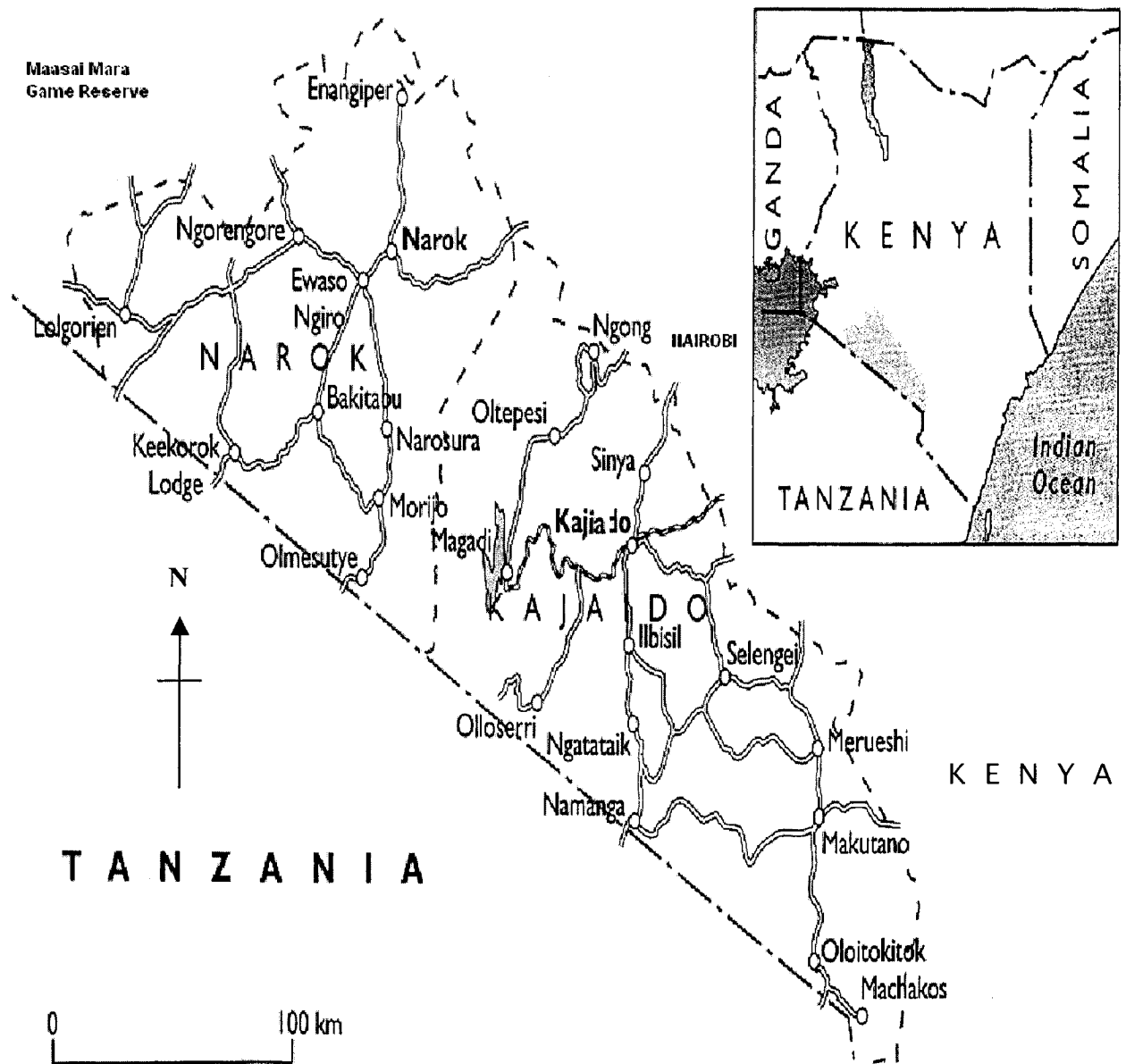


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Introduction

The desire to achieve higher agricultural productivity and attain social and economic progress in the developing world have, in the last century, stimulated the implementation of development programs that have facilitated the gradual replacement of customary community based systems of tenure and rights to land with formal private systems akin to those practiced in countries in the West. Customary forms of tenure, which are characteristically communal, with flexible, ambiguous, and negotiable boundaries (Cousins 2000), have long been presented as being incompatible with capital-intensive agriculture, since they are said to inherently lack security of ownership necessary for the promotion of investment and intensification of productivity and conservation of land (Dorner 1972). Land tenure models based on privatization of land have thus been offered as alternatives to customary systems. Proponents of privatization have argued that efficient strategies of land use develop only with the creation of tenure systems that allow individual ownership of land, and dismiss indigenous tenure systems as static constraints on agricultural development that does not provide sufficient security of tenure to encourage farmers and herders to invest in land (Dorner 1972, Harrison 1987). It has further been asserted that customary tenure encourages land fragmentation and limits the emergence of vibrant land markets, since land in customary systems is seen as embedded in local social systems, a perception which discourages transactions in land (Dorner 1972).

Other views, however, have been presented in support of customary tenure systems. Those holding these views suggest that customary tenure systems are naturally

dynamic arrangements that have evolved over time and are continuously adapting to changes in pertinent factors (Colson 1971, Berry 1993, Bruce 1988, Toulmin and Quan 2000). Customary tenure systems, they argue, provide opportunities by which people can gain access to land and other resources, even though they may not be landowners themselves, arrangements that are not only important in providing flexibility within rural economies, but that also provide means by which groups without land of their own can gain access to productive resources. These supporters of customary tenure also point out that population growth and commercialization of agriculture, which often increase demand for and value of land, in the developing world, have frequently, caused the spontaneous individualization of communally-held land enabling indigenous land users to acquire firmer rights of control and powers of exclusion over land. Moreover, privatization and state-directed tenure reforms, they observe, do not always lead to improvements in the management of resources, but often have the effect of sidetracking the natural evolution of indigenous tenure systems. It is further argued that the privatization and commercialization of land transactions in the developing world have not always led to the consolidation of land rights by establishing the exclusive control inherent in western notions of private property (Berry 1993: 104). Instead, people's claims to land remain linked to their membership in social and political groups, and the powers of landowners over registered privatized land in practice are less than absolute, since land in many developing countries has remained subject to multiple claims and rights (ibid).

Privatization approaches to resource management have, however, since the recent collapse of state managed enterprises and socialist collectivisms in the developing world

and the emergence of an interventionist international development industry, steadily gained primacy as a model of empowering and modernizing rural dwellers in order to achieve efficiency in agricultural production. This approach has consequently come to dominate tenure and agricultural reforms in the developing world and has, after the publication of Hardin's famous "tragedy of the commons" theory, which presents as pernicious the communal management of resources and suggests that sustainable efficiency in the use and conservation of resources can only be attained through private forms of ownership (Hardin 1968), informed the management of natural resources. The blanket application of the privatization model to all communally-held resources is, however, suspicious since the "tragedy" that privatization models seek to address does not always occur. Moreover, many common resource users such as pastoralists do carry out coordinated forms of resource management and conservation that prevent the said degradation of resources (Scoones 1995). Conversely, looking beyond the security that private title portends to create, specific processes of enclosure and privatization have not always brought about the expected increases in capital investment or improvements in the management and productivity of land (Migot-Adhola et al. 1991). In contrast, they have often concentrated land ownership in the hands of a few, extinguished rights and security to land for indigenous residents, and disrupted sustainable indigenous modes of production.

Partly to avoid the inequities in land privatization and to prevent land fragmentation and the creation of land units of sub-economic size, tenure systems that confer private land ownership rights to communities rather than individuals have been implemented in parts of the developing world (Galaty 1980). These tenure models ideally

seek, firstly to confer formal title security to complement customary self-regulating institutions that many indigenous communities employ to manage common resources and, secondly, to create structures that control the “open access” nature in which “unlimited users” are said to access and exploit communally held resources, a situation which proponents of privatization argue is responsible for the overuse and degeneration of most common property resources. The resulting “private” communally managed enterprises are thus most aptly distinguished not from “private” property *per se*, but from “individual” ownership and state ownership, since they constitute common resources registered under a private title granted to social collectivities (Bromley 1989, Galaty et al. 1994).

Related to and supporting the communal management of common properties is the new “institutionalist” paradigm, which holds the view that indigenous common resource users do not always operate under the “ruin assured” situation portrayed by proponents of privatization, but, rather, have gradually developed self-governing institutions that devise rules and mechanism that make possible the sustainable use of common property resources (Bromley 1989, Ostrom 1990). This fast-expanding school of thought focuses on the challenges of ensuring long-term economic viability of communal resources in the face of a broad user base, and argues that neither the state nor the market, as proposed by proponents of privatization and state control models, have proved uniformly successful in enabling individuals to sustain long-term productive use of natural resource systems. Conversely, communities have long relied on institutions that resemble neither “the state nor the market” to govern resources systems with reasonable degrees of success (Ostrom 1990). This school of thought has, however, been criticized as

presenting a homogenous model of rural “commons”, which suggests that individuals share the same interests and goals, a representation that its critics refute, since “commons” users have varying interests and often openly compete with each other (Toulmin and Quan 2000). In addition, the decision making process within “institutions” that govern the commons, the critics point out, is not always representative, but is contested and negotiated at length and often ends in the interests of the powerful within the user base prevailing over minority groups. Moreover, common property boundaries are not always clear or easily identified, and commons users often include usufruct users with multiple rights, a situation that makes it extremely difficult to fix boundaries and create a definite user-base without extinguishing other user’s rights (ibid). The above criticisms, however, do not negate the usefulness of the local institutional approach in managing the commons, but rather call for more work on the model to enable it to better accommodate the variability and specificity of common resource systems.

This thesis seeks to contribute to the above discourse on changes in property rights concerning indigenous common resources in the third world by analyzing the transformation of land customarily held and used by the Maasai society for pastoral production in Kajiado District of Kenya, first into “communal private” Group Ranches and then gradually into individual-titled holdings. The thesis argues that changes in tenure have not achieved the goals of improving land use in pastoral rangelands, creating land security, and promoting pastoral productivity and economic growth, but, rather, have eroded land security and facilitated the loss of land to non-residents, created socio-economic disparities within the Maasai population by concentrating land on the hands of a few, and made difficult the sustainable practice of pastoral livelihoods. The Maasai

Group Ranches case study is useful in illustrating the intricate relationship between changing forms of land tenure, the role of the state in altering customary tenure systems through “development” programs, the significance of self-governing institutions in ensuring the continued operation of common resource enterprises, and the influence of political factors in determining the beneficiaries of land individuation. Given the noted impracticality and inequity inherent in land privatization and individuation, it is arguable that the future usefulness of productive resources in the developing world, and, by extension their agricultural and economic potential, depends on whether communally held resources can be sustained in the face of demographic, political and economic pressure that encourage enclosure and privatization. The most important challenge, and a key condition for the sustainable operation of common property resources, the thesis argues, is the development and maintenance of legally backed, dynamic institutions to govern common properties, regulate the user-base, and the exploitation of resources within them.

Kajiado District is the eastern home of the Maasai and is located at the southern border of Kenya with Tanzania in the Rift Valley Province. The district, which comprises an area of about 22,106 Km², about 3.5 percent of Kenya’s total land surface (Rutten 1992:113) is one of the two districts that have long made up “Maasai Districts” in Kenya; the other being the somewhat higher and wetter district of Narok. The present boundaries of Kajiado and Narok Districts were created in the early 20th century, after the colonial government created the Maasai reserve as part of the infamous 1904 and 1911 Anglo-Maasai treaties that pushed the Maasai out of their fertile pasture lands in the Central Rift-Valley to create land for white settlers and concentrated them in the dry Southern

section of their territory. More than half of the land in the district is classified as semi arid, one third arid, and the rest fertile land with high agricultural potential that lies around high altitude areas near Mt. Kilimanjaro and the Ngong Hills. Climate and rainfall levels, closely related to the altitude and topography are the single most important factors affecting landuse systems in the district. The greatest annual rainfall in the district is received in the high altitude divisions of Ngong and Loitokitok, which receive averages of 791mm and 728 mm respectively, while the lowest annual average is recorded for the low lying Magadi Division which receives 414mm per year (Rutten 1992:116). In normal years four seasons characterize the district's weather pattern, a short rainy season between November and December, an intermediate period in January, February and March, the long rains between April and May, and a long dry season between June and October (ibid). The intensity, amount, and length of rain, however, varies from year to year and across the district, with some regions or years receiving only minimal amounts of rainfall. A factor that has made droughts a regular feature of the climate in the district. Vegetation cover in the district is related to rainfall levels, topography and altitude; in the dry low-lying lands within the Rift Valley vegetation mostly comprises stunted thorn bushes and small patches of grass. In the high altitude plains outside of the Rift Valley with relatively high levels of rainfall, stretch broad savannah grassland plains with patches of bush and forest along the seasonal rivers that crisscross them. Forests, grasslands, and wooded grasslands, on the other hand, characterize the high altitude fertile areas of the district (Rutten 1992, Tale 1988).

The variation in rainfall, vegetation and by extension the carrying capacity of land in the district makes it suitable for a land use system such as pastoralism that utilizes

mobility and a communal tenure system to overcome fluctuations in rain and pasture. The Maasai herding system in the district traditionally involved seasonal movements between the low lying plains and the savannah grasslands in the wet seasons and the high altitude wooded areas in the dry seasons or during prolonged absence of rains. The transformation of land from customary to private and individual tenure alongside state alienation of land in the district, have combined to restrict livestock movements across the different ecological zones in the district, made unavailable key dry season grazing areas and generally made difficult the practice of a nomadic pastoral system (Kituyi 1998).

In the first chapter this thesis will present the background of tenure transformations and state driven development in Kenya, by outlining land policies in the colonial period and their impact on indigenous land ownership and customary tenure. After painting the general picture of land policy in the colonial period, the thesis then narrows down to the effect of these policies on pastoralists by exploring early perceptions about their tenure and land use systems, which the thesis argues, were responsible for government alienation of pastoral territory and the introduction of development reforms aimed at sedentarizing and transforming pastoralists land use systems in Kenya. In the second chapter the thesis presents the conditions behind the introduction of the Group Ranch tenure and development project created by the independent government for the rangeland districts. In the rest of the chapter the thesis discusses the implementation of the program in Kajiado District, highlighting factors that made the pastoral Maasai accept it, the implementation of the Group Ranches program, and the success and failures of the program. In the third and final chapter, the thesis discussion centers on analyzing the factors that precipitated the disintegration and the consequent subdivision of the

communal Group Ranches into individual private land holdings. To accomplish this, the chapter uses two case studies to discuss the irregular nature of the land individuation process, whose outcome, the thesis argues, resulted in the loss of land security by the indigenous land users, the concentration of the same into the hands of a few local elite, and the acquisition of land by politically dominant non-residents from other ethnicities who are largely interested in land for speculation purposes. The chapter then concludes by pointing out the land selling phenomena, which the individuation of land in the district have made possible, and suggests that it is permanently dispossessing the Maasai of their most vital resources, threatens pastoral productivity in the district, and is fast producing a poor, landless class of pastoralists who are neither self reliant in customary pastoral production nor in the modern formal capitalist economy.

Chapter One

The Background to Tenure Reform and “State Driven” Development in Kenya

Governments and development planners in Africa, since the development of centralized States, in efforts to unlock the continent’s agricultural potential and achieve social and economic progress, have regularly focused on, and carried out extensive reforms on indigenous land tenure and property holding systems. The focus on land tenure reflects the importance of the land resource, not only on the people’s livelihoods and economy, but also on their social and religious domains (Kalabamu 2000). Tenure and property reforms, which have invariably meant the replacement of communal indigenous systems under customary law with individual private regimes under formal law, have significantly impacted access to land and the choice of productive activities that rural dwellers can engage in (Colson 1971). Consequently, commercial, mechanized and large-scale farming systems supported by private property regimes have progressively expanded over the last century, while shifting-cultivation and pastoral systems which require large accessible territories as found in common property regimes have declined (Bruce and Migot-Adhola 1994). Because of their significance for people’s livelihoods, land tenure reforms should be evaluated as part of “attempts to restructure society as a whole and not just its agriculture” (Okoth-Ogendo 1976: 153). A tenure system, Okoth-Ogendo explains, does not only “describe an isolated aspect of the economy of a society”, but, “to the extent that it defines the amount of access which members of a society may have, it prescribes the degree of control that may be exercised over resources and consequently, circumscribes the manner in which they may be used

and the manner in which the benefits accruing there from may be distributed, (...). A tenure system summarizes the set of relations which emerge through the power processes of society” (ibid).

Land tenure reforms in Kenya have likewise favored the registration and titling approach advocated under capitalist private property regimes. Key to this shift from pre-colonial communal holding systems was the belief that land individuation and titling would directly encourage investment in land and hence increase agricultural productivity and economic growth (Bruce and Migot-Adhola 1994). Land individuation was therefore seen as a pre-requisite for improvements in investment, conservation and productivity. This assumption was however not necessarily true. Bruce and Migot-Adhola (1994) have used comparative country studies to show that land registration and titling does not automatically create the security, which proponents argue enables land transfers to the most efficient users and precipitates increases in investment and productivity. On the contrary, land consolidation and individuation processes have often been associated with increases in landlessness, inequitable land distribution, investment insecurity, reduced productivity and marginalization of indigenous people (Berry 1993).

In this chapter, I will set the foundation for a subsequent detailed discussion of the Group Ranch land tenure reform experience among Maasai Pastoralists by reviewing the evolution of laws, policies, perceptions and tenure approaches pursued in colonial Kenya, which gradually facilitated the shift from communal tenure systems indigenous to pre-colonial Kenya to a preference for a private, individualized system at independence. Colonization, we will also see, facilitated the importation of a foreign formal legal system that enabled the appropriation of land from indigenous users and threatened the practice

of communal production systems. Relating to pastoral peoples and the rangelands they inhabit, I will show that their communal pastoral production systems suffered not only from restrictions imposed on movement but also through a development apparatus that failed to understand how it functioned. Ecological degradation in the rangelands was blamed on pastoral land use practices and used to justify development initiatives that recommended permanent settlement of pastoralists and individuation of the land they inhabited (Hogg 1988).

Colonial Impact on the Evolution of Land Tenure in Kenya

The establishment of a British colony in Kenya was primarily the result of British interest in Uganda, which harbored the headwaters of the Nile River. Egypt, and hence the Nile, the bloodline of its economy, were of outmost importance to the British global plan of defending their control of India's then very profitable trade (Rutten1992: 171). It is for this reason that Britain's Lord Salisbury in 1890, when partitioning East Africa with Germany ensured the territory including Uganda went to his country. Germany on the other hand obtained control of the area now known as Tanzania. From the acquired territory, the British then established the Uganda and the East Africa protectorates in April and June 1894, respectively (ibid). In 1920 the East Africa protectorate was renamed the Kenya colony and protectorate¹ and later became the Republic of Kenya on independence in 1963.

After establishment, the Colonial administration in Kenya realized that to develop a robust colonial economy, it needed to make accessible the colony's interior fertile lands and establish a white settler occupation within it. The East Africa railway was thus

proposed and built between 1904 and 1911 to enable the exploitation of the colony's agricultural potential and make easy movement from the coast to landlocked Uganda. Establishing a white settler population, however, turned out to be a challenge since Kenya, unlike other African colonies, did not have known mineral deposits that had served as 'settler magnets' in the Southern African colonies. The colonial administration and the foreign office in London consequently embarked on a campaign to market the colony as a suitable destination for potential settlers (Rutten 1992). To make the colony attractive to settlers, the administration did its best to meet their demands, which invariably revolved around access to land, personal security, provision of cheap labor, and guarantees on the security of acquired land and property (Ogot 2000, Rutten 1992: 174-175). In the following years these demands became the axis around which the colony's land policy would evolve, and would prove to be important elements "in the dislocation of (indigenous) tenure arrangements and the deterioration of land use in the African areas of Kenya" (Okoth -Ogendo 1976:154).

The land policies and laws that were instituted early in colonial Kenya primarily sought to address the white settlers' needs and fears, and only focused on African areas to prevent potential problems that the natives could present, either as competitors for land, providers of labor, or as next door neighbors whose land use systems might degrade land and resources in which the settlers might have future interests. While settlers were accorded ownership security through definitive land statutes, lands occupied by African natives, with the exception of areas where cash crops were established or the interests of the emerging African political elite were represented, were left under the vulnerable customary law, and thus open to settler appropriation (Colson 1971). The failure to

accord native lands the protection settler-occupied land enjoyed created two parallel land tenure systems in the country and facilitated the dispossession of one sector of the population by the other (Bruce and Migot-Adhola 1994:8). Early colonial land policies and tenure reforms in Kenya, accordingly, should be viewed as part of attempts by an imperial power to alienate resources for use by its white citizens and secure them through an imported property rights system, whose foreign laws and concepts were unfamiliar to the communal, customary property regimes of the African people. Mamdani (1996) describes similar strategies employed by the colonial regime in South Africa to create a “bifurcated system” that created tenure conditions that made possible resource exploitation and economic advancement of one sector of the population at the expense of another.

The first in a series of laws touching on land that would be legislated in the colony in the following decades was decreed in 1897, “ostensibly for the ‘peace, order and good governance’” in the colony (Okoth-Ogendo 1976:154), reasons that loudly resonate with Scott’s (1998:2) discussion of reforms which States find imperative to undertake to make native systems within them “legible” to their administration. Such “legibility” reforms, nonetheless, invariably rearrange indigenous societies and systems into simplified forms that implement the “classic State functions of taxation, conscription, and prevention of rebellion”. The 1897 laws empowered the Commissioner to grant certificates of occupancy to incoming settlers for a period of twenty-one years, later extended to ninety-nine years, within the protectorate, and to sell freehold land within the Sultan of Zanzibar dominion in the coast (Okoth-Ogendo 1976:154).

These regulations were, however, not adequate for the settlers who expected laws that would grant them rights to take possession of the ‘unoccupied’ fertile lands in the colony’s hinterland (ibid). The settlers’ demand for rights over uninhabited lands in the colony were predicated on their belief that the colonial administration, by virtue of its “occupation”, had rights to lands not actively used by the natives (Okoth-Ogendo 1976:154). Further, the fact that access and rights to land in pre-colonial Africa, were obtained through membership to social units and maintained by active use (Colson 1971:200, Cousins 2000) bolstered their claims that only utilized land belonged to native communities, and that unoccupied land was unowned and free for the taking. Indeed, colonial administrators across Africa frequently claimed that only unused or unoccupied lands were appropriated for settlers, to justify the alienation of natives’ land (Colson 1971:207). This argument was ignorant of African tenure systems, and the nature of African land ecology, which makes it necessary to employ land use strategies that may have long fallow periods between periods of use to allow sustainable exploitation; unoccupied land was a resource under complex production systems that did not utilize entire territories simultaneously. John Ainsworthⁱⁱ a colonial administrator, best explains this false settler perception:

In practice it was, absolutely laid down that no native has any individual title to land and that the land is the commonwealth of people. A native’s claim to land is recognized even according to native custom only as long as he occupies it beneficially. The principal usage is to recognize all unoccupied land as crown land, and the administration is free to deal with it as it considers to the best advantage (...) land vacated by a native reverts to the crown automatically (Okoth-Ogendo 1976:155).

Settler agitation culminated in the creation of further legislation to secure their claims for land. First came the 1901 Order in Council and the subsequent Crown Lands

Ordinance (CLO) of 1902. The CLO “conferred on the (colony’s) commissioner powers to dispose of all ‘waste and unoccupied lands’ (...) on such terms and conditions as he might think fit, subject only to such directions as the secretary of state may give” (Okoth-Ogendo 1976: 154). The CLO did not, however, define waste and unoccupied lands but left it to the Commissioner to determine this. Further, the ordinance proclaimed all unoccupied land “Crown land” subject to her Majesty’s rule and also allowed settlers the right to sell and transfer up to 1000 acres of land. The ordinance did not however provide avenues through which the Natives could participate in deciding whether land was occupied or ‘waste and unoccupied’. The legislation instead gave this discretion to the colony’s Commissioner (ibid), who in the following years invariably succumbed to pressures from the aggressive settlers to make decisions in their favor. Rutten (1992:175-181), for example, points out that the Colonial Office in London had to demand the resignations of Commissioners Elliot and Girouard for consistently neglecting directives and siding with settlers to dispossess natives of their land.

The CLO established the basis on which the colonial administration came to appropriate high potential agricultural lands in Kenya and gradually confined African communities to less productive areas from where their movements and activities were controlled. It also marked the introduction of private land ownership and a land market in the country, both of which were alien concepts to most native people, but which would in the future have important ramifications on local economies, agricultural production and the socio-political dynamics of African communities.

The next step in colonial tenure reform resulted from more white settler agitation, not only for more “legal” and “jurisdictional” security guarantees for their agricultural

holdings, but also for the removal of Africans from lands that they had active or potential interests in (Okoth-Ogendo 1976: 155). Such lands, they demanded, should be exclusively limited to their “actual or prospective” use and Africans prohibited from using them; African natives, they demanded, should be restricted to their own “closed reserves” (ibid). The acceptance and implementation of these demands resulted in the creation of Native Reserves where many native communities were removed from their indigenous territories. These laws essentially divided the country into two distinct sections, an open white settler zone governed under formal English property law, and the closed native reserves operating under customary legal systems. Moreover, to create and ensure a constant supply of cheap labor for the settler farms, and to “diversify the local economies”, the sizes of native reserves sizes were deliberately constricted to ensure that land shortages would force natives to seek employment in the settler farms next to their reserves (Rutten 1992:178, Wasserman 1973). The Maasai territory was among the first to be declared “closed’ in 1906 and the Turkana’s in North Western Kenya the last, in 1926 (ibid). In total, twenty-four closed native units were created and administered under the government-controlled Native Lands Trust Boards created by the Native Lands Trust Ordinance No. 9 of 1930 (Okoth-Ogendo 1976: 155). This legislative control continued up to independence in 1963 when the administration was transferred to the local county councils (ibid)

In response to African protests against settler encroachment and land alienation in the colony, an Order in Council was passed in 1939 to guarantee reserve boundaries. This was important to Africans because before then reserve boundaries were constantly shifted and manipulated to meet settler land demands (Jackson. 1988). The Order in Council

however, besides fixing and protecting native reserve boundaries from settler encroachment, also created restrictions barring African communities from moving beyond their own reserves, a typical tactic of the British colonial strategy of “divide and rule”ⁱⁱⁱ. The Order in Council also introduced a special Pass to be used by Africans when traveling beyond their own native reserve boundaries. This law invariably hindered African movement across the colony and had a devastating impact on local trade and complementary ethnic economies^{iv}; it also facilitated the gradual development of notions of concrete, fixed ethnic boundaries, that were exclusive and rigid compared to the flexible, and negotiable ethnic and territorial boundaries that African communities shared before. The creation of these “clearly bounded socio-political units (...) froze the regional migratory processes through which communities had previously adapted to land shortage by extending resource use and settlement into unpopulated land frontiers or by incorporation into communities controlling land surpluses”(Bruce and Migot-Adhola (1994:6-7).

To complement the role of land law in establishing the colonial economy, several mechanisms were also set in place to ensure a steady supply of cheap African labor to white settler farms. Among these measures were the imposition of taxes on the native population, a move that was aimed at creating a need for money; an employment registration system that restricted employees’ movements; and contractual obligations reinforced by punitive criminal laws that ensured employees complied with their masters’ demands (Okoth-Ogendo 1976: 156).

The colonial administration’s initial “official neglect” of the closed native reserves and the development of agriculture in African areas, changed in the 1930’s

when, due to an economic global recession and an apparent failure by settlers to make the colony self-sufficient in food production, some attention was turned to improving African agricultural potential. Related to this were the negative ecological effects that stemmed from the creation of native reserves. The concentration of human population on the reserves had led to serious ecological imbalances and environmental degradation. Roger Van Zwanenberg, for example, observes that from the middle of the 1920's, many areas of Kenya had begun to experience heavy land use pressure, which directly contributed to soil erosion and land degradation, particularly in semi-arid areas where cultivation was being carried out (Okoth-Ogendo 1976: 157). The colonial administration started focusing on ecological factors and land improvement in the African areas. The first colonial development initiatives in the African reserves thus focused on improving the physical condition of land, water conservation and prevention of soil erosion, creation of settlement schemes to relieve land pressure, livestock reduction measures and the introduction of 'better' land use strategies (ibid). These initiatives did not, however, yield many positive results, since their planning and implementation had ignored the "human factor"; little effort had been made to enlist the advice and support of African communities in their development, or co-opt indigenous land protection practices. Furthermore, the "authoritarianism" with which improvements were introduced and implemented substantially destroyed the goodwill that may have made the African farmers adopt the proposed land management measures (Okoth-Ogendo 1976).

Most of the above settlement and land management initiatives, however, failed and the next major land reforms in the colony came about as a result of this failure, which expectedly, had been blamed on African 'conservatism' and refusal to embrace modern

systems of production. “Agronomic experts were (...) convinced that the principal problematic factor in land relations was tenure and hence the best way in which to approach the problem of (land) use was to reform the tenure system” (Okoth-Ogendo 1976:162). The fundamental communal nature of the natives’ land tenure systems, it was argued, did not encourage long term investments in land since, ownership was insecure, shared, and poorly defined; it could thus not provide a secure basis for agricultural credit (ibid). Moreover, the sub-division of land between heirs in African customary inheritance rules was said to lead to land fragmentation and the creation of land units of ‘sub-economic size’ not viable for profitable and safe agricultural production. These assertions, however, were not valid since the communal nature of African tenure systems has been shown to be more ‘inclusive’, stable, and flexible enough to accommodate multiple rights users (Berry 1993, Cousins 2000, Colson 1971).

Customary systems provide a wide array of arrangements by which people can gain access (...) land and other resources, even though they are not landowners themselves. (...) These arrangements are important because they provide flexibility within rural economies and enable land to be made available to those with surplus labor on negotiable terms. They also provide means by which poor groups without land of their own can nevertheless gain access to resources (Toulmin and Quan 2000: 24).

With these arguments, and following success in equitable land distribution and productivity gained in Asia following private land tenure models (Bruce and Migot-Adhola 1994:9), agricultural and development experts in Kenya Colony, notably Swynnerton in 1954, recommended the introduction of an alternative land tenure system based ‘on consolidated and individual holding’ to replace African communal property systems (Galaty 2000, Okoth-Ogendo 1976). Also encouraged by the capitalist belief that “individual proprietorship in and of itself could generate industry and enterprise,” the

planners argued that individualized land tenure could facilitate proper farm planning and increased agricultural production in African areas (ibid). Furthermore, the security that such a system would provide would not only discourage land fragmentation, but through a market system, would encourage the transfer of land to more efficient users and the consolidation of land into units of “economic size” and hence better agricultural potential (Okoth-Ogendo 1976:162).

Planners, led by R. J. M. Swynnerton who in 1954 produced a policy document for the administration, foresaw the potential for massive social and political repercussions from a consolidated and individualized holding system. Nevertheless, they argued that these changes represented normal and expected stages in the process of ‘development’ and hence were practically inevitable. “In any case it was said that these would be more than compensated for by the tremendous revolution that would result from such an exercise” (Okoth-Ogendo 1976: 163). Initially there were political apprehensions within the colonial administration that such radical plans could precipitate the disintegration of African social institutions and create lawlessness in the colony. The Mau Mau armed uprising, however, and increases in African political agitation in the 1950’s created a sense of urgency about implementing these reforms (Wasserman 1973). It was hoped that the individuation of land in the political hotbeds of Central and Western Kenya, for example, would create a middle class peasantry that would buffer the white settlers from land demands from radical Africans (Okoth- Ogendo 1976, Wasserman 1973).

The next step in the new land privatization process was to develop a legislative basis for making land individuation national policy: First came the Native Land Tenure Rules of 1956, which set out the procedures for the individuation process (Okoth- Ogendo 1976:

164). In 1957, the African Courts (Suspension of Lands Suits) Ordinance was enacted to preempt any potential court actions seeking to reverse the land privatization program (ibid). Following the establishment of a working party set up to examine the implementation of the reforms in native lands, the Native Lands Registration Ordinance was enacted in 1959. This Act, besides affirming the 1956 and 1957 Acts, introduced a Land registration system to be applied to all land under the reforms (Jackson 1988). Under section 89(1) of the Act, “first registration was declared to be unchallengeable even if fraudulently obtained” (Okoth- Ogendo 1976: 166). Registration of land after 1959 thus effectively invalidated all customary rights, claims and interests of indigenous people occupying it (ibid) and opened the way for implementation of a formal private property regime in the country. Kenya attained independence from the British soon after, but little changed in terms of land and property holding reforms. Independence in Kenya brought about a more intensified implementation of the above reforms.

The above discussion reveals the significance of colonial policy for the evolution of a capitalist private property regime and the shift towards individuation and privatization of resources in Kenya. The development of such a system invariably happened at the expense of indigenous communal tenure systems, which development planners condemned as incompatible with progress and modern economic development. The notions of “progress” and “development”, deeply rooted in the minds of development planners, made them undervalue the “traditional”, and become indifferent to the suitability and practicability of indigenous property systems in sustaining livelihoods in the environments where most natives lived. In the following section I will show the influence of these transformations on Pastoral development in colonial Kenya, and how

this influenced the impact of colonial land tenure policy on the Maasai pastoral people. This discussion will provide the foundation on which to analyze the design and implementation of the Group Ranches program of land tenure reform, pursued after independence in pastoral Kenya.

Early “(I)Rationalization” of Pastoral and Rangeland Development

A common and influential misconception about the communal nature of land use by the Maasai and other pastoralists, which for years provided the justification for interventions to reform pastoralists' land use and tenure, was the belief that they inherently lacked mechanisms to control access to and use of resources within a territory. Unlimited resource users in the rangelands, it was assumed, accessed resources in communal territories without restriction. This misconception, which was ratified through Hardin's (1968) publication, *“The Tragedy of the Commons”*, has for a long time influenced development policy aimed at Pastoralists and other common property resource users (Galaty 2000). The tragedy of the commons theory uses a herding illustration to suggest that the tendency towards degradation of common property is a natural outcome of human behavior. Users of common resources who do not encounter restrictions on access to and use of the resources have no incentive to delay their immediate gratification, so their natural and rational instinct would lead them to want to maximize the present output from the resources rather than delay it (Hardin 1968). Pastoral systems were assumed to allow all members to openly access water and pastures within a territory, so individual herders, being rational persons, would seek to increase their herd

numbers to maximize their personal output, but the costs of conserving the communally owned pastures and water points was spread to the whole population.

Therein is the tragedy. Each man locked into a system that compels him to increase his herd without limit -- in a world that is limited. Ruin is the destination towards which all men rush, each pursuing his own best interests in a society that believes in the freedom of the commons (Hardin 1968:1,244).

This misconception, widely accepted by colonial administrators and later independent government and development planners, became extremely influential in the design of development programs targeting pastoralists in Kenya. In tandem with this argument, the heavy livestock losses that pastoralists frequently incur during droughts were interpreted as expected “tragedies” stemming from the pastoralists’ non-rational attachments to livestock and their lack of mechanisms to regulate stock populations and grazing patterns supportable by resources in their lands.

The reality about pastoralists land use systems is however different from the state of affairs presented in the tragedy of the commons theory. Pastoralists have over time developed customary institutional arrangements that regulate access to and use of communal resources and prevent the potential problems that could arise within a situation of ‘communally owned resources and individually owned animals’ (Rutten 1992, Galaty 1994a). There is no ‘openly accessible’ land for all to exploit in pastoralists settings, for what exists is a complex system of land use and herd management, which informally controls access to and use of pasture resources within a framework of understood rules that are socially and culturally constructed and enforced (ibid).

Maasai land, for example, is divided into territorial sections for each of the Maasai sections, which are in turn sub-divided into smaller localities: *Iloshon*, which are loosely controlled by a set of families with settlements in the locality (Galaty 1980).

Herding patterns were informally determined, controlled and enforced by the elders at the local *Olosho* level in consideration to pasture availability, seasons and individual family needs (Munei 1987, Rutten 1992). The local and sectional rules governing access and use of pasture resources, however, do not completely exclude other locality or even section members from exploiting them (ibid). The unpredictability of rain, hence pasture and water, prevent the Maasai from adhering to a property regime with fixed boundaries, indeed their access to land, and movement across a large, ecologically diverse territory is the very strategy that has enabled them to secure a sustainable pastoral livelihood for centuries.

The institutionally regulated land use system employed by the Maasai and other pastoral communities has, however, become difficult to operate with reduced traditional pastoral territories and restricted mobility (Kituyi 1998). Land tenure reforms pursued by the colonial state and subsequent independent governments in East Africa caused constrictions in pastoral territories and imposed restrictions on livestock mobility -- processes that have reduced pastoral territories, increased pressure on land, disrupted the customary institutions that regulate resource use in the rangelands, and threaten the practice of a sustainable pastoral production system.

Closely related to the tragedy of the commons theory, was the assumption that pastoralists are responsible for rangeland degradation and desertification in Africa (Galaty 2000). Many development planners have long believed, unquestioningly, that pastoralists' attachment to livestock and their unwillingness to regularly sell them, are responsible for conditions of overstocking, which result in overgrazing and rangelands degradation. These conditions are said to have caused the destruction of ground cover

vegetation and the depletion of ground water, thus the spread of desertification. Increases in the frequency of droughts and famines during the last half of the past century in Africa and the great Sahel drought of the 1970's were interpreted as *prima facie* evidence for the spread of deserts. This line of reasoning came to attain significant influence among pastoral development planners and led to proposals for wide-ranging reforms targeting pastoralists. These have come to include control of livestock population levels, pastoral sedentarization, conversion of pastoralists to cultivators, restriction of livestock movements, and the creation of rotational grazing schemes in line with the Western ranching model (Hogg 1988).

The desertification assumption has, however, never been scientifically proven, nor has the supposed causal relationship between desertification and pastoralism been empirically established (Behnke and Scoones 1993). Moreover, little scientific evidence has been adduced to support the assertion that the Sahel is really expanding (Swift: 1996), nor has any convincing evidence been adduced to prove that long-term degradation is happening in the communal rangelands (Behnke and Scoones 1993, Roe: 1994). In contrast, the opposite is true; relative improvements in watering points and security have in fact, during the period in question, opened up more grazing lands to herders (Bonfiglioli 1992). Some pastoral communities, therefore, became more dispersed and mobile than was possible before, grazing in areas they could not have previously utilized, and have consequently reduced grazing pressure on other lands. Moreover, it is now known that the drought and famine in the African Sahel in the 1970's had less to do with pastoral land use systems, than with rainfall levels that were extremely low in some periods of the last half of the 20th century across the continent.

Fratkin (1998:8), for example, observes that there was an unprecedented seventeen year decline in rainfall between 1968-1985 in the Sahel. The period between 1900-1930 and 1950-1959, conversely, were unusually wet, with mean rainfall levels in the 1950's alone nearly double those recorded in the seventeen dry years that followed. Partly to blame for the "observed" environmental degradation might have been increases in population, and government policies that discouraged pastoral mobility and promoted sedentarization and the cultivation of the marginal rangelands. Diminished vegetation, and bare grounds should not, however, be taken as evidence of long-term degradation. Plant growth cycles combine with rainfall patterns to make possible immediate restitution of pasturelands after periods of heavy use. Observed signs of degradation are thus rarely noticeable after the rains fall and neither do they reduce the amount of pasture available for the following season (Hogg 1988). The encroachment of cultivating non-pastoralists into ecologically fragile pastoral lands, the adoption of cultivation by destitute pastoralists, and the concentration of livestock around particular spatial points, however, have been noted to have serious consequences for marginal land ecology (Hogg 1988). Despite the above, the desertification assumption has long influenced the nature of development interventions targeting pastoralists in Africa. The colonial and independent Kenya government's constant efforts to sedentarize and convert Maasai pastoralists into cultivators may, for example, be interpreted in this light, as may be the far reaching Group Ranches tenure reforms, implemented after independence.

Another popular misconception, that has dominated pastoral development thinking and which has also been widely used to justify pastoral reforms is their so-called 'economic irrationality' (Bonfiglioli 1992). Basic to, and used to support, this

misconception is the emotional attachment observed between pastoral peoples and their livestock. It is no secret, for example, that a Maasai warrior will willingly risk being mauled by a lion rather than watch it kill a family animal, or even worse, from an economist's perspective, that they would wait until a favorite bull dies of old age rather than sell it for a profit when still young. Herskovits (1926) in his well-quoted article "*The Cattle Complex in East Africa*" extensively explored this attachment between man and beast. Development planners seem to have taken it as an undisputed fact that there is no economic rationality in the number of livestock that pastoralists keep (Bonfiglioli 1992). They point out that pastoralists value livestock for their own sake and use irrelevant factors such as prestige in their valuing systems; pastoralists, it is thus said, value their livestock well beyond their real worth (ibid). To pastoralists, however, there is logic to livestock accumulation; large herds ensure continuity and survival in the face of intermittent droughts (Munei 1987, Kituyi 1998). African governments seem to have adopted this position as seen by their inclusion of components that compel pastoralists to sell their livestock or increase their off-take in designing pastoral development programs (Little 1987, Hogg 1988). An early approach to make pastoralists sell their livestock in colonial Kenya was the imposition of taxes payable only in monetary cash. Later in independent Kenya the Group Ranch tenure reforms, which included mechanisms that compelled the Maasai to sedentarize and increase livestock sale, were introduced.

Finally, other false assumptions and generalizations that have provided justification for interventions and reforms targeting pastoralists include: the assumption that pastoralists are inherently conservative and resistant to change (Bennet 1988:43); and the allegation that pastoralists are poor conservators of bio-diversity (Bonfiglioli 1992).

The earlier has contributed to the false perception that pastoralists are a step backward in the evolution of human production systems (Bennet 1988: 33), and that their systems of production and bodies of knowledge have little to offer in the current progressive industrial world. Commenting on this misconception and its effects on the Maasai pastoralists during Kenya's colonial period, Victor (2001:254) observes:

The 'noble savage' image of the Maasai was greatly strengthened in the colonial period and contributed to a further Marginalization of the Maasai. They took little part in colonial innovations and were considered by the colonial authorities to be among the native population most impervious to change, those who had to be contained rather than be relied upon in the new order, their way of life was seen as economically wasteful. At the same time, they aroused intense curiosity for being different, but that in effect, froze them in marginal positions in colonial eyes.

The “environmental accusations” against pastoralists, on the other hand, have justified the removal of pastoralists from their habitats and the alienation of their land for wildlife conservation (Galaty 2000). The governments of Kenya and Tanzania, for example, accepting as true that pastoral livelihoods threatened wildlife conservation, appropriated and enclosed Maasai territory for the creation of game reserves and parks for conservation (ibid). It was only in the 1980's, when elephant and rhino populations fell to their lowest ever, that the inadequacy of this approach became apparent. Although game parks and reserves still exist in the two countries, new thinking in conservation, which advocates the participation of local communities in the management of natural biodiversity, and in sharing revenue from conservation and tourism projects, is proving to be successful (Western 1994). Local poaching has been reduced extensively and pastoral communities neighboring the game reserves have been encouraged to take active roles in the management and conservation of bio-diversity.

Pastoral Development and Property Systems Transformation

Early government engagements with pastoralists in colonial Kenya came as part of pacification processes aimed at “establishing” law, order and security in the colony (Little 1987: 196-197). Pastoralists, notably the Maasai, were renowned, even before Kenya’s colonization, for their military prowess and livestock raids. Maasai cattle raiding escalated in the last quarter of the 19th century following human-livestock imbalances caused by the devastating Rinderpest and Bovine Pneumonia epidemics, which ravaged the community^v. After pacifying the pastoralists, colonial policy on pastoralists changed to focus on improving grazing facilities and watering spots in the rangelands, initiatives that were largely aimed at reducing the pressure that pastoralists were perceived to exert on rangelands (Bennet 1988). These initiatives also involved introducing quarantine restrictions, since natives’ cattle were claimed to spread diseases to the settlers’ livestock. The restrictions on movement later tightened with the creation of closed native reserves, which made illegal native movements beyond own native reserves. Invariably, these restrictions interrupted and suppressed the development of livestock marketing systems in the country, and closed the trade corridors that the Maasai used to obtain breeding Boran bulls from Somali and Borana merchants from Northern Kenya (Rutten 1992). The Second World War and the consequent demand for food supplies for allied troops, however, influenced the colonial administration to change their policy and embark on a campaign to “encourage African agriculturalists including pastoralists, to intensify commercial food production for war preparation” (Bennet 1988:48). The Maasai were particularly targeted and encouraged to sell their livestock during this period.

The perceived deterioration of pastoral rangelands saw the colonial administration inaugurate the first coordinated development program aimed at pastoralists. The “Ten Year Plan: 1946-55, which became the lineal ancestor of subsequent pastoral development plans in Kenya (Bennet 1988:48), included components of range development such as: livestock disease and pest control, water resource development, agriculture and irrigation development, soil and ground cover protection, transport and marketing systems, and infrastructure development (ibid).

In the mid 1950s, the growing preference for a private property tenure system propelled a new approach in the Ten-year plan. Consequently, components encouraging experimental private land ownership, sedentarization and cultivation were added to the pastoral development plan (Bennet 1988:49). To the developers, the communal range management system was an obstacle to the establishment of “proper” land use systems that would yield opportunities for economic progress. It probably did not occur to them that they were initiating changes that would transform complex socio-natural systems and push them “out of adjustment with (their) physical and socioeconomic environments” (ibid). Programs that sought to settle pastoralists, introduce cultivation, or change pastoral livelihood patterns then started to dominate pastoral development plans in the country. These recommendations, however, were not based on fuller understandings of pastoral systems, but rather on false assumptions, generalizations, and “environmental accusations^{vi}” about land use systems in the rangelands. These misconceptions, although not empirically tested through rigid theory, gradually developed a base of support and became established as valid bodies of facts that were extremely influential in informing pastoral development and tenure reforms.

In line with the above, colonial officials in Kenya suggested grazing controls and grazing schemes programs for the rangelands in Kajiado district. Initiatives that were predicated on the “carrying capacity model” and aimed at settling the nomadic Maasai, encouraging livestock sales, and reducing the assumed ecological destruction in the district (Rutten 1992, Munei 1987). The applicability of the model to range management in pastoralists’ areas is, however, contestable. Munei (1987:112) dismisses its efficacy in the Maasai rangelands situations as “not- logical” since the model relies on factors such as “periodic droughts”, which were essentially natural calamities, as indicators of the suitability of a peoples’ land use strategy. Such observations, he argues, were “exogenous” and unconnected to the productive behavior of individual pastoralists and should not be considered when determining the resource use efficiency of a society.

The grazing schemes introduced in Kajiado district were designed to use water points as centers of control and settlement. Permits were issued to a limited number of herders bordering the water point, but caution was exercised to ensure that the permitted livestock populations did not exceed the area’s carrying capacity (Rutten 1992:205). These grazing schemes did not, however, succeed in settling the Maasai or in controlling stocking levels; the proposed ‘ecology protection’ logic was not enough to convince the herders to sell their livestock to maintain the recommended carrying capacity levels (Munei 1987).

The first Maasai grazing scheme was established in 1949 in Konza area, under the management of the African Land Board and Settlement Board (ALUS) (Rutten 1992:206). The grazing scheme occupied relatively high potential land and was equipped with essential ranching infrastructure; interested Maasai families bordering the area were

invited to become members in the pilot scheme (ibid). The scheme became successful and popular in the first years after its institution, mainly because only a few livestock in the scheme succumbed to the devastating drought and Rinderpest outbreaks that struck soon after the scheme began, while the epidemics decimated cattle outside the scheme. Thinking the grazing scheme was responsible for preventing livestock deaths, many herders sought to join it (Rutten 1992:206). This enthusiasm, however, diminished when the rains fell and conditions normalized. With time, the herders realized that the scheme's livestock success against disease was not due to regulations on grazing and livestock movements, but was mainly a result of regular dipping and improved access to veterinary drugs that the scheme's members enjoyed (ibid). Moreover, the scheme proved practically un-implementable since if its recommended carrying capacity ratio of 1 animal per 15 acres of land were to be duplicated across the district, only half of Maasai livestock would be accommodated, not to mention that more than half of the rest of the district was ecologically less endowed than the Konza area: "By 1961 all residents had left the scheme and the area was closed for grazing (...) and the scheme was subdivided into 8 individual ranches of varied sizes" (Rutten 1992:208).

The failure of the above scheme stemmed not from sabotage or the apparent failure by pastoralists to cooperate, as is often mentioned in post-analysis reports, but rather from use of simplistic and inappropriate approaches and models employed to change complex, functioning and stable herding systems. The colonial body of facts that informed pastoral development, as we saw earlier, was not only scientifically invalid but also prejudiced and unaware of the relationship and delicate balance that exists between people, the environment, and their means of exploiting it, which justifies production

behavior. Ecologists who have significantly informed pastoral development in East-Africa have for example, tended to focus on the perceived “correlation between overstocking and overgrazing” invariably overlooking the object of pastoral production, which, like in other production systems, is the “implementation of its social rationality” (Munei 1987:112). Development initiatives that seek to change or threaten the ability of the pastoral systems to meet its “social obligations” have consistently failed and will continue to fail.

To conclude this chapter, I argue that colonization in Kenya not only disrupted and restricted the development of African indigenous communal systems of production and tenure, but that the imposition of a ‘foreign’ administration and formal laws also facilitated the transfer of land from indigenous users and the introduction of a capitalist private property regime whose tenets were radically different from the common property regimes that African societies operated. Moreover, the colonial development apparatus largely misunderstood the traditional communal nature of production and land use, and hence designed development interventions that were inconsistent with the goals of the indigenous peoples. Likewise, in pastoral rangelands, programs that sought to transform the pastoralists and their production systems were introduced but failed to take root or address perceived ecological problems. These undertakings, I argue, laid the foundation for the establishment of the Group Ranches tenure reform program in pastoral districts of Kenya after independence.

Chapter two

The Group Ranch Rangeland Tenure Reform Concept

A discussion of Kenya's land policy and its political environment in the years around independence is necessary to appreciate the context under which the Group Ranch concept of land tenure was developed and implemented in the country. Independence in Kenya, as in many other countries in Africa, did not occasion a fundamental departure from the development framework and administrative structures of its former colonial master, nor did it immediately solve the landlessness problem that had largely motivated the struggle for independence. Instead, the development policies adopted under the colonial administration were largely continued after independence but under a new political cohort with a majority mandate that was eager to meet the expectations and needs of its ethnic political base (Ajulu: 2002, Okoth-Ogendo 1976). The belief that private property, land individuation, registration and titling would precipitate social and economic progress, and that customary land tenure systems were not conducive to 'progress' and commercial agriculture thus continued to dominate the development framework and land policies after independence. Therefore, rather than "restructure land relations in accordance with new development imperatives", independence in Kenya "simply entrenched, and sometimes expanded, the scope of colonial land policy and law" (Okoth-Ogendo 2000:124). Correspondingly, pastoral communities such as the Maasai whose land tenure security and economic development had suffered from colonial land alienation did not have their lost land restituted after independence. Nor did they witness the beginning of development initiatives that accepted the rationale of their productive

systems and which sought to support rather than change them. In contrast, the national climate of enclosure and individuation of property inherent in the new independent state's ideology, lifted the protection against land encroachment previously provided to "closed districts" by the colonial native reserve policy and encouraged "rural-to-rural migration". This policy shift facilitated the encroachment into high potential pastoral territories by landless cultivating communities and consequently took away from the pastoralists land zones that were "integral components" of their pastoral grazing and livelihood systems (Little 1987: 197).

The new independent government policies on land were largely determined by the need to solve two pressing problems that confronted it in the period leading up to, and after, independence: the reduction of landlessness and the creation of a property rights framework that would encourage investment, productivity, and hence socio-economic development. To reduce landlessness, the Million-acre settlement scheme was initiated to transfer land in the former "scheduled areas" from white settlers to landless Africans (Wasserman 1973). The program, which was designed and implemented between 1962 and 1971, resettled about 35,000 people using approximately 30 million Kenya pounds obtained from the governments of Britain, West Germany, and the World Bank as grants and loans (Rutten 1992: 70). The scheme, however, resettled only a portion of the landless people and its implementation was highly inequitable. It generally favored the politically dominant, although largely landless, Kikuyu ethnic group against other ethnicities (Wasserman 1973). Land taken from the Maasai in the Rift Valley by the colonial administration, for example, was not returned to them despite the existence of written treaties to that effect, between them and the British. The land was instead used to

resettle Kikuyu peasants displaced from central province (Rutten 1992). The government, to sustain agricultural productivity and economic stability in the transition to independence, was keen on protecting the “white highlands” then under commercial farming from the landless peasants who would have subdivided the big ranches into smaller ‘uneconomic’ farms. Wasserman explains the government dilemma on the political sensitive issues of landlessness and the equally important development of agricultural production, after independence:

By 1964 with the perceived easing of the land pressure from Kikuyu masses, government officials sought to move settlement in a direction they have always preferred -- the transfer of large-scale plots... there was a number of reasons for the move; ...the greater economic gain derived from the preservation and africanization of the large-farm system than from its transformation, settlement officials... were still attuned to the needs and advantages of the European system (of farming) and sought the minimal alteration to it; the African leadership used the large scale transfers not only to bolster the economy but also as a means of rewarding followers. Having an indigenous gentry was seen, in a rather muted way, as a means of consolidating the rural populace around a moderate government and stabilizing the society by giving important elements in it a vested interest in property rights and the economic structure (Wasserman 1973:140).

The government was therefore concerned that the white highlands, which are the breadbasket of the country, should go to Africans who could continue production at the same level as the white settler farmers. The result is that it is not the dispossessed landless masses that ended up with the land released by the colonial regime, but Africans with the economic power to operate the commercial ranches. The post-independence resettlement programs thus did not eradicate landlessness as a problem but only facilitated a ‘change of guard’ to a new African elite, a situation that, Rutten (1992: 73) informs us, resulted in the ownership of 32 percent of arable land in the country by only 2.4 percent of the country’s population.

The significance of this to the pastoral rangelands is that the unresolved problem of landlessness in Central Province and the Rift Valley created pressure for gradual agricultural expansion into adjacent high potential pastoral rangelands, a “rural-rural migration” process that the government and its development partners supported (Rutten 1992). Consequently, beginning around independence, cultivating communities, mostly the Kikuyu, have gradually migrated from the Central Province to the well-watered rangelands within Narok and Kajiado districts; significant populations had already settled in Nakuru and Laikipia districts as laborers for white settlers (Rutten 1992:75). Galaty (1994a) mentions that this encroachment by agricultural communities into Pastoral dry season grazing areas is a general trend observable in Africa in the last several decades, and is largely influenced by decreasing rainfall and dramatic population increase which combined to create land scarcity and resource competition among herders and farmers.

On the problem of creating a property rights framework, the government chose to extend land privatization to the rest of the country, except the rangelands where land individuation was restricted to experimental holdings and high potential, more populated regions such as the Ngong Hills area (Rutten 1992). Land privatization through registration and titling had begun in the country with the implementation of the Swynerton plan of 1956-60, which proposed land individuation as the means to economic progress and development in the country (Galaty 200:5). The land individuation was first implemented in the white “scheduled areas”, and later to areas in Central and Western Kenya, in processes which, in the “non-scheduled areas”, favored the emerging black elite and consolidated their growing political and economic powers (Okoth-Ogendo 2000, Wasserman 1973). The adoption of a private property regime was largely based on the

premise that communal customary tenure systems were incapable of providing the incentive and framework needed to increase investment in land, agricultural productivity, and economic progress that the country aspired to attain (Bruce and Migot-Adhola 1994). Since communal customary tenure systems were deemed largely irrelevant for the task at hand, the land policies and development plans designed by the government soon after independence had, as a goal, sought to “achieve the extinction of customary tenure (systems) through systematic adjudication of rights and registration of title and its replacement with a system akin to the English freehold tenure system” (Okoth-Ogendo 2000:126).

It is in the above context and policy environment that the government and its development partners set out to develop a comprehensive development strategy targeting pastoral communities and the vast rangelands they occupied. The pastoral rangelands, however, presented a dilemma to development planners since the extension of land individuation to the semi- arid lands could mean the creation of lands units of sub-economic size. There was therefore a need to create a land tenure system that would allow the communal exploitation of scarce resources, within a private property framework, that would provide incentives for investment, land conservation, and increased productivity; the Group Ranches land tenure concept was proposed and later implemented to address this objective.

The Group Ranch Concept

The Lawrence Commission report proposed the establishment of Group Ranches in the pastoral rangelands as a comprehensive development strategy to address government

concerns regarding the rangelands (Galaty 1980). These concerns, whether well founded or not, included: poor range management, sub-optimal productivity, land degradation, overstocking, and the low participation of pastoralists in the national economy (ibid). Rutten (1992: 269) mentions that the genesis of the Group Ranches concept can be traced back to ideas first expressed by Leland Fallon, a United States Agency for International Development (USAID) adviser in 1962, and L. H. Brown in 1963. The Kenya Livestock Development Project (KLDP), the government's rangeland development unit since the colonial period, was given the responsibility of overseeing the development and implementation of the program (ibid). In the following years, it laid the groundwork for and pushed for the enactment of legislation relating to the Group Ranches and strove to convince pastoralists to accept the land tenure and development strategy.

The Group Ranch concept proposed the division of communally owned pastoral territories into smaller Group Ranches with fixed boundaries and a restricted number of registered members. A management committee to be elected from registered members would make managerial decisions concerning the operation of the Group Ranch and would provide direction for achieving community goals and creating essential infrastructure such as dips, fences, and water points (Galaty 1980). The land would be demarcated, registered and a title deed produced in the name of the Group Ranch, which could then be used as collateral to obtain loans to implement development objectives (ibid). Non-member livestock would be refused access to the Group Ranch and members' animals would likewise not be allowed to graze beyond ranch boundaries, moves that were aimed at reducing stocking levels and overgrazing, and increasing livestock off-take (Galaty 1980, Rutten 1992). The logic behind the Group Ranch enterprise was the

perception that pastoral communal land tenure systems provided no impetus for improvements on land maintenance, pasture management, and stock upgrading (Galaty 1980). Paradoxically, however, individual ranches, which had been created on parts of the semi-arid districts to address these issues, had proved to be non-viable for pastoral production systems “that necessitated periodic movement of stocks and people over large areas” (ibid). In a sense the planners hoped to convert “open access” property regimes, which they believed the pastoral rangelands to be operating under, into “common property” regimes. The difference between the two is that the latter has a limited membership, known boundaries and rules regulating access and use of resources, while the former regimes are open to a limitless user base which is not bound by any resource use regulations (Hardin 1968, Bromley 1989, Ostrom 1990).

The Group Ranches were therefore expected to meet a number of objectives. First, it was hoped they would create some form of “responsibility” towards land on the part of pastoralists and hence address the problem caused by the “individual ownership of livestock in freely accessible lands”(Rutten 1992). The restriction of livestock movement was expected to reduce stocking levels and encourage market off-take. Second, Group Ranches were expected to create a framework through which the government could extend basic services such as education, health services, and veterinary care to the Maasai (Galaty 1980). In this way, the Group Ranches were expected to facilitate government efforts to curb the spread of livestock diseases and improve livestock breeds. Third, the government wanted to turn the Maasai into commercial producers of meat and improve their participation in the national economy; Munei (1987) points out that there was a general feeling that “the pastoral economy was falling down” both in supporting itself

and promoting national development, adding that government surveys had consistently identified pastoralists as among the poorest in the country^{vii}. Finally, a “long term and seldom stated” objective of the Group Ranches was the removal of “the relatively large portion of land, adjacent to the highly populated Kenyan highlands and the urban center of Nairobi”, from communal control of the Maasai and bring it into the lively real estate market in Kenya (Galaty 1994a: 190), a process that would also facilitate the transfer of land through market mechanisms to those who were “most suited to use it”, and also indirectly meet the high demand for land then experienced in the adjacent high density demographic zones (ibid).

It can therefore be argued that the development of Group Ranches was necessitated by the government’s expectations relating to the pastoral rangelands and supported by its perception that the rangelands, especially the sprawling more fertile Maasai reserves, were underutilized, contributed little to the national economy, lagged behind in “development”, and were in real danger of being converted into wasteland through non-efficient land use systems. The resettlement and economic needs of the government, and not those of the pastoralists *per se*, thus emerge as a motive for the creation of Group Ranches. This assertion is further supported by an examination of the context under which the Group Ranch concept was hatched; the top-down nature of its design and implementation; the inherent “contempt” for pastoral indigenous knowledge systems that existed among planners; and the minimal consultation the ‘target group’ received during the development of the project, which in all aspects would significantly alter their production and livelihood systems. The Group Ranch concept was the answer to the “how” element of the government problem of tapping the economic potential of the

rangelands and integrating it into the framework of the national economy, rather than a strategy primarily seeking to address the livelihood needs of pastoral peoples. In the Group Ranches, the government and its development partners found a 'wagon' for hitching pastoral rangelands and communities to the "capitalization" train, aimed at conveying the country towards economic progress and development.

Why the Maasai Accepted the Group Ranches

When Kenya attained independence in 1963, the shift to land individuation discussed above, which had began a decade earlier following the recommendations of the Swynerton report of 1954, had already started sweeping through Maasai land. Twenty-four individual ranches had already been created in Kajiado before independence (Rutten 1992: 266), a fast spreading trend which threatened to transfer all the high potential communal grazing lands into the hands of a few individuals. This development worried both the Maasai and the outgoing colonial administration, but little was done to address it because of the then strong conviction that individual land holding was the ultimate path to development and economic progress. Not surprisingly, therefore, a bid by the Maasai Kaputiei Development Committee to stop encroachment on their land by applying for a single title deed to their land was refused on the grounds that such a single title "would only preserve the present economic structure and circumscribe expected economic changes" (Rutten 1992: 266). Nevertheless, another proposal by a few elitist members of the same committee to obtain individual titles in the same area was quickly granted (ibid).

The above trend, combined with the political environment in the country at the time, led to an increasing sense of political insecurity for ordinary Maasai pastoralists (Galaty1980). The Maasai feared that the new independent government in Kenya would not recognize their rights to land and could use its power to allocate their land to the landless people from central province (ibid). This insecurity, focused on the threat to the integrity of Maasai land, stimulated “progressive” changes among the Maasai who began to encourage the growth of schools and education and to assume modern practices of livestock management as a way of securing their positions (Galaty 1980:163). For many, the Group Ranch program presented an opportunity through which they could join in “development” and gain progressive infrastructure such as boreholes and cattle dips which they found greatly useful in pastoral production.

The influx of non-locals into the Maasai districts of Kajiado and Narok significantly increased after independence (Rutten 1992). This encroachment had become possible, first, because of the “dissolution” at independence of the treaties made between the Maasai and the British colonial administration in 1904 and 1912, following the alienation of Maasai territory by the British. The treaties had created the boundaries of the Maasai reserve, which the colonial administration had vowed in 1904 to respect so long as the Maasai existed as a race (ibid). Secondly, it was facilitated by the allocation of private ranches in fertile high potential areas of Kajiado district, mostly in the current Ngong and Loitokitok divisions, to “progressive” individuals, whom development agents hoped would act as good models of land use and management. With time, however, most of these Maasai individual landowners sold off their land to mostly Kikuyu buyers, who quickly offered to purchase these well-watered lands (Rutten 1992). The land sellers

would then move back into the communal lands where the rest of the community had no legal powers to deny them settlement, and where their kin lived. Why, we may ask, did the individual landowners sell their land? A possible explanation is that, facing no apparent threat of landlessness, the landowners found it irresistible to utilize the potential of individual gain presented by the existence of parallel tenure systems within the same social-economic unit; one offering opportunities for personal gain through land sales and the other having no mechanisms to exclude the land sellers from rejoining communal lands. Moreover, the Maasai perception of land as a communal asset for use by community members, and one that could not be permanently lost, made less real the loss of land. The creation of individual ranches for a few elite members, while leaving open channels of access to communal lands, thus only served to facilitate the loss of dry season grazing lands to non-locals. From an early stage, land individuation in Maasai districts stimulated landlessness and destabilized pastoral productivity. Ordinary Maasai, who became hostile to the creation of individual ranches thus became open to new ideas that could protect their land from appropriation; the Group Ranches concept offered such a remedy and hence appealed to them.

The Maasai at Kenya's independence had, more than any other ethnic group, lost land to white settlers. This land loss through State actions continued after independence but with different reasons and justification (Rutten 1992). Land appropriations, which began with the 1904 and 1912 Maasai moves from the Central Rift Valley Laikipia territory, continued well after independence through State appropriations of land for wildlife conservation. These actions were predicated on false assumptions that pastoralists were poor land users and conservators, and hence threats to environmental

maintenance. The superior authority in law that the State in Kenya enjoys over customary indigenous landowners in terms of access and control of resources facilitated the annexations of land. Commenting on this power of States over rural indigenous land users in East Africa, Okoth-Ogendo (2000:126) mentions that the state has in law become the ultimate authority in matters of land control and management, and has power derived from the constitution and from other ordinary legislation to expropriate land from traditional owners should “public interest” require it. Customary tenure has consequently, in East Africa, not been enough to prevent the government from appropriating communally held land for ‘public interest’ projects such as wildlife conservation.

Early after colonization, the colonial administration declared a large section of Maasai territory the Southern Game Reserve and turned it into a protected area for wildlife conservation (Rutten 1992). Human and livestock movement within the reserve was, however, not restricted and Maasai access to resources within the protected area was therefore not much hindered. The situation changed, however, after the enactment of the National Parks Ordinance in 1945, which empowered the government to alienate land and resources anywhere in the country for purposes of game conservation (ibid). Consequently, from the Southern Game Reserve there were carved out the Nairobi National Park (117km²) in December 1946, the Amboseli National Reserve (3,260km²) in 1947, the Ngong National Reserve (512 km²) in 1949, the West Chyulu and Kitengela areas conservation zones (Rutten 1992:316-7), and the Tsavo National Park in 1948 (Kituyi 1998). Human and livestock movement within these parks or game reserves was restricted or completely prohibited; to this day the Maasai have completely lost access to and control of the area under the Nairobi National Park to the State (Rutten1992). The

Amboseli reserve likewise was declared a National Park in 1972, technically making it illegal for the Maasai to venture into the game park or use the water points therein to water their livestock (ibid). Protests from herders around Amboseli saw the government agree to seasonal grazing arrangements with the Maasai in some parts of the park. Promises to create sufficient water points outside the park boundaries, however, have never been met, leaving the Maasai vulnerable in dry seasons (Rutten 1992, Western: 1994). It is therefore understandable, considering the land loss experienced by the Maasai and the increasing powers of the state to appropriate natural resources from traditional users, that the ordinary Maasai felt the need for a system that would provide legal and political immunity of their land against such annexation. Group Ranches represented such a solution, offering a “compromise formation between perpetuation of the reserve system of common-held trust lands, with the insecurity of gradual erosion and the potential of government appropriation in the future, and the institution of individual free hold, with insecurity of partition and inevitable piecemeal sale to non-Maasai” (Galaty 1980:163).

The effects of the 1961 drought-famine, which claimed between 300,000 to 400,000 cattle in Kajiado district alone, may have also played a role in softening up the Maasai for radical political and economic change (Galaty1980: 161). The government and the Maasai themselves, after witnessing the devastation caused by the droughts, increasingly felt that there was need to alter the social and economic system to enable it to cope with such disasters in future (ibid). In line with this attitude, initiatives such as the Isinya Rural Training Center were adopted in the following years with the primary aim of “inculcation of entrepreneurial and commercial skills among the Maasai” (Kituyi 1998:36). Such institutions, in time, produced a crop of progressive-minded Maasai

leaders who in later years significantly influenced the direction of development in the district (ibid).

A combination of factors therefore made Group Ranches attractive to the Maasai, who then welcomed the idea and accepted its implementation in most of their territory. Rutten (1992), however, observes that some populations of Kaputiei and Keekonyokie sections occupying relatively fertile high potential lands resisted the concept. The government, nevertheless, demarcated these lands to create Group Ranches but these never functioned as Group Ranches and were later subdivided into individual ranches (ibid). It may therefore be concluded that the Maasai accepted the Group Ranching system largely because it was presented as “a package” they could hardly turn down. The concept offered the Maasai a legal instrument to protect their land from encroachment by cultivating non-locals, government appropriation and sales by elite Maasai. Moreover, it also provided an opportunity to gain access to capital, which they needed to meet “progressive” infrastructural objectives necessary to improve pastoral production and livelihoods (Rutten 1992).

The Group Ranch Structure

Legally, the Group Ranches were created through the application of the Land Adjudication Act of 1968(Rutten 1992). The Act laid out the legal procedures to convert communal Trust lands, then under the Consolidated Act, into Group Ranches or individual ranches (ibid). The creation of a Group Ranch commenced with a declaration of intention from the government minister in charge to apply the Act to the general area in which the proposed Group Ranch lay (Republic of Kenya 1977:5). The majority of the

land in Kajiado District, before the creation of the Group Ranches, was classified as communal tribal lands, under the trusteeship of the Olkejuado County Council. The declaration that applied the Adjudication Act to communal tribal lands immediately converted them into adjudication areas (ibid). Several “adjudication sections” could then be carved out from an adjudication area, or a whole “adjudication area” could be converted into an “adjudication section” (Republic of Kenya 1977). The Act vested the power to create adjudication sections to an adjudicating officer appointed under the Act to oversee the adjudication process (ibid). Before proceeding, the adjudication officer was required to appoint an Adjudication Committee of not less than 10 persons from ordinary residents from the section; it is to this committee that any person who claimed to have any interests in the adjudication section or who wanted to be considered as a Group Ranch member, would present claims within sixty days of its taking office (Rutten 1992). The Adjudication Act also created an Arbitration Board to deal with potential conflicts arising out of the adjudication process in the adjudication area that could not be resolved at the Adjudication Committee level (ibid). Once the above was done, the Adjudication Committee would then demarcate the adjudication section and create Group Ranches and/or individual ranches and allocate ownership to persons who presented their claims. The adjudication register, which comprised a list of members and a corresponding land map, were then made (Rutten 1992:274). The Act then required the register to remain open for sixty days after creation to allow any complaints from affected persons to be made to the adjudication officer, after which the register was sent to the Chief Land Registrar (ibid).

To form the Group Ranches as a legal entity out of the membership contained in the adjudication register, the listed members would then elect not more than 10 members from amongst themselves, who would constitute the Group Ranch Committee. This committee then applied to the Registrar of Group Representatives for the incorporation of the Group Ranch (Rutten 1992:275). The certificate of incorporation together with the adjudication register was then forwarded to the District Land Registrar who would then register and grant the title deed in the name of the Group Ranch, under the Land Registration Act, effectively establishing the Group Ranch (ibid).

The management and operation of the Group Ranches was governed through procedures established by the Land (Group Representatives) Act (Republic of Kenya 1970). The Act provided for the creation of a representative committee of three to ten people and a management committee from the registered membership. The representative committee was supposed to act on behalf of the group and play some kind of trusteeship role, “almost as a council of elders guarding traditional ways”; the managerial committee, on the other hand was meant to oversee managerial functions and make day-to-day decisions concerning the operation of the Group Ranch (Galaty 1980:163). In introducing two parallel leadership institutions within the Group Ranches, the planners hoped to create an opening through which younger, more educated and progressive members could take over the important managerial committee roles and gradually edge out the conservative thinking represented by leadership organs dominated by elders. The act provided the managerial committee with far reaching authority that included power to incur debts, manage development and implement development plans, among others.

Establishing the Group Ranches

The Group Ranches program was implemented in Kajiado, Narok, and parts of Samburu and Baringo districts (Little 1987); the created communal ranches averaged between 100,000 to 200,000 acres in less populated drier areas, and between 10,000 to 20,000 acres in the high potential, highly populated areas (Galaty 1994a: 190). At the time of its implementation, the Group Ranches enterprise was the first major government development initiative developed for pastoral lands and people in the country (Munei 1987:110). By 1984, 289 Group Ranches taking up 7.43 million hectares of land had been created in several pastoral districts in the country; "More than 75% of these ranches in terms of numbers and size, are situated in Maasai districts and sections of other districts inhabited by Maasai related peoples"(ibid). The Group Ranch program therefore, although also implemented in other pastoral areas in the country, mainly targeted and impacted the Maasai people. The following discussions will therefore center on the Maasai of Kajiado district where the program was largely applied.

Although some effort was spent by the government agency in charge of Group Ranches to educate the Maasai about the program, the largely illiterate population did not grasp the concept in its entirety and did not acquire a clear idea of the consequences of its implementation. This is partly because the planners, when educating the Maasai, preferred to avoid contentious issues that had the potential of creating resistance to the program such as grazing quotas and strict boundary maintenance but instead chose to emphasize its positive benefits such as the development of cattle dips, veterinary services, and water points (Rutten 1992:278-9). Those Maasai who were fully aware of the possible consequence of the land privatization acted appropriately to benefit in the

transition process (Kituyi 1998). For example, they spread their families and herds across adjacent potential groups ranches in order to be able to transfer their cattle from one Group Ranch to another and hence circumvent de-stocking requirements and grazing boundary restrictions (Galaty 1980). Others, in violation of the Group Ranch rules, managed to register as members in more than one Group Ranch; the elite and the influential went one step further and exploited the provisions of the Adjudication Act to gain big individual ranches carved out for them, alongside the communal Group Ranches. A move that was not only inequitable but one that would later become a source of considerable Group Ranch wrangling.

The creation of individual ranches at the same time as and alongside Group Ranches not only created conflict of interest but also significantly reduced the size of land available to the rest of the community. Rutten (1992:283) commenting on this reveals that by 1978 eleven individual ranches taking up to 14,000 and 16,000 acres had been created in Oloyiangelani and Kipeto schemes. At the same time 34 influential Maasai families obtained individual farms averaging 2,000 acres each in the Ewuaso-Kedong area.

It can therefore be pointed out at this stage that, although the Group Ranch program planners' intentions in developing a common property tenure structure may have been constructive, they did not, from an early stage, do all that was necessary to ensure that the institutional regulations and supporting framework necessary for the successful operation of the enterprise were functional. Therefore, at the same time that the Group Ranches were established, there were also being set up parallel and competing models in

the form of individual ranches which eventually made the operation of the Group Ranches difficult.

In setting up Group Ranch boundaries, planners aimed to constitute land units that were smaller than the traditional section territory (*olosh*) but larger than the individual ranches then coming up (Galaty 1980:162). In tandem with the ecologists' carrying capacity model, which has been a significant driving force in rangeland reforms in Africa, the planners hoped to create ranch units that would be ecologically viable and able to support a specific human and livestock population. Visible topographical markers such as rivers and hills were used as boundary markers (Galaty 1980). The majority of Group Ranches in Maasai land, however, did not constitute ecologically self-sufficient units, and were never capable of sustainably supporting the populations allocated to them, especially in dry seasons. It has also often been suggested that Group Ranch boundaries were drawn up in conformity with social or territorial Maasai boundaries and thus should have been ecologically viable units. Kituyi (1998) and Jacobs, for example, suggests that the Group Ranches' boundaries were based on the Maasai concept of *Enkutoto*, which he describes as a subdivision of the territorial section *olosh*; other Maasai concepts of *elatia*, and *emparnat*, meaning "a neighborhood" and an established patrilineal settlement, respectively, have also been suggested as other Maasai territorial concepts that gave foundation to the Group Ranches concept (Rutten 1992; 270-272). These assertions, however, are not valid, and are not supported by the words' real linguistic meanings and usages in the context of the Maasai territorial and herding lexicon. Group Ranch boundaries and locations were not based on any known social, political, or ecological customary boundaries, but rather on what the development planners thought

represented such boundaries. The concept “was in many respects, an artificial creation having no traditional basis, being established as a result of administrative propaganda for change” (Rutten 1992: 272). Moreover, it was just not possible to create fully sustainable pastoral Group Ranches within the framework and land sizes that the planners were working with, especially considering the ecology and the unpredictability of rainfall in the Maasai rangelands.

A commendable undertaking, however, was the effort by adjudicating officers and committees to ensure that all qualifying residents found membership within some Group Ranch, including those who had lost all their livestock^{viii} in previous droughts and those who had migrated to urban towns in search of employment (Galaty 1980, Rutten 1992). No major conflicts therefore emerged concerning the exclusion of eligible persons in the original Group Ranch registers; this was, however, short-lived since group membership later turned out to be one of the most contested issues on Group Ranches as younger members came of age and requested membership in the ranches (Rutten 1992). The Group (Representatives) Act, which governs membership in the Group Ranches, only provided for the registration of male family heads or, in the case of deceased husbands, their widows, as “representatives” of their families in the Group Ranches (Republic of Kenya 1970). Although it may be argued that this coincides with the patrilineal nature of Maasai society and inheritance as symbolized in the adage: *memurata olayioni eishu menye* [a man only becomes initiated (independent) after his fathers’ death], it is not applicable to the land resource. Mature married men, on accumulating enough livestock and experience to support their households, are expected to split, often together with their mothers, from the central family unit and establish independent herding units elsewhere.

This was a practice that prevented potential conflict among competing adult sons and prevented pasture overuse by spreading pastures users. The Group Ranch policy's failure to allow for this natural expansion was thus significant

Successes and Failures of Group Ranches in Kajiado District

The implementation of Group Ranches in Kajiado District was initially extremely positive as far as the Maasai quest for protection of their territory from encroaching non-locals was concerned. The creation of the ranches facilitated the acquisition of legal instruments in the form of land registration and title, which guaranteed group members communal rights in land ownership, and a commensurate duty for others to respect their claim to the land. Title deeds made concrete the "duty" of non-members to respect, in law and practice, the Maasai right over their land resources, a duty which Bromley (1989) explains is an integral component in the maintenance of the validity of a property regime. The creation of Group Ranches, moreover, transferred to the Group Ranch members, who had no individual powers to dispose of land, the trusteeship of their land, which was formally held by the County Council as provided for by the Trust Land Act. The County council in Kajiado had previously supported the subdivision of land into individual holdings, and the political elite within it had misused the council's powers to create individual holdings for their political supporters, and such land had then found its way to non-locals through sales (Rutten 1992). The major significance of the Group Ranch structure to the Maasai in Kajiado therefore "lies not in the economic innovation which was occurring previously through individual and neighborhood channels, but in the essential area of political security" and for most of them "the provision by the Group-

Ranch organization of an opportunity for modernization and economic development through increased government assistance, extension services and loans, was of secondary importance” (Galaty 1980:165).

The Group Ranches also played a significant role in the creation of a platform for the dissemination of knowledge and opportunities for the Maasai to improve their livestock management techniques and invest in cooperative projects such as water points, dips, pipelines, troughs, tanks and crushes, among others. Some of these structures became possible through loans extended to the Group Ranches by financial institutions but the majority was made possible through financial assistance from the government, the county council, and other donors (Rutten 1992). The Group Ranches therefore served “as an organizational mechanism for the improvement of livestock management techniques through the investment of capital in cooperative facilities such cattle dips, spray equipment, and marketing and facilitation of the dissemination of information ”(Galaty 1980:165). The Maasai in all the Group Ranches used financial facilities and organizational capabilities made possible through the institution of the Group Ranches, to pool resources for the construction of water holes, cattle dips, or access vaccination programs to curb the spread of livestock diseases.

As land holding systems, Group Ranches also contributed significantly to the conservation and protection of wildlife in Kajiado district. The district, like the neighboring Narok District, which holds the world famous Maasai Mara Game Reserve, is home to arguably the most abundant collection of tropical wildlife species in the world, which the Maasai land use system sustainably accommodated. The expansion of human settlement and fenced land boundaries greatly inconveniences wildlife movement,

facilitates hunting and generally reduces wildlife populations (Western: 1994). The free roaming “fearless” wildlife that the explorer Thomson observed in Nairobi grazing alongside Maasai herds in his maiden European expedition through Maasai land have, for example, disappeared with increases in human settlement (Thomson: 1959). The individuation and consequent cultivation and fencing of lands that had started to happen with the creation of individual ranches in Kajiado was not compatible with wildlife conservation and would have led to their depopulation. The Group Ranches on the other hand, because of their communal nature and wide-open areas, involved little restriction on wildlife movement and thus served to protect them (Rutten 1992:285).

The implementation of the Group Ranch system in Kajiado district unfortunately achieved only a few of the goals it had been set out to accomplish. This was caused, among other factors, by the following: the failure to adequately prepare the target population for the real nature of extensive reform, especially as it dealt with the maintenance of grazing quotas and Group Ranch boundaries; illiteracy and corruption among the management committees, which made difficult the operation and observance of Group Ranch rules for the benefit of all; and the introduction of radical changes alongside the ranch system which conflicted with and threatened existing customary institutions and created conflicts and internal wrangles that made the program virtually non-operational. The failures, in particular, of the planners to engage in follow up missions that would have identified anomalies in the original plan and arrested the deterioration of reforms were consequential. This failure has been a main cause for the collapse of “social engineering” projects created by central states for rural peasants; the “state officials and agrarian reformers” involved in such enterprises falsely reason that

once the traditional systems of production are changed and formal rights to land created, the peasants “would suddenly want to get rich” and would organize their households and daily routines to comply with the expectations of the new structure and “take up scientific agriculture”(Scott 1998.43).

To begin with, delays and problems in implementing communal development objectives on Group Ranches significantly depressed the high spirits of Group Ranch members. The office of the Register of the Group Representatives, which had the mandate to coordinate and approve development projects on the ranches, was not adequately equipped, motivated and staffed to offer organizational assistance to the ranches, and was simply overwhelmed by the task at hand (Rutten 1992). Moreover, the Agricultural Finance Corporation (AFC), which had been chosen by the government’s Kenya Livestock Development Program (KLDP) to process and grant loans earmarked for the Group Ranches, took exceptionally long to process loan application (ibid). In addition, its largely non-pastoral staff was prejudiced, and had no skill in or experience of evaluating applications based on pastoral livelihoods. Consequently, only 50 percent of the funds that had been approved for spending on the Group Ranches under the KLDP ‘phase one’ plan had been distributed by 1974 (Rutten 1992:287). When, the ranch projects funds were finally made available they were granted at extremely high interest rates of 12-13 percent, despite the fact that the World Bank, the source provider of the credit facility, charged only 2-3 percent in interest to the government (ibid).

In addition, serious setbacks stemming from the lack of technical support and skill in designing and implementing the ranch projects were experienced. Understandably, because of the arid nature of the land that most Group Ranches occupied and the pastoral

nature of Maasai livelihoods, all Group Ranches sought to improve access to water in one form or another. The largely non-literate Group Ranch Management Committees, however, lacked technical hydrological skills to identify good locations for borehole drilling, and had to rely on the advice of profit-making drilling companies or those of unmotivated Ministry of Water officials which, frequently, turned out to be unsound. As a result, Erankau Group Ranch had to repay a loan on funds used to construct a borehole that had been drilled unsuccessfully in an area without water (Rutten 1992:287). In Group Ranches where the borehole drillers were fortunate to hit water, sustainable access to the water below was made impossible by constantly breaking water pumps that the Maasai had no idea how to repair. The progressive technology that the Group Ranch program had promised would transform the pastoralists into modern commercial farmers thus proved to be inappropriate, unreliable and expensive. Group members thus became unmotivated to repay loans used for projects whose fruits they were not enjoying, most of which had also been embezzled by Group Ranch committees.

As a result of the above difficulties, Group Ranches that had not yet acquired development loans became hesitant to do so, jeopardizing a critical objective of the enterprise. A devastating drought in 1984, which killed more than half of Maasai cattle, also made it impossible to meet loan repayment schedules, which were not synchronized with a pastoral mode of production. On the other hand, the complicated loan application processes, the high interest, and the zeal under which the AFC suddenly demanded loan repayments, caused some Maasai ranchers to impute ulterior motives to the real financial institution. Rutten (1992:288), for example, mentions that some ranchers came to believe “that AFC, a Kikuyu dominated organization, purposely tried to inflict heavy burdens of

debt upon the Group Ranches in order to be able to sell the land to outsiders". This is despite the fact that it was politically not feasible at the time in Kenya to take possession of and auction a Group Ranch's land, a reality that made it extremely difficult for the AFC to recover loans advanced to Group Ranches; it eventually shifted its loans focus to individual farmers whose lands were easier to auction in case of loan defaults (ibid).

A major objective that Group Ranch planners had hoped to achieve was the reduction of livestock herds to levels that were "compatible" with the carrying capacity of the rangelands. The pastoral rangelands were perceived to be under an environmental threat caused by pastoral land use systems. Stock controls through the dual introduction of grazing quotas within ranches, and the maintenance of strict boundaries between ranches were proposed as the means to eliminate overstocking and the consequent threat of degradation. Besides forcing the ranch members to maintain stocking levels it was thought that the restrictions would also persuade ranch members to increase their cattle market off-take and thereby guarantee a constant commercial source of meat to the country (Kituyi 1998). These expectations were predicated on the assumption that Group Ranches were of sizes and in ecological settings that could allow members to sustainably keep enough livestock to provide for their basic needs. This was not the case, however, as most of the Group Ranches were ecologically unviable, small, or did not contain all essential resources that were necessary to provide a livelihood for members without straying out of the ranch boundaries. The problem of Group Ranch viability had indeed been foreseen right from the outset of the ranching concept. Rutten (1992:290) points out that a UNDP/FAO range ecologist, who was part of the original team studying the potential of Group Ranches in the Kaputiei area, later stated that "out of the 14 phase one

Group Ranches only six ranches were considered viable”; none of the Group Ranches including those thought to be among the most ecologically variable proved to completely self sufficient in the long run, and it is therefore not surprising that the ranch members later found it imperative to break the restrictions on livestock movement between Group Ranches.

Pastoralists have always employed mobility within a wide ecologically variable territory to overcome livestock diseases and droughts that characterize the semi-arid rangelands inhabited by most. The restrictions on movement imposed by the Group Ranches sought to prohibit this mobility without providing an acceptable practical alternative. Rutten (1992:290) confirms the deficiency of the ranches when he reveals that members of the Poka Group Ranch in Kaputiei, which was one of the pilot Group Ranches and arguably the most ecologically endowed, had to migrate beyond their boundaries to the neighboring Olkarar, Kiboko and Mashuru Group Ranches in 1970 following a short drought. Conversely, droughts experienced across Kajiado district in 1973, 1974, 1976 and 1984 compelled many Maasai families to migrate with their livestock across ranch boundaries, and well beyond Maasai territory to as far as Chyulu hills, Tanzania and the streets of Nairobi. Group Ranches regulations expressly prohibited livestock movement across Group Ranches boundaries, but members chose to ignore the restriction. Galaty (1980) points out that members of the same family registered in different Group Ranches facilitated free movements of livestock between ranches, and members of Group Ranches also tended to turn a blind eye to encroaching neighboring livestock in times of need since they knew too well that refusing entry in time of need to other herders guaranteed a similar response in their hour of need, which

they were sure to face sooner or later. The Group Ranch approach was therefore never successful in preventing livestock movements between ranches. The Maasai, even after the establishment of ranch boundaries, continued to use mobility to exploit the sparse resources spread across an unpredictable ecology, which their livestock require to sustain their livelihoods. Developers of the Group Ranches should have known that the need for mobility among Pastoralists makes 'flexible' and 'negotiable' boundaries, which "maximize the number of landscape patches" to which people can have access, particularly when "environmental conditions are highly variable", preferable to those that are 'clear' and "unambiguous" (Cousins 2000:159). A flexible boundary is "identifiable but is subject to change as a result of negotiations", while a fuzzy boundary, "does not separate territories into discrete land units that are the property of mutually exclusive groups", (ibid) both of which are characteristics that pastoralists find useful.

A related issue which eventually contributed to the collapse of the communal land holding systems was the problem posed by individual ranches created before or alongside communal Group Ranches. Individual ranchers, because of the communal nature of the Group Ranches and the lenient way in which grazing regulations were observed, tended during the wet seasons to herd their stock in Group Ranch territory then move back in the dry season to their individual ranches, where the group members could not venture (Galaty 1980, Rutten 1992). Ranch committees did not feel they had legal power to stop such practices, and, moreover, kin relations that individual ranchers shared with Group Ranch members guaranteed them support from within the communal institutions and made it impossible to completely stop their grazing practices. Nevertheless, some Group Ranches such as Poka Group Ranch tried to enforce grazing regulations by use of cattle

branding to identify non-member cattle, but the practice failed in the long run and was actually often harmful to them when they sought pasture elsewhere during droughts (Rutten 1992). It can therefore be said that the design and implementation of the Group Ranches did not fully take into consideration the importance of creating structures that could ensure the observance of rules regulating access and use of the communal pastures. Such rules and regulations are imperative for the functional operation of any communally held property regime (Ostrom 1990). The failure to keep non-members out of Group Ranches in effect undermined the “common property” that the Group Ranches were designed to protect, converting it into quasi-open access regimes accessible by an unlimited number of users. “A common property regime (...) consists of a well defined group of authorized users, a well defined resource that the group will manage and use, and a set of institutional arrangements that define each of the above, as well as the rules of use for the resource in question” (Bromley 1989:871).

It has also been suggested that the concentration of livestock and reduced livestock movement following the implementation of the Group Ranches increased pressure on the land and threatened the rangelands which the concept had primarily sought to protect (Njoka 1979). This, it is argued, was precipitated by increases in livestock populations caused by improved access to water, veterinary services and cattle dipping in the Group Ranches, as well as purchased fattening steers brought into the Group Ranches by AFC as part of their financing schemes (ibid). There was noted an observable trend of range degradation among Kaputiei Group Ranches between 1967 and 1977. Njoka, for example, reveals that “the total species frequencies for desirable plants (in the area) decreased by 44 percent, while undesirable plants increased by 77 percent.

(While) the mean basal cover in southern Kaputiei grasslands decreased from 18 per cent in May 1969 to 2.4 per cent in May 1977” (Rutten 1992:291). Later follow up, however, showed that the declines were a result of adverse ecological conditions and that the rangelands sufficiently recovered to optimal levels after the normalization of these conditions (ibid).

Group Ranches, also had as a main objective the aim of transforming Maasai subsistence into a commercial outfit geared to meet the country’s meat demands (Galaty 1980, Kituyi 1998). Consequently, the AFC initiated efforts to encourage commercial livestock keeping, a practice it also hoped would enable Group Ranch members to make loan repayment more easily. Group Ranch members were thus encouraged to keep more steers than heifers in their herds; Pastoralists generally find it more difficult to sell heifers than steers. To lead the way, AFC introduced its own herds that were kept in Group Ranches. This seems not to have changed Maasai production to a focus on commercial markets since Rutten (1992:292) informs us that the composition of Maasai herds has largely remained the same, with female animals making up about 65 per cent of the total population, meaning the main production goal remains milk and not meat, as would have been suggested by a higher steer ratio.

The main obstacle to commercialization, however, was the livestock marketing system. Livestock prices in Kenya have remained unjustifiably low for decades. The Kenya Meat Commission (KMC), the government organ that was charged with the responsibility of regulating livestock prices, and the only institution with the capability of absorbing significant livestock numbers, offered the lowest livestock prices on the market. Low livestock prices have discouraged livestock off-take even when pastoralists

were willing to sell their animals, such as during drought. Pastoralists have therefore opted to avoid the government regulated market and instead use local marketing channels that offer better returns, but in times of drought, such markets lack the capacity to absorb the high supply of livestock made available, leaving pastoralists only “hoping” that some of the livestock will survive the droughts (Rutten 1992).

Finally, the Group Ranches program, through the management committees, was anticipated to facilitate the transfer of authority in the pastoral communities from conservative elders to more progressive and educated younger generations, who would steer the communities towards progress and development (Galaty 1980). The elected management committees, because of the important role they played in managing the ranches, creating resource use regulations and enforcing them, were seen as the perfect vehicle to introduce change and new attitudes among the ranch members. They nevertheless largely failed to carry out these duties and expectations. The first elected committees in the Group Ranches, inevitably, comprised wealthy elders and influential individuals. Conflicts of interest, however, made it difficult for them to perform their duties; for example they had no incentive to enforce grazing regulations since it would have meant restricting the movement and grazing of their large herds (Rutten 1992:293). Because of this and their non-literacy and hence inability to communicate or follow directives from the government, these initial management committee were gradually replaced by younger, more ambitious members, usually with the support of the government administration (*ibid*). The younger committee members, however, because of the lower rung of their age-set in society, commanded less “natural authority” that was essential to manage ranches effectively. Therefore, rather than engage in constructive

work, most younger committee members instead spent much time and resources wrangling and trying to assert their influence over the elder age groups to the detriment of the development of the Group Ranches. The leadership institutions created on the Group Ranches have therefore “not yet supplanted the traditional ranch leadership or replaced sectional, sub-sectional or locality with group ranch identities. The influence of such institutions as Maasai clanships, age-sets and territorial segments provide the principals, which constitute the actual social order of the Group Ranch” (Galaty 1980:167).

From the above discussion, it can be concluded that the Group Ranches strategy in pursuing development and tenure reform in Kenya’s rangelands did not meet its objectives. The concept failed to create a functional sustainable “common property regime” from traditional pastoral systems that the development planners perceived as “open access” and incompatible to progress and economic development. The failure of Group Ranches to meet their objectives lies not in the unsoundness of the Group Ranch concept, but rather in the lack of political and economic support, as well as the existence of competing factors in the broader national context in the form of “individual private property tenure”, which combined to disrupt rather than motivate the enterprise. The official adoption of a “private property rights” ideology in the nation and the disillusionment caused by the “failure” of the Group Ranches we will see in the next chapter, facilitated the disintegration of the communal Group Ranches into individual land units.

Chapter three

The Disintegration and Individuation of Group Ranches, and Land dispossession in Kajiado District

Kenya, like many other countries in the third world, has in the past decades witnessed increasing landlessness and disparities in ownership of resources. Increasingly, wealth has become concentrated in the hands of a few, and many subsistence producers have lost access to productive resources. While this phenomenon could be largely attributed to the “interventionist” development role of the central state in developing countries (Attwood et al 1988), in Kenya it is also a result of the impact of a high population growth and the gradual transformations that the land tenure and property systems have undergone (Rutten 1992: 33). Transformations in land tenure and property systems have introduced concepts of privatization and land consolidation, registration and titling that have modified the rights in resources held by rural subsistence producers. These changes have redefined rights of access and ownership to land and have made it possible for individuals to own and restrict access to property that was previously owned and utilized at the community level. In addition, registration and titling of land have facilitated its transfer to the wealthy few, through the confiscation and sale of land whose title has been given as collateral for defaulting financial loans. The country’s population growth rate, which in the 1980’s was one of the highest in the world, has meant increased demands and competition by those with financial and political resources to acquire land.

Mainly initiating and driving land tenure reforms in Kenya has been the objective of “development”, which has been used in developing countries to justify reforms and

programs with far-reaching consequences for the rural subsistence producers they commonly target. These “planned interventions”, Ferguson (1994: 20) observes, have invariably produced “unintended outcomes”, which have ended up being accepted and incorporated into “anonymous constellations of control-authorless (development) “strategies””. Furthermore, the most important political effects of planned interventions may occur unconsciously, behind the backs or against the wills of the “planners”. The Group Ranches system of land reform, designed to “develop” the pastoral rangelands in Kenya, we will see in this chapter, was such a “planned intervention” that resulted in many “unintended outcomes”. And, although the land reform development “strategy” was “politically intelligible” in terms of Kenya’s shift towards a private property régime, for the Maasai it resulted in the emergence of a property structure that facilitated the individuation of communal resources and the concentration of its ownership among a few people, the sale and transfer of land to non-locals, and growing landlessness in the community.

Development initiatives, particularly those that propose reforms with capacities for far reaching impacts on peoples’ livelihoods, not only require good planning to succeed, but must also have the requisite political will and support. The Group Ranches program, it will emerge, lacked the political support necessary to sustain a common property land use enterprise, within a natural regime of private property facing high land demands, created by a rapidly increasing population. The national leadership in Kenya, rather than review and upgrade the existing Group Ranches framework in line with observed realities when the Group Ranches system faced internal institutional problems, instead supported

calls for the privatization of the communal resources, itself a process the Group Ranches had been created to avoid.

Factors in the Disintegration of Communal Group Ranches

The difficulties, discussed in the previous chapter, that faced the Group Ranches after their establishment gradually increased as ranch populations grew and demands for land and resources increased. The ranches' internal and external governing bodies, in the form of Management Committees and the Group Representatives office, failed to adequately respond to developing challenges by reviewing the ranches' operational framework, a challenge that needed to be addressed if the Group Ranches were to function as originally proposed. These failures and the consequent inability of the ranches to attain most of their goals made the group members increasingly restless, and eventually calls to dissolve the communal ranches and replace them with individual ones were made. This gradual weakening of the communal Group Ranches in Maasai rangelands is in line with Bromley's (1989) suggestion that the breakdown of common property systems is likely to occur when their decision making apparatus fail to adapt to new realities or when they can not make decisions that ensure equity in the use of the common resources.

It is, however, not enough to blame the Group Ranches decision-making apparatus for the disintegration of the system. Indeed, this failure was itself a manifestation of other macro factors internal and external to the Group Ranches, whose overall effects combined not to support the sustainable operation of the communal ranches, but rather to favor their disintegration. The role of external political and

demographic pressures from urban and high-density population areas neighboring the Group Ranches were particularly consequential for the development of rights over land and settlement patterns in the following years, in the areas where the Group Ranches had been formed. This pressure for land in Maasai territory, in reality predated the creation of the Group Ranches and its deterrence, we earlier saw, was a primary object for the implementation of the Group Ranches system in the district. This pressure for land is now manifested in the district through high demands and sales of land in areas where the Group Ranches have been individuated. A quick discussion on the development and forms through which the encroachment and pressure for land was exerted, is necessary to understand the forces and processes at play in the disintegration of the Group Ranches in Kajiado district.

Land Use Changes and the Influx of Cultivating Non-Locals

Although there were pockets of non-Maasai populations living and cultivating land in well-watered areas within Kajiado district as early as the 1930's (Campbell et al. 2000), their presence and encroachment in the district only became significant at around Kenya's independence. The immigrating cultivators particularly targeted the fertile high potential areas in Ngong and Loitokitok Divisions, progressions that threatened Maasai occupation of these areas and which caused sections of Ngong area to be put under individual holding as early as the late 1950's to protect the land from the influx (Rutten 1992). Alongside encroachment by non-locals was a parallel expansion in the size of land under cultivation and enclosures in the district. Land under cultivation in Kajiado district increased dramatically in the decade after independence. The size of land under maize and bean cultivation, the most economically important crops of those days, for example,

had in 1973 increased to 3,500 hectares in Ngong and 6,600 hectares in Loitokitok, from 3,090 hectares in Ngong and 1,880 hectares in Loitokitok that were under cultivation in 1969 (Rutten 1992:310).

The perennial droughts that frequent the arid district, and the food shortages they cause, also played a significant role in the acceptance and expansion of cultivation in Kajiado (Campbell et al. 2000). Rutten (1992:311), for example, reports that cultivated produce in the form of maize and beans was donated to starving Maasai as famine relief food during the long 1973-76 drought and famine, making cultivated produce a popular alternative to livestock products among the Maasai. Moreover, the Olkejuado County Council, in measures to improve food security in the district, encouraged and supported the expansion of farming activities; for example, it provided a grant of Ksh 35,000/= for the expansion of the Kimana-Tikondo irrigation scheme in Loitokitok after the 1975 drought (ibid). Cultivation has, however, always complemented pastoral production systems; indeed, the different production systems and ecological settings that cultivating and pastoral communities practiced and occupied in pre-colonial era complemented each other and provided safety nets to alternate communities in times of natural stress (Waller 1985). The Maasai and their cultivating Kikuyu neighbors, in particular, constantly engaged in trade and labor exchanges, practices that guaranteed food supply at times of drought (ibid). The first infiltration of non-locals into Maasai land were of this economic nature and were accordingly not significantly resisted, but actually often encouraged by the Maasai through hire of non-locals as farm laborers, or through invitations extended to in-laws by those who had intermarried with the non-locals (Waller 1985). The post-independence migrations into Kajiado District, however, in contrast to the pre-colonial

exchanges, were not temporary ones but rather, permanent reactions caused by demographic pressures and land scarcity in central Kenya. Because of their suitability for both dry land and irrigated cultivation, the high potential areas of Ngong, Kiserian, Ongata-Rongai and Loitokitok in Kajiado district were among the first to experience the pressure for land, and gradually came under occupation by the migrating cultivators (Rutten 1992).

Also of significance in the expansion of cultivation, enclosure of land and non-Maasai populations in Kajiado District is the “profit from cultivation” factor. The growing urban populations adjacent to Kajiado district naturally created huge market demand for agricultural produce. The demand for horticultural produce at the Mombassa coastal city, for example, has made horticultural cultivation very profitable for farmers in the neighboring Loitokitok division, a development that has not only attracted more cultivating migrants to the district, but has also convinced the Maasai to venture into farming (Campbell et al. 2000, Rutten 1992). The profits from farming facilitated the gradual loss of the stigma the Maasai associated with cultivation, as a poor man’s practice, and made possible the rapid expansion of cultivation in the district. Maasai participation in cultivation, however, as Rutten (1992) observes, has remained minimal, since no Maasai have completely abandoned pastoralism for cultivation. Their involvement in cultivation has largely been undertaken through leasing plots to shared croppers in exchange for food and/or money, or active participation through marriages to women from cultivating communities such as the Kikuyu, Kamba and Chagga. As of 1984 Maasai households actively involved in cultivation made up only slightly more than a quarter of the total farming households in the district (ibid).

It is also possible to see a global dimension in the above changes in Kajiado district; Campbell et al (2000:339) persuasively reports on the consequence of the roles of regional and international economic and political factors in precipitating land use changes in Kajiado District. High demand for horticultural products in Europe and in the local cities of Nairobi and Mombassa, he writes, combined with increases in unemployment rates in the country largely caused by Structural Adjustment Programs (SAPs) demanded by the World Bank and Breton Woods Institutions for political-economic reasons, to increase immigrants searching for arable land and economic opportunities in Kajiado district. Cousins (2000:151) also points out that the rapid incorporation of African economies into global world markets and the opportunities that come with it, may exclude local people and pose challenges to those who control rights to common properties.

The rapid increases in non-local populations and expansion of areas under farming in the district have, however, created competition and pressure against Maasai pastoralism. Cultivation by nature demands good soils and permanent water sources and entails tree felling and creation of enclosures, all of which in Kajiado district have invariably meant the appropriation of the high altitude, well-watered, fertile lands that Maasai pastoralists rely on during the dry seasons. These areas are a critical component in the pastoral exploitation of the sprawling dry savannah that makes up the majority of the district. The resultant competition for land and water between cultivators and herders has in the last decades often deteriorated into open conflicts leading to the eviction of the immigrants (Rutten 1992).

Competitions for water has particularly been an issue in land resource contestations; the Maasai in Loitokitok for example, have since the increases in cultivation argued that the capacity of swamps which their livestock rely on for water and pasture during the dry seasons has been reduced due to horticultural cultivation (ibid). In addition, the use of chemical fertilizers and pesticides on farms on the slopes of Mt. Kilimanjaro had increasingly polluted downstream water that the Maasai and their livestock consumed (Campbell et al. 2000). In the Ngong area, Maasai residents complained that increased cultivation along water points caused them to dry up, noting that, “the farming of the Kerarapon area at the foot of the Ngong Hills, overgrazing and tree cutting in the higher zones in combination with the damming and pumping of water for irrigation purposes in the Kiserian area downstream and poor land management in the Bulbul area had all resulted in the drying up of Embakasi, Kiserian, and Kantis tributaries of the Athi River”, streams whose waters the occupants of the vast Kaputiei plains relied on continually (Rutten 1992:317).

The ecological deteriorations that the above conflicts are predicated on are manifestations of increased demographic pressure on land and the application of farming methods by the immigrants, which may be suitable for use in humid regions but are destructive in the Kajiado semi-arid rangelands. The outcome of the incursion of cultivation and non-locals in the district did not only, therefore, constitute a threat to the medium and long-term viability of the district’s ecosystem, but also meant the constriction of the land’s human support capacity at a period when human pressure on the land was increasing. The implementation of the Group Ranches and the difficulties that faced it must be interpreted in light of the above land use transformations, pressure and

competition for land in the district. Likewise, the inability of the Group Ranches planners to create units of ecological viability, itself a major problem that later hindered the observance of boundary restrictions and grazing quotas in the Group Ranches and contributed to the failure of the enterprise, should be seen as an aspect of the appropriation by non-locals of well watered high potential lands.

The Influence of Individual Ranches

Also significant in the disintegration of the Group Ranches are the effects of the individual ranches; the first batch of individual ranches in Kajiado district were formed prior to or alongside the Group Ranches, so that they could act as models of good land use practices for the communal rangelands (Galaty 1994a). The effect of the individual ranches was not, however, to encourage the sustainable operation of the Group Ranches, but rather they turned out to be ‘good models’ for the individuation of the communal ranches (ibid). Encouraged by the success of the individual ranches and the poor performance of the Group Ranches, progressive and influential members in the Group Ranches, beginning in the late 1970’s, rather than spearhead the development of communal institutions to manage the Group Ranches, instead pushed to acquire personal individual ranches from the communal holdings. This agitation led to the “first wave” of individuation in the Group Ranches between 1978-1980; “those close to the heart of decision making (in the ranches) gained individual portions of land within the group structures, in amounts far larger than they would have been entitled to had the allocation been divided among all group members on the principles of equity described in the enabling legislation” (Galaty 1994a: 191). An influential chief in Elangata-Wuas, for example, used his revered standing in society to appropriate about 12% of the total Group

Ranch land for his own personal use (Rutten 1992: 307). In addition, these individual landowners obtained unfair advantage over communal ranch members in terms of access to pastures, in that they could restrict access into their individual lands, but could still graze their livestock in Group Ranch land. "By the mid 1980's, in response to the eroding integrity of the Group Ranches and their inability to exclude individual members from the group domain, ordinary members began discussing subdivision as a means of protecting their interests" (Galaty 1994a: 191), open political favoritism for land privatization fueled the demands, and the processes of individuating the Group Ranches started.

The presence of individual ranch owners alongside the communal Group Ranches thus significantly influenced the agitation for group land individuation. Probably because these individual ranches were of larger sizes and rested commonly on superior ecological locations with good soils and access to water, many individual ranch members appeared wealthier and in better economic standing than their counterparts in the Group Ranches. Inadvertently, this observation created false correlations between land individuation and economic prosperity. Potter (1992)¹ explains that the apparent wealth of individual landowners was not directly related to the individual's ownership of land, but could be explained by the fact that most such individual landowners did not rely only on their lands for income, but had supplementary incomes as employed individuals, politicians or traders. Indeed, it is their economic and social privileges that made possible their acquisition of private land in the first place; their economic prosperity could thus not be explained in terms of individual land ownership alone (ibid).

¹ Unpublished paper: Harry L. Potter, 1989. Some Thoughts on the Prospects for Intensification and Diversification in Kenya Maasai Land

The impact of the individual ranches in precipitating the disintegration of the Group Ranches, we can thus conclude, was two-pronged, first creating the need among group members to protect complete loss of communal lands to individuals, and second by creating the illusion that communal land holding was hindering economic prosperity and that this would be achieved through individual land holding. A Group Ranch case study analyzed by Galaty (1994a) makes clear this impact; the Group Ranch in the Keekonyokie Maasai section measured about 700 km squares on formation and supported a population of approximately 3,600. In 1978, thirty-three influential members, who then represented not more than 5 percent of the 730 households inhabiting the Group Ranch land, effected personal allocations of 26,500 acres from the communal holding, land constituting about 15 per cent of the total Group Ranch's land area. The resulting individual farms averaged 800 acres and almost all were located in the best ranch areas; this meant that only 150,000 acres had been left for the rest of the households which by then had risen to 800 in number. "This appropriation of a substantial portion of the Group Ranch by a small minority (...) led to the creation of a remarkable consensus among the rich and poor, progressive and traditionalist, supporting rapid subdivision of the remaining portion of the ranch" (Galaty 1994a: 191).

Wrangles over Group Ranch Membership

Also of significance to the push for the Group Ranches' individuation in Kajiado district were the problems created by wrangles over membership in the ranches. The Group Representatives Act, which governed the Group Ranches' operations, did not set out clear criteria for obtaining registration in the Group Ranches, but delegated this duty

to the annual general meetings that ought to have been held every year (Republic of Kenya, 1970). The Group Ranches, therefore, had the task of making the decision as to whether to keep the original ranch registers closed and fixed, or update them as more individuals became eligible for membership either through maturity, migration and settlement, or inheritance. In this regard, the majority of the Group Ranches failed to construct a definitive membership criterion (Galaty 1994a: 191), and instead relied on persuasive conviction, friendship and political influence to admit individuals into group membership. Unregistered individuals, particularly those in maturing age sets, who believed they had a right to ranch membership, struggled to be added to the registers, but the management committees, mostly comprising senior elders, desired to preserve their *status quo* and prevented their registration, sparking protracted wrangles between the two groups.

At the center of the membership wrangles, which seemed to increase as Group Ranches began to explore ideas of subdivision, was the effect of additional members on the expected size of land due upon the ranch subdivision. The adding of graduating age-sets to the Group Ranches registers meant reduced individual parcels for the already registered members, a reality that caused concern among household members who did not have sons in such age-sets. People from these households opposed the inclusion of the new age sets in the Group Ranches register, arguing that households with sons in the graduating age sets would benefit inequitably over others.

These wrangles over membership invariably made difficult the operation of the Group Ranches; they made Group Ranches meetings increasingly confrontational, some often threatening to degenerate into open conflicts, and created social disharmony and

political disunity within the communities. In addition, they opened windows through which non-locals, such as land surveyors and ministry of land officials, gained access to Group Ranch lands as useful contacts in the contests (Rutten 1992). The membership wrangles also caused the loss of significant resources in the form of legal fees and time wasted in the court cases that ensued (ibid).

In line with the above occurrences, the younger I'Imirishu age-set in the Poka Group Ranch were refused Group Ranch membership despite the fact that the age set members had graduated to junior elderhood, had dependent wives and children and had accumulated their own livestock, conditions that customarily allowed them to establish their own households and gain personal rights to access communal resources; the age-set took its protests to court but lost (Rutten 1992:306). Likewise, the Ilkishili age-set in Elangata-Wuas Group Ranch were denied membership by the elderly management committee, despite the area's chief being allocated 700 hectares of land for an individual ranch; the matter was only later resolved in court (Rutten 1992: 307). In one of the extreme cases, the refusal by the right-hand age-set, whose members were registered group members in Olkiloriti Group Ranch, to support their left-hand Ilkiseiyia counterparts in their struggle for registration as members, created social disharmony in the community and brought about bad blood between the two age-sets (Rutten 1992: 308). Consequently, the *Olgesher* ceremony, customarily held in a specially built communal village (*emanyatta*), to ritually unify left and right age-sets members into a single larger age-group as they graduate into elderhood, had to be delayed because of the wrangling. When it was finally performed, the presiding "fire-stick" elders had to take the non-customary decision to order the construction of two different *manyattas*, one for

each age-set, to avoid possible violence, which would have ruined the ceremonies and blemished the new age group (ibid).

Previous discussion highlights the fundamental factors and forces pertinent to the breakdown of the communal Group Ranches in Kajiado district. The Group Ranch legislation failed to provide the ranches' management organs with legal instruments through which they could establish and enforce clear rules of inclusion and exclusion in the ranches, regulations that are mandatory for the sustainable operation of any common property system (Ostrom 1990). Moreover, by proving corrupt and allowing personal welfare to supercede common group interests, ranch management undermined the trust bestowed on them by the group and allowed the appropriation of communal lands by individuals. Eventually, the building external and internal pressures on the sustainable operation of the communal Group Ranches overcame the Group Ranches governing organs, themselves lacking policy directions and support from the central government, which had proposed the Group Ranch system in the first place. Thus, beginning in the late 1970's, barely 10 years after the Group Ranches system was initiated in Kajiado district, many Group Ranches started passing resolutions for their dissolution and conversion into individually owned land units. And, other than warn that the subdivision of the ranches had the potential of creating uneconomic units of land, the government did little to oppose the ranches' subdivision or to reverse the conditions causing the ranches' disintegration. Practically, it was not possible to prevent the creation of land units of sub-economic size if subdivision were to be allowed in Kajiado district; although a minimum average of 2,000 acres constituted a viable ranch for a household of 10 persons in the medium to high potential areas of the district, only land units averaging 529 acres were

theoretically available for households if all the ranches were divided equally among the registered members in early 1980s (Rutten 1992: 295). By 1990 almost 80 per cent of the Group Ranches had decided to do away with the Group Ranch structure and adopt individual land holding instead (ibid).

Paradoxically, arguments over ecological conservation and improved land use practices, which were instrumental in proposing the implementation of the Group Ranches, were again used in advising for their dissolution and replacement with individual land units (Rutten 1992:300): The central government expected that “development in Kajiado district will speed up and better care will be taken of the rangelands if land is held under individual tenure” (ibid). This apparently inconsistent and rather indifferent attitude taken by the central government and development planners in Kenya regarding land tenure and development in the rangelands, I argue, is partly responsible for the Group Ranches’ disintegration and for development inertia in Kajiado district. Rather than offer clear policy guidelines and create conditions that support these policies, the central government’s role concerning the rangelands has remained largely reactionary to proceedings on the ground: a “fire-fighting” attitude, that has hampered the development of pastoral communal property systems in the Kenyan rangelands and by extension slowed the general development of the pastoral districts. Indeed, the central roles the state has assumed in land administration, and the various institutions that have been set up to administer land have become impediments to policy development and general land administration in East Africa (Okoth-Ogendo 2000:128). Ordinary users have found themselves subject to conflicting directives and decisions emanating from a host of offices and political functionaries. As a result, “conflicts and contradictions (have)

become endemic in landuse decision making, and inefficient management by these bureaucracies tended to further frustrate decision making by land users” (ibid).

Group Ranch Subdivision and Corrupt Land Allocations

Since the sub-division of the Group Ranches was a not a deliberate, planned development, there was no ready, laid-out legal procedure to be applied in the subdivision process. The Land Adjudication Act, whose application created the Group Ranches, and the Land (Group Representative) Act, which detailed the operations and management of the Group Ranches, did not have provisions for the ranches’ subdivision (Rutten 1992). There was therefore, an urgent need to develop new legislation to guide this process, when it became apparent that Group Ranch subdivision had to happen. The Commissioner of Lands consequently approved a “Provisional Scheme” set of laws in 1984 to be used in the subdivision process pending further official legislation. According to these laws, the Group Ranches subdivision process began, Tobiko² explains, with the passing of a resolution to subdivide the Group Ranch by more than 60 percent of the members in a general meeting. To commence the actual subdivision, the Group Ranch then applied to the divisional Land Control Board and the Registrar of Group Representatives for approval. A demarcation committee of not more than 25 members chosen from the Group Ranch committee, Group Representatives and elected group members, was then formed and given the task of allocating the communal Group Ranch land to the registered members. Once completed, the Group Ranch then invited the government’s Range Management Office to assess the feasibility of the proposed

² Tobiko (1989), “The Land (Group Representatives) Act: A Case Study of I’lkaputiei Maasae Group Ranches of Kajiado District”. (Unpublished LL.B Thesis) in Rutten (1992: 302-3)

individual ranches and develop a sketch map detailing all proposed land units as well as the proposed locations for shared structures such as cattle dips, water tanks, roads, shopping centers, schools, dams, and boreholes. A formal map with specific land measurements was then produced, and presented to the district surveyor for approval, after which it was forwarded to the national director of surveys. The Group Ranch then applied to the Divisional Land Control Board for consent to subdivide the single Group Ranch title deed and produce multiple individual titles for the proposed individual units. If allowed, the group then presented the survey map together with a register of the proposed individual parcels with their corresponding owners to the Chief Land Register. The District Land Registrar completed the process by issuing letters of consent to all registered persons and, soon thereafter, the title deeds.

Although members and other stakeholders in most Group Ranches expressed mixed opinions on the wisdom of subdividing the Group Ranches, none of the ranches seeking subdivision had difficulties garnering the mandatory 60 percent approval for group subdivision to start (Rutten 1992: 305). This observation implies that, although the individuation of the communal ranches may not have been the ideal solution to the problems facing the ranches, the members saw it as the only realistic option then available to them. Tobiko, for example, informs us that while elderly women in Imaroro/Mashuru Group Ranch were apprehensive that subdivision would destroy the harmony in Maasai communal life styles, create landlessness, impede the pastoral use of the rangelands, and create landlessness; younger women on the other hand supported the ranch subdivision, arguing that the process would bring about “development” and a more “comfortable life.” (Rutten 1992: 305). Needless to mention, there were no legal control

mechanisms in the subdivision process to ensure that the requisite approval to subdivide was obtained or that land was only allocated to bona fide members; oversights which made it possible for the adjudication committee members to collude with Ministry of Lands officials to hijack the subdivision decision-making processes from the members (Galaty 1994b).

As will become clear through the case studies below, the Group Ranches land subdivision processes in Kajiado district were highly irregular proceedings that opened opportunities for non-locals and elite non-resident Maasai to acquire land at the expense of legitimate Group Ranch residents whose legal security of tenure was lost in the process, technically rendering them landless. Corruption and collusion between Ministry of Lands officials, provincial administration members, local politicians and Adjudication Committee officials, turned the subdivision processes, especially in the ranches bordering the high demographic pressure zones of Nairobi and Central province, into “free land acquisition exercises” where well-connected individuals and those able to bribe the officials received title deeds to land. These malpractices in the subdivision process were largely possible because of the then extremely low literacy levels among Maasai Group Ranch populations. This impediment not only hindered their ability to maneuver through the complex legal and bureaucratic requirements of the subdivision process, but also made it difficult for them to detect irregularities early in the process; and in situations where irregularities were detected early, they could not effectively contest them through legal avenues, resulting in courts dismissing their challenges on legal technicalities.

Mosiro Group Ranch

The land subdivision process in Mosiro Group Ranch, a relatively marginal Group Ranch lying in the western escarpment of the Rift Valley in the Keekonyokie location of Kajiado district (Galaty 1994b), is a fine example of the corruption and collusion between government officials and local Adjudication Committee members, which characterized the subdivision of Group Ranches in the district and facilitated the illegal transfer of land to non-residents. The quick succession of events that led to the loss of land to non-locals in Mosiro began in 1991, Galaty (1994b: 113) reports, when it became known that the Group Ranch members were considering subdivision. In the months that followed, the surveyors brought in to administer the land subdivision process befriended the Group Ranch committee's secretary and a brother-in-law to the committee chairman, opening up channels through which the largely non-literate committee^{ix} was bribed to secretly register a large number of non-locals, mainly Kikuyu and non-resident Maasai, as members of the Group Ranch. Ministry of Lands officials, most of whom also had been registered with their relatives as ranch members, then connived with the local adjudication committee to carry out in quick succession the steps necessary for the production of the title deeds; documents that would make recipients the bona fide legal owners of the land. With the help of corrupt area politicians in keeping secret the illegal allocation, the Ministry of Land personnel arranged for the title deeds to be "surreptitiously prepared, not in the relative public district land office but in a small local land building in a region remote to the land in question" (ibid).

The ordinary residents of Mosiro only learned about the land allocations when a sudden stream of non-locals started to appear in the district headquarters to collect title deeds for "land in a place called Mosiro"; out of the 1,040 total individual units of land

created in Mosiro 371 had been allocated to non-locals and non-resident Maasai with no rightful claim to land in area. The local residents then petitioned the District Commissioner to halt the issuing of the illegal title deeds, and also took up the matter with the area Member of Parliament, who was also the country's Vice-president. In a large meeting called by the Vice-president to discuss the issue, the Director of Lands nullified the entire land adjudication after it became clear that the process was flawed and had left out a significant proportion of legitimate residents. "The list of illegal registrants included relatives of the Minister of Lands, the Director of Lands, and many other public servants in the Ministry of Lands and the County Council, and local chiefs and politicians" (Galaty 1994b: 114). Some of the above government officials involved in the scandal were transferred to other workstations as punishment but none were sacked or prosecuted for the roles they played.

Loodo-ariak Group Ranch

The problems that faced Loodo-ariak (red waters) Group Ranch subdivision process largely paralleled those experienced in Mosiro, but the government's responses to the illegal land dealings in Loodo-ariak were not as positive or definitive as was the case in Mosiro. Loodo-ariak Group Ranch land begins at the bottom of the Southern leeward side of the Ngong hills, which partly constitutes the Eastern boundary of the Rift Valley in the same Keekonyokie location as Mosiro Group Ranch. As Galaty (1994b) narrates, Loodo-ariak Group Ranch is only four kilometers away from Ngong town, well watered hence relatively highly valued, and was established in 1979 with a size of about 140,000 hectares. However, the adjudication committee, which was duty-bound to ascertain and secure the residents' rights to land through registering them as Group Ranch members,

almost immediately began to plot against equitable Group Ranch subdivision; the Group Ranch was quietly declared an adjudication section eligible for subdivision even before the full list of members had been compiled. Arising from inherent conflict of interest, the Adjudicating Committee deliberately overlooked approximately 2,000 eligible residents in the ranch membership; some of those who were registered had to bribe the committee to enter them in the register. Ironically, however, the committee included as members more than 360 people who had no residential claim to the land whatsoever. This list of non-resident members in Loodo-ariak, again, included Ministry of Lands officials, their relatives, politicians, influential Maasai from other parts of the district and many people from the Central Province; some of whom, had featured in the illegal allocations in the adjacent Mosiro and I'likesumeti Group Ranches^x.

The Ministry of Lands then issued title deeds to these people, despite the fact that anomalies in the subdivision process had continually been pointed out to both district and national authorities concerned. So, while some committee members ended up with more than one unit of land, those residents who had not been registered were technically made landless and turned overnight into illegal trespassers on their own ancestral lands. In reaction, the dispossessed residents took up the matter in the court of law and threatened violence to make impossible the physical acquisition of land by the illegal allottees; the court case was struck down on a technicality before full hearing. The matter was then raised first with the local Member of Parliament then later with the country's President; in response, the President promised the residents that the case would be reheard after an investigation and a report on the matter was made by the Ministry of Lands; over 10 years later, the illegal allocations have yet to be revoked (Galaty 1994a: 194).

The difficulties surrounding the resolution of the Loodo-ariak Group Ranch land problems may be attributed to its proximity to high-pressure demographic zones and better soil and water resources, which combine to make its land relatively valuable compared to the marginal and dry Mosiro and I'lkesumeti ranches. Land in Loodo-ariak is, therefore, a practical settlement alternative for people experiencing land scarcity caused by demographic pressure in adjoining districts; but, more importantly, these same factors render its title deeds more acceptable and valued to banks as collateral for loans. Indeed, the main reason why individuals who have no plans to settle or productively use the land acquire title is so that they can convert the land, through loans, into monetary assets, which can then be used elsewhere; the loans are never repaid, forcing lending institutions to make foreclosures to recover their funds (Galaty 1994b).

Dispossession through Land sales

A direct outcome of the subdivision of Group Ranches in Maasai land has been extensive land selling by the new individual landowners to non-locals. The land sales, which only become possible after the individuation, registration, and titling of communal lands, involve permanently transferring control of Maasai territory to non-locals, an escalating process that threatens to break the Maasai pastoral livelihood system. The registration and titling of land, which rural developers have commonly presented to developing countries as prerequisites for investment and improvement in agricultural production^{xi}, have, in the case of Maasai land, consolidated diverse communal rights to land and legally conferred them on individual family heads. In the last several years, these mostly male, non-literate and unemployed individual land title holders, have faced

increasing monetary demands stemming from an expanding reliance on commoditized products, in the wake of prolonged droughts that have devastated the livestock economy that they depend on. Consequently, they have increasingly found it difficult to resist “cash for land” deals presented by “land hungry” non-locals from other parts of the country. Many individual land owners have thus gradually found themselves compelled to sell land as the means to obtaining income to recover livestock lost to drought, begin businesses, establish individual development projects such as dips and boreholes, pay for children’s education, or simply obtain modern life luxuries such as cars, bottled beer, and modern tin-roofed houses.

Land titling in Maasai land has thus not necessarily led to the establishment of conditions for improved management, production and security in land, but rather, threatens to create a massive landless and poor class of pastoralists. Galaty (1992:26) comments on this, pointing out that over 40 percent of the total land allocated to individuals in two Group Ranches he observed had been sold to non-locals only several years after the individual ranches were registered.

The high demand for land for settlement and cultivation from the adjoining high demographic zones of Nairobi and Central province may partly explain the Maasai land sales. The combination of “land scarcity, a dynamic land market, and available finances”, Galaty (1994: 196) points out, lends a high value to land in Maasai districts “quite independent of the physical terrain, climate, or productive potential of the region”. This demand for land, however, does not suffice to completely explain land sales; demand in itself does not compel asset owners to sell; the sellers too must have developed a need to sell. Rampant land sales in subdivided Group Ranches in Kajiado, I propose, are also

functions of other overriding economic and social-cultural factors that have combined to perpetuate dispossession practice.

Of most significance in precipitating the early land sales was the threat to enforce closure on non-performing loans that Maasai land owners had obtained from financial institutions. As discussed above, the possibility of using land titles as collateral to access personal financial loans was a key argument in the push to subdivide Group Ranches in district. Expectedly, therefore, many new individual land owners, soon after the registration of their individual lands, used their title deeds as collateral to obtain loans from financial institutions such as the AFC. Most of these herders then invested the loans in steer fattening enterprises, which their livestock rearing experience suggested were capable of producing enough revenues to meet both their household and loan repayment monetary needs.

Unfortunately, however, but consistent with the nature of climate in the Kenyan rangelands, long drought followed in the years after the loans had been obtained and invested. The devastating drought of 1984, the last in a series that claimed more than 60 percent of Maasai livestock (Galaty 1992: 34), occurred soon after many loan beneficiaries had invested their funds in the steer projects. Invariably, many lost their investments and were left with no means to repay the substantial loans they had acquired. In addition to this, most of the investors were highly unprepared and inexperienced in handling financial loans that accumulated interest with time, a deficiency that could be attributed to the lack of “sustained follow-ups” by credit extension agents “who should have educated the ranchers about the loan process and directed the periodic sale of animals for the repayment of installments” (ibid). Accordingly, when the financial

lending institutions sought to foreclose on defaulting loans, the affected landowners were inevitably compelled to sell portions of their lands to willing non-local buyers to avoid losing them entirely through auctions. This sale of land, caused by failure to repay financial loans, not only facilitated the loss of Maasai land to non-locals, but also created skepticism among many Maasai about using loans acquired from financial institutions; a factor that is likely to jeopardize economic development in Maasai land for a long time.

Also equally significant for land sales in Kajiado district, are the low literacy rates among the Maasai land owning population and the small number of people engaged in alternative revenue-generating activities in the district. Education, and by extension the formal employment opportunities it brings, is not only useful in enlightening people on the changing values of land, but also makes available revenue that can be used to supplement income from livestock husbandry, or moderate the effects of natural vagaries when there are disruptions in the rain pattern. For that reason, there are discernible correlations between land sales, level of education and experience in formal employment; Galaty (1992:32), for example, comments on an individuated Group Ranch he observed: “those without any education were over three times as likely to sell land as those with some education (...), while those without any employment experience were twice as likely to sell land as those with such experience”.

Table 1: Land-selling incidences within a sample of educated, non-educated, employed and never-employed individuals in a Maasai Group Ranch (data extracted from Galaty 1992: 31).

Category	<u>Sold land</u>	<u>Not sold land</u>
Educated	2	9
Not educated	14	8
With employment experience	3	8
Without employment experience	13	9
TOTAL	16	17

In addition to making available external income that could prevent the sale of land to repay loans, education and formal employment, ideally, also bring about travel opportunities and exposure, which are important in understanding the realities of land scarcity in the country. This understanding is important because Maasai traditional perceptions of land, as an abundant resource that common users access depending on current needs and which cannot be completely lost, has often been presented as a preponderant factor in the land sales. There is now a general feeling among educated Maasai that this perception should change to appreciate the land scarcity realities in other parts of the country, caused by tenure transformations and high population growth. Van Klinken et al. (1989) highlight this misconception:

The Maasai people except a few people who have gone to school do not understand the value of land. Land in their perspective is like air, something available and accessible to everybody, given by “God”. Those Group Ranches, which are already subdivided, have shown that Maasai people sell their land immediately, without realizing that the areas where they can go to for free are becoming more and more limited^{xii}.

Lastly, the effect of national and global economic changes, in the case of the Maasai, represented by expanding commoditization of products and use of cash in daily life transactions, is also an important factor in understanding the Maasai land sales. Simply

put, the Maasai sell land to obtain cash for one use or another. Although economic advances in the last century have made cash the central tool of trade without which ordinary life is practically impossible, enough commensurate changes have not occurred within Maasai society to create opportunities to obtain it. The Maasai, like most other pastoral societies in Kenya, have remained one of the least educated and least represented groups in the formal employment sector communities in the country, both of which are key channels to obtaining money. The Maasai have thus largely continued to depend on livestock sales, whose market systems are one of the least developed in the country, to obtain cash to meet their monetary needs.

Livestock sales have, invariably, not proved enough to meet these ever-increasing needs, first because of the regular droughts whose outcomes are becoming increasingly devastating, due to territory constrictions and restrictions imposed on livestock mobility; and second because of the poor livestock markets, whose mechanisms compel the Maasai to accumulate their animals rather than accept the extremely low prices offered in the markets. For many Maasai, therefore, and especially the unemployed and the uneducated, the sale of land has remained the only means through which they can acquire and display “today’s symbols of wealth and “modernity”: cars, improved homes, store bought commodities, and food and drinks purchased in local bars and hotels” (Galaty 1994a: 196).

By way of concluding, I assert that the communal Group Ranches’ primary objective of protecting Maasai territory from encroaching non-locals has failed in the long term. Although this objective had been substantially achieved in the late 1970’s when the majority of Maasai land was placed under “private common properties” in the form of

Group Ranches and protected by legal instruments, the situation was later drastically reversed with the subdivision and individuation of the ranches. The Group Ranches subdivision process was conducted without substantive legislation and outside the context of the original government policy of promoting sustainable communal use of the rangelands. It thus turned out to be a highly irregular, corrupt, and undemocratic processes that eventually created land ownership imbalances, a dispossessed landless pastoral class, and a non-resident land-owning population that was mostly interested in using title deeds for land speculation and to obtain loans from financial institutions. In this regard, therefore, the extensive individuation and titling of land has not led to increased land security as largely expected, but instead has opened channels through which non-literate pastoralists have been completely robbed of their production resources and means of livelihood.

The Group Ranches' subdivision on the other hand, I argue, broke down the communal efforts toward land protection and economic development, and shifted this burden to the new individual landowners who were least prepared to shoulder them. Global economic changes, combined with ecological factors and Maasai social-cultural experiences, created situations that compelled many individual Maasai land owners to sell their land to make ends meet. The initial goals of creating collateral for credit and hence access for development funds in the individual ranches have therefore not been realized, since conditions have combined to force the Maasai to use the liberty of privatization to liquidate many of their land holdings (Galaty 1994a: 197).

Conclusion

The preceding chapters discuss transformations in land tenure in Kenya's semi-arid Kajiado district over the last century. These tenure transformations have involved the creation of formal, private, individual forms of land holding that depart from the complex mosaic of rights and duties in resource use constituting communal customary tenure systems. These transformations, we have seen, were a result of "progressive" government, directed tenure and property rights reforms aimed at creating a suitable framework for the social and economic "development" of the country, itself necessitated by rapid changes in political and demographic factors as well as new modes of interaction between rural, regional, and the expanding global capitalist economy. The customary tenure transformations, which have also occurred in other areas across Africa, Cousins (2000:168) notes, have fundamentally altered the context of common resource use in the continent. And as a result, institutionally regulated patterns of resource use in stable, communal, relatively homogenous social units have become rarer in the continent, and instead highly differentiated socio-economic contexts in which "the commons" are used by the rural poor as a last defense against poverty and by the economic elite to advance processes of capital accumulation, have become increasingly evident. Similarly, Toulmin and Quan (2000: 21) show us that the tenure transformations have, in the case of pastoral and agro-pastoral people, who are "often the poorest and most vulnerable to draught and conflict" in the continent, disrupted their productive systems and subsequently marginalized them despite the fact that their communal land use strategies provide the

most rational and effective resource management and livelihood strategies for the semi-arid rangelands.

Driving the transformation of the Maasai tenure system and other communal tenure regimes in Africa's rangelands, the thesis reveals, has been the need of the State and its development partners to establish private property rights among rural communities engaged in communal subsistence production. This is a need, Bromley (1989) points out, which largely stemmed from land and agrarian reformers' poor understanding of local institutional arrangements that indigenous communities employ to manage communal resources, and from false beliefs that indigenous communities inherently lack property rights. These misconceptions about customary tenure, from an early stage in the development of the centralized state in Kenya, thus presented communal systems of resource management as inappropriate to the development of a large-scale, commercial, capital-intensive and modern agriculture, which development planners viewed as the ideal way to achieving economic growth and development in the developing world (Dorner 1972). Moreover, customary tenure systems were said to be overly embedded in ethnic cultural systems, giving multiple, overlapping land rights to specific social groups to the exclusion of non-members, characteristics that land reformers viewed as incapable of supporting land markets, and which were said to hinder the integration of rural economies into regional and international economies (Harrison 1987).

Therefore, inspired by privatization and free-market models of resource management, the colonial and later independent governments in Kenya initiated tenure reforms, first in the cultivated areas and later in the rest of the country, which gradually transformed communally held lands into individual holdings. These privatization and individuation

reforms could not, however, immediately be applied to the rangelands, largely because of the arid nature of their ecologies, a factor which threatened to create unviable individual units of land and that made communal rather than individual forms of tenure preferable. Early tenure reforms in the Kenya rangelands were thus largely restricted to experimental grazing zones and a few individual ranches in high- potential areas (Rutten 1992).

The increasing unpredictability and instability of the natural and political environment that the Maasai inhabited around Kenya's independence, manifested in state land appropriations, territorial encroachment by politically dominant cultivating communities, and a failing pastoral economy, the thesis suggests, caused tenure apprehension among the pastoralists and created needs for greater resource security. This need for land security coincided with the new independent government's efforts to create a national socio-economic development framework through the establishment of a private property tenure system. The Group Ranch tenure reform and rangelands development program was developed to meet these challenges, but rather than create security in land ownership, promote investment in land, and increase pastoral contribution to the national economy as expected, the program tended to diminish rather than promote these objectives. The failure and the subsequent subdivision and individuation of the Group Ranches, the thesis points out, was caused by inadequacies in the formulation, implementation and operation of the Group Ranch concept, which combined with inadequate political support to frustrate the viability and the operation of the communal Group Ranches. The consequent subdivision and individuation of the Group Ranches turned out to be highly irregular, and corrupt process that concentrated land on the hands of a powerful few created non-viable units of land, diminished land security, illegally

allocated land rights to non-locals, and vested collective rights to land in male household heads who could then legally sell and transfer family land without other members' consent. Low literacy and formal employment levels, on the other hand, combined with a constrained pastoral economy, the transferability of titled land, and increasing needs for cash caused by a commoditizing market, to precipitate sales of land among the new individual landowners. The sales and enclosure of land, the thesis argues, does not only threaten to permanently disposes the pastoralists and create widespread poverty in the community, but is also removing key pastoral resources and restricting movement in the rangelands, both of which are essential for a pastoral communal land use strategy: the only economic system that guarantees sustainable economic returns in the semi-arid rangelands.

It can thus be observed, as demonstrated by continued support for the individuation of Group Ranches in Kajiado District, that land privatization and individuation approaches, despite the shortcomings they display in the promotion of security and productivity in land, have gained primacy over customary systems in the formulation of land policy for the African rangelands. Governments and land tenure reformers are, however, slowly realizing that costs of privatization and individuation reforms far outweigh the potential economic gains they may present, and questions are increasingly being raised about the benefits of such tenure transformations. Accordingly, attention is progressively returning to tenure models that seek to answer how desirable aspects of customary land tenure based on systems of common property can be adapted to present conditions of high population growth, capitalistic markets, and increasing pressure on communities and their resources (Cousins 2000, Bruce and Migot-Adhola 1994, Okoth-Ogendo 2000).

Moreover, governments and development planners are gradually realizing that land policies and tenure reform, if appropriately tailored to clarify and strengthen customary resource systems, can play a significant role in promoting land conservation and productivity in the African rangelands and by extension enhance security for the extensive livelihoods that depend on them (Cousins 2000:151). Most previous land reforms in the continent failed in achieving these goals because they followed “over simplified conceptual models and the inappropriate policy approaches to which they give rise”(ibid). Communal forms of tenure are particularly appropriate for the semi-arid rangelands, as Galaty (1994a: 199) confirms when he mentions that common property tenure systems as practiced by pastoralists provide social frameworks for rational use and conservation of rangeland resources and, indeed, may be more efficient in the long run than private tenure systems. He points out that:

Under dry land conditions, systems of common property usually can achieve a scale more appropriate for pastoral movement and other forms of extensive resource management than can individual holding, and can achieve higher levels of cooperation and coordinated management than can state holdings (ibid).

Contemporary discourse on land policy in Africa is thus increasingly pointing to the significance of communal tenure models in addressing problems of landlessness, marginalization, and poverty caused by current tenure approaches. Okoth-Ogendo (2000:132), in a discussion on land policy challenges in East -Africa in the 21st century, mentions that attainment of sustainable development in the continent largely depends on its ability to formulate tenure systems that: suit the complex variety of land use systems that characterize its landscape; provide a framework within which customary land tenure and law can evolve in an orderly way; and democratize land administration structures and systems by introducing a simple, accessible, and broadly participatory framework for

land administration irrespective of tenure category. He adds that, it is possible to codify customary land tenure rules and integrate them into statutory law by writing them down, so long as it is accepted that customary laws are organic systems that operate in dynamic relations with other spheres of life.

In Kenya, the usefulness of customary and communal forms of resource management is gradually being recognized, as reflected by its presence in recommendations made in the on-going National Land Policy Development (Republic of Kenya 2002) and Constitutional Review processes (National Constitutional Conference 2004). These recommendations, if implemented in the National Land Policy and National Constitution, both of which are now under review, offer opportunities for the development of equitable, inclusive and improved management systems for resources that can not be economically exploited through private and individual forms of tenure. Indeed, the sustainability, rationality and suitability of communal resource management strategies in some places in Kenya, is at the local level being manifested in a developing trend where individual landowners are pooling together their individual holdings for collective use as livestock ranches or as wildlife sanctuaries for tourism. The Laikipia Wildlife Trust^{xiii} in the Central Rift-Valley, and the Koiyaki, Lemek and Olchoro Group Ranch Trust^{xiv} (Seno 2002), which border the world famous Maasai Mara game reserve, are fine examples of such emerging forms of land use based on communal land use principles.

In the same vein, the failure of the communal Group Ranches in Kajiado District is instructive for the development of communal forms of resource management in contemporary Africa. The failure by the Group Ranches to establish a “definitive membership representative of a defined community”; their inability to enforce “the

necessary powers of exclusion” of non-members; the corrupt mismanagement of financial resources; the creation of common resource territories that are technically ecologically unviable; and the ability of individuals to undermine the integrity of the system by claiming exclusive rights to resources in the common domain, all of which Galaty (1994a: 199) summarizes as factors that precipitated the demise of the Group Ranches, are urgent considerations for the establishment and operation of sustainable common property resource systems in contemporary Africa.

The Group Ranches program in Kajiado thus offers important lessons in the sustainable maintenance of emerging forms of common resources structures in Africa and elsewhere in the world. First, the disintegration of the Group Ranch program points out the importance of government support or lack of it in the maintenance of common property resources, particularly where such coexist with “mixed tenure” or private tenure systems. Government weaknesses and lack of clear tenure policies, in the case of the Group Ranches, combined to deny it crucial political support at times of internal hardships and enabled corrupt officials to abet the appropriation of collective assets in hopes of making personal gains. Secondly, the Group Ranches program highlights the importance for common resource structures of establishing and maintaining definite resource boundaries, membership and a community from which such membership is drawn. Defined membership and boundaries guarantee a definable resource user base on which resource use rules and duties can be applied to. Thirdly, there should be legal means to confirm the non-violability of the common resource boundaries as well as the stakes of individual members within them. Violations of group title through individual land allocations and the devaluation of individual shares through the introduction of new

members into the Group Ranches were significant factors in the failure of the Group Ranch program. Fourthly, and in line with economic and ecological imperatives, it is important to allow room for dynamism within the common property systems. Individuals should be allowed room for personal investment and development within the group domain so long as these do not threaten the collective resource use rules or the rights of others to access and use communal resources. Finally, common resource property domains must not only be able to meet the economic needs of its user base, and to allow for the flexible allocation of resources among its members, but must also allow for the maintenance of internal social cohesion within the user base. This is because the viability of common resource systems also depends on the degree to which its users maintain common interests and goals; social cohesion within communal structures is imperative for their maintenance.

BIBLIOGRAPHY

Ajulu, Rok

- 2002 Politicized Ethnicity, Competitive Politics and Conflict in Kenya: A Historical Perspective. *African Studies* 61(2): 251 – 268.

Behnke, R.H., and Scoones, I.

- 1993 *Rethinking Range Ecology: Implications for Rangeland Management in Africa: overview of paper presentations and discussions at the Commonwealth Secretariat Technical Meeting on Savanna Development and Pasture Production, 19-21 November 1990, Woburn, UK*. London: International Institute for Environment and Development.

Bennet, John W.

- 1988 The Political Ecology and Economic Development of Migratory Pastoralists Societies in Eastern Africa. In *Power and Poverty: Development and Development Projects in the Third World*. Donald Attwood, Thomas Bruneau, and John Galaty, eds. Boulder: Westview Press.

Berry, Sarah

- 1993 *No condition is Permanent: The social Dynamics of Agrarian Change in Sub-Saharan Africa*. Madison: University of Wisconsin Press.

Bonfiglioli, Angelo-Maliki

- 1992 *Pastoralists at Crossroads: Survival and Development Issues in African Pastoralism*. Nairobi: UNICEF/UNSO Project for Nomadic Pastoralists in Africa (NOPA).

Bromley, Daniel W.

- 1989 Property Relations and Economic Development: The other Land Reform. *World Development* 17(6): 867-877.

Bruce, J.

- 1988 A Perspective on Indigenous Land Tenure Systems and Land Concentration. In *Land and Society in Contemporary Africa*. R.E. Downs and S.P. Reyna, eds. Hanover: University Press of New England.

Bruce, John, and Migot-Adhola, Shem, eds.

- 1994 *Searching for Land Tenure Security in Africa*. Iowa: Kendall Hunt.

Campbell, David J., Helen Gichohi, Albert Mwangi, and Lucy Chege

- 2000 Land Use Conflict in Southeast Kajiado District, Kenya. *Land Use Policy* 17, 4: 337-348.

Colson, Elizabeth

- 1971 The Impact of the Colonial Period on the Definition of Land Rights. In Vol. 3. Profiles of Change: African Society and Colonial Rule. Victor, Turner, ed. In *Colonialism in Africa 1870-1960*. L. H. Gann and Peter Duignan, eds. Cambridge: Cambridge university press.

Cousins, Ben

- 2000 Tenure and Common property Resources in Africa. In *Evolving Land Rights, Policy and Tenure in Africa*. Camilla Toulmin and Julian Quan. eds. London: IIED: Natural Resources Institute.

Dorner, Peter

- 1972 *Land reform and Economic Development*. Harmondsworth: Penguin.

Ferguson, James

- 1994 *The Anti-Politics Machine: "Development," Depoliticization, and Bureaucratic Power in Lesotho*. Minneapolis, London: University of Minnesota Press.

Fratkin, Elliot

- 1998 *Surviving Drought and Development: Ariaal Pastoralists of Northern Kenya*. Oxford: Westview Press.

Galaty, John

- 1980 The Maasai Group Ranches System. In Salzman, Philip C., ed. *When Nomads Settle: Processes of Sedentarization As Adaptation and Response*. New York: Praeger.

- 1992 "The Land Is Yours": Social and Economic Factors in the Privatization, Sub-division and Sale of Maasai Ranches. *Nomadic peoples*, 29:26-40.

- 1994a Range Land Tenure and Pastoralism in Africa. In *African Pastoralists Systems: An Integrated Approach*. Elliot Fratkin, K. Galvin, and Emery Roe, eds. Boulder: Lynne Rienner.

- 1994b, Ha(l)ving Land in Common: The subdivision of Maasai Group Ranches in Kenya. *Nomadic peoples* 34/35:1994, Pp.109-122.

- 2000 Pastures Personified: Environmental Accusation and Policy in East Africa. Unpublished. Presented in the Series on Rethinking Environment and Development, Yale Center for International and Area Studies, Yale University, 7 February.

- Galaty, John, Hjort af Ornas A., Lane Charles, and Ndagala D.K., eds.
1994 Introduction. Theme issue, "In the Pastoral land Crisis: Tenure and Dispossession in Eastern Africa", *Nomadic Peoples* 34:3-5.
- Hardin, G.
1968 The Tragedy of the Common. *Science*, Vol.162: 1243-1248.
- Harrison, Paul
1987 *The Greening of Africa*. London: Paladin Grafton Books.
- Herskovits, Melville J.
1926 The Cattle complex in East Africa. *American Anthropologist*, Vol. 28, No.1, (Jan- March 1926) 230-272.
- Hogg, Richard
1988 Changing Perceptions of Pastoral Development: A case Study from Turkana District, Kenya. In *Anthropology of Development and Change in East Africa*. David. Bronksha and Peter D. Little, eds. London: West view Press.
- Jackson, Tudor
1988 *The law of Kenya*. Nairobi: Kenya Literature Bureau.
- Kalabamu, Faustin T.
2000 Land Tenure And Management Reforms in East and Southern Africa: The Case of Botswana. *Land Use Policy* 17, 305-319.
- Little, Peter D.
1987 Land Use Conflicts in the Agricultural/Pastoral Borderlands: The Case of Kenya. In *Land at Risk in the Third World: Local Level Perspectives*. Peter D. Little, M. M. Horowitz, and E. A. Nyerges, eds. London: West view Press.
- Magaga, Gordon O.
2000 The African dream: 1920-63. In *Kenya: The Making of a Nation 1895-1995*. B.A. Ogot and W. R. Ochieng, eds. Maseno: Maseno University.
- Mamdani, Mahmood
1996 *Citizen and Subject: Contemporary Africa and the Legacy of Late Colonialism*. Princeton: Princeton University Press.
- Maxon, R. M.
2000 The colonial and foreign offices: policy and control .In *Kenya: The Making of a Nation 1895-1995*. B.A. Ogot and W. R. Ochieng, eds. Maseno: Maseno University.

- Migot-Adhola, Shem, Peter Hazell, Benoit Blarel, and Frank Place
1991 Indigenous land rights Systems in Sub-Saharan Africa: A Constraint on Productivity?. *World Bank Economic Review*, 1991, Vol 5,1:155-175.
- Mukhisa, Kituyi
1998 Kenya. In *Custodians of the Commons: Pastoral Land Tenure in East and West Africa*. Charles R. Lane, ed. London: Earthscan.
- Munei, Kimpei
1987 Grazing Schemes and Group Ranches as Models of Developing Pastoral Lands in Kenya. In *Property, Poverty and People: Changing Rights in Property and Problems of Pastoral Development*. P.T.W. Baxter and Richard Hogg, Eds. Manchester: Dept. of Social Anthropology and International Development Center, University of Manchester.
- National Constitutional Conference
2004 The Draft Constitution of Kenya 2004. Unpublished. Adopted by the National Constitutional Conference on 15th March 2004.
- Ogot, Bethwell A.
2000 The Settler Dream for a White Dominion. In *Kenya: The Making of a Nation 1895-1995*. B.A. Ogot and W. R. Ochieng, eds. Maseno: Maseno University.
- Okoth-Ogendo, H. W. O.
1976 African Land Tenure Reform. In *Agricultural Development in Kenya: An Economic Assessment*. Judith Heyer, J.K. Maitha, and W.M. Senga, eds. Nairobi: Oxford University Press.
- 2000 Legislative Approaches to Customary Tenure and Tenure Reform in East Africa. In *Evolving Land Rights, Policy and Tenure in Africa*. Camilla Toulmin and Julian Quan, eds. London: IIED: Natural Resources Institute.
- Ostrom, Elinor
1990 *Governing the Commons: The Evolution of Institutions for Collective Action*. Cambridge: Cambridge University Press.
- Potter, Harry L.
1989 Some Thoughts on the Prospects for Intensification and Diversification in Kenya Maasai Land. Unpublished.
- Republic of Kenya
1970 Laws of Kenya: *The Land (Group Representatives) Act-Chapter 287(Revised Edition)*. Nairobi: Government Printer.

- 1977 Laws of Kenya: *The Land Adjudication Act Chapter 284(Revised Edition)*. Nairobi: Government Printer.
- 2002 *Report of the Commission of Inquiry into the Land Law System of Kenya on Principles of a National Land Policy Framework Constitutional Position of Land and New Institutional Framework for Land Administration*. Nairobi: Government Printer.
- Roe, Emory
1994 *Narrative Policy Analysis: Theory and Practice*. London: Duke University Press.
- Rutten, Marinus M.
1992 *Selling Wealth to Buy Poverty: The Process of the Individualization of Landownership Among the Maasai Pastoralists of Kajiado District, Kenya, 1890-1990*. Saarbrücken: Verlag breitenbach Publishers.
- Scoones, Ian
1995 *Living with Uncertainty, New Developments in Pastoral Development in Africa*. London: Intermediate Technology Publications.
- Scott, James C.
1998 *Seeing Like a State: How Certain Schemes to Improve the Human Condition Have Failed*. New Haven: Yale University Press.
- Swift, Jeremy
1996 Desertification: Narratives, Winners and Losers. In *The lie of the Land: Challenging Received Wisdom on the African Environment*. M. Leach and R. Mearns, eds. Oxford: James Currey.
- Talle, Aud
1988 *Women at a Loss: Changes in Maasai Pastoralism and Their Effects on Gender Relations*. Stockholm: University of Stockholm.
- Thomson, Joseph
1959 *Through Masai land 1858-1895*. Nairobi: Eagle Press.
- Toulmin, Camilla and Quan, Julian, eds.
2000 *Evolving Land Rights, Policy and Tenure in Africa*. London: IIED: Natural Resources Institute.
- Van Klinken M. K., and J. Ole Seitah, eds.
1989 *The Future of Maasai Pastoralists in Kajiado District (Kenya)*. Kajiado: Arid

and Semi-Arid Land Programme.

Victor, Ararya

- 2001 The nomadic Factor in Africa: Dominance or Marginality. In *Nomads in A Sedentary World*. Anatoly Khazanow and Andre Wink, eds. Richmond: Curzon Press.

Waller, Richard

- 1985 Economic and Social Relations in the Central Rift Valley: The Maa-Speakers and their Neighbours in the Nineteenth Century. In *Kenya in the 19th century*. B. A. Ogot, ed. Nairobi: Bookwise Ltd.
- 1988 Emutai: Crisis and Response in Maasailand 1883-1902. In *The Ecology of Survival: Case Studies from Northeast African History*. David Anderson and Johnson Douglas, eds. Colorado: Westview press.
- 1999 Pastoral Poverty in Historical Perspective. In *The Poor are Not Us*. David M. Anderson And Vigdis Broch-Due eds. Oxford: James Currey.

Wasserman, Gary

- 1973 Continuity and Counter-Insurgency: The Role of Land Reform in Decolonizing Kenya, 1962-70. *Canadian journal of African studies*, Vol. 7 Issue 1(1973), 133-148.

Western, David

- 1994 Ecosystem Conservation and Rural Development: The Case of Amboseli. In *Natural Connections: Perspectives in Community Based Conservation*. David Western, R. Michael and Shirley Strum, eds. Washington D.C.: Island Press.

NOTES

ⁱ The protectorate constituted a 10-mile wide strip of land in the coast, which, was technically the property of the Sultan of Zanzibar (Rutten 1992: 184, Maxon 2000:40).

Magaga 2000:79 however, does not refer to the protectorate, and refers to the new state as the Kenya Colony. The “protectorate” now constitutes part of independent Kenya’s territory.

ⁱⁱ John Ainsworth’s *Reports relating to the Administration of the East African Protectorate (1895-1905)*, quoted in Okoth-Ogendo 1976:155.

ⁱⁱⁱ See for example: Mamdani, 1996. *Citizen and Subject: contemporary Africa and the Legacy of Late Colonialism*, for a discussion on the British colonial strategy of divide and rule in South Africa.

^{iv} For a discussion of pre-colonial interaction between ethnic groups in Kenya see Waller Richard (1985) “Economic and Social Relations in the Rift Valley in the 19th century”.

^v See, Waller (1988) “Emutai: crisis and response in Maasai land”, for a detailed discussion of the epidemics, the Inter-sectional war that followed the epidemics, and the impact of these on the Maasai.

^{vi} See Galaty (2000): “Pastures Personified”, for a discussion on how perceived observations become associated with natural phenomena to become accepted bodies of facts that determine policy, but without valid scientific truth.

^{vii} This is in contrast to observations made on Maasai wealth during colonial rule Rutten (1992: 228-9) for example mentions that some colonial administrators thought the Maasai, because of owning large herds of cattle, were among the most wealthy groups in the world, and consequently taxed them at rates higher than other communities in the country.

^{viii} Maasai identity has often been seen to stem from the ownership of livestock, so loss of livestock have by extension thus meant loss of Maasai identity and the right to a claim in Maasai territory. The attainment of livestock could, however, allow members who have thus lost their identity re-entry into the community and the gain of their full rights as members of the community. Cultivation, hunting and gathering, and lately formal employment are some of the occupations that Maasai have taken up to obtain means of gaining membership back into the community (Waller 1999).

^{ix} Only the Committee secretary had any kind of formal education, having been enrolled in primary school for four years (Galaty 1994 b: 113).

^x I’lkesumeti Group Ranch also faced similar land allocation problems as Loodo-ariak and Mosiro Group Ranches; the Director of Lands annulled these illegal allocations at the same meeting where the Mosiro Group Ranch allocations were nullified (Galaty 1994a, 1994b).

^{xi} Bruce and Migot-Adhola (1994), Explore and convincingly refute these assertions

^{xii} Excerpt from Galaty (1994: 196).

^{xiii} Authors observation and discussions in Laikipia District, Kenya when traveling with the Canadian Field Studies In Africa Program, 2004.

^{xiv} See also: African Conservation Center. Koiyaki, Lemek and Olchoro Group Ranches: Natural Resources and Management Plan 2001- 2005. Unpublished.