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**INSTITUTIONAL CHANGE AND POLITICS: THE TRANSFORMATION OF  
PROPERTY RIGHTS IN LAND IN MAASAILAND, KENYA**

By

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## **Introduction**

This paper presents part of a wider research conducted in four different sites or group ranch<sup>1</sup> areas in Kajiado district of Kenya that is inhabited by the pastoral Maasai community. The research is an attempt to explain the transformation of property rights in land from collective holdings into individual and titled units. To this end it focuses on three related concerns: one: the reasons why group ranch members supported the subdivision and parcelization of their collective holdings; two, the process itself and interactions between individuals and groups in their attempts to press their claims and ultimately influence the process of land allocation; and three, the implications of property rights transitions on range ecology and management.

In this paper, I limit the discussion to one puzzle: why group ranch members supported or are supporting the subdivision of their collective holdings into individual, titled parcels this last decade. When viewed against the context of Maasai pastoral livelihoods that have evolved and adapted to conditions of climatic variability and resource heterogeneity the decision to subdivide is confusing. Rainfall over most of Kajiado, and in particular in the areas studied is low, between 400-500mm each year, and variably distributed across space and time, both annually and interannually. The mobility of the Maasai and their herds allows for maximum and equitable exploitation of patchily distributed water and pasture resources. Mobility amongst the Maasai is also a crucial aspect of the natural reproduction of the social structure; structures which represent the dominant means of accumulating livestock and also for investing herd capital (Kituyi, 1990; Doherty, 1987).

Thus subdivision of collective holdings and their subsequent parcelization can only serve to impede mobility which is a vital component of livestock production systems under highly variable conditions. Reduced mobility will likely impact negatively the livestock enterprise upon which pastoral livelihoods are dependent; it may also in the longer run undermine the reproduction of the pastoral culture. Perhaps no one understands this better than the Maasai. So the relevant question then is why would the Maasai undertake to subdivide their group ranches? What prompted this profound decision? How was this decision arrived at? Who participated?

<sup>1</sup> A group ranch is land that has been demarcated and legally allocated to a group (GoK, 1968) such as a tribe, a clan, section, family or other group of persons. The group ranch is composed of a body of members to whom legal title has been awarded, and a management committee that is elected by the body of members. The management committee is responsible for coordinating and implementing development projects on the group ranch. Although land is held in common by all group members, certain property rights, such as residency rights, are assigned to individuals. The group as a corporate body also retains some rights such as control over grazing rights, tillage and water resources. Some group ranches were subdivided into individual units barely five years after their registration, but most remained as group-owned parcels until the mid-1980s.

Unlike previously, when donor sponsored, government-driven initiatives carved out group and individual ranches from the open, undivided Maasai range, the clamor for subdivision and individualization these past two decades has emerged spontaneously from within the community itself (Southgate and Hulme, 2000; Kimani and Pickard, 1998; Woodhouse, 1997; Blewett, 1995; Galaty, 1994; Rutten, 1992; Kituyi, 1990).

This chapter presents individual and group calculations underlying the decision to subdivide, and the context in which these decisions were made. The incentives of a diversity of actors, differentiated according to age, gender and wealth including their interactions is analyzed. I also attempt to account for the "wave" of subdivision in which separate, seemingly autonomous group ranch units, resolved to subdivide at roughly the same time i.e. between 1987 and 1989.

Certain conditions within the socio-economic sphere may motivate individuals and groups to seek to privatize/individualize property rights in land. These conditions create a situation in which individuals and groups perceive the benefits anticipated in the new, individualized structure as outweighing the costs of transforming the old one and of maintaining the new structure. Changes in relative factor and product prices is one such condition (Demsetz, 1967; North and Thomas, 1973; North, 1990;). An increase in product prices may for example push up land values. Individuals will then demand and invest in changing property rights towards greater exclusivity as they anticipate capturing the attendant gains. To them, the resulting gains outweigh the costs of initiating, transforming and enforcing the new property rights structure. In areas closer to markets, these processes of transformation will be particularly pronounced as the higher rents to be gained precipitate intense competition (Alston et al, 1995 ).

Demographic pressures, perceptions of scarcity and common pool losses may also motivate individuals to seek alternative property rights structures. As populations increase on a relatively unchanging land resource base, perceptions of scarcity may set in motion demands for exclusive property rights as individuals attempt to eliminate uncertainty with regard to future shares in the collective holdings (Ostrom, 2001; Platteau, 2000, 1996, 1995; Boserup, 1965). Perceptions of scarcity are rendered acute if accompanied by deterioration in the physical condition of the resource (Libecap, 1989). Actors in this situation will thus seek to transform property rights in order to mitigate losses that occur within the shared domain in order to realize the gains of individual management.

The demand for exclusive property rights does not occur within an economic vacuum. Often actors in government will supply services such as survey, registration, titling and enforcement crucial for the integrity of formal, individualized property rights. The incentives of individual government agents are important, as they will often seek to supply property rights

when the transformation promises gains to themselves and/or their associates (North, 1990; Feeny, 1989). Active state involvement in land transformation is often justified under the guise of promoting (economic) 'development,' or safeguarding the management and conservation of natural resources or enhancing equity in resource distribution.

I use the theoretical framework outlined above to inform the analysis in this discussion. I begin by presenting an overview of the Maasai socio-political organization and their systems of resource governance. After this I provide the historical setting which summarizes salient features in the historical evolution of land property rights among the Maasai. The point of including the history and the culture is to highlight the initial conditions that set the stage for current decisions and also the cultural institutions that have influenced (and too been influenced) the character of transformation. Following these two sections, I present and discuss my research findings.

### **Maasai Socio-Political Organization**

The Maasai are a pastoral people with livestock as the basis of their economic livelihood, the focus of social relations, and a critical element of ethnic self-definition. Pastoralism was considered to be the only worthy pursuit, and tilling the earth was regarded as a degrading enterprise. This often quoted 'pure' form of pastoralism is rapidly changing as Maasai confront formal markets, state intervention, immigrants and land pressures. Maasai are now increasingly engaged in agriculture, trade, and formal employment. Nonetheless they have retained some herd mobility and 'being people of cattle' is still core to their self-identification. They are still pastoralists. It is worth pointing out that throughout history under difficult circumstances such as drought or disease, some Maasai periodically fell out of the pastoral enterprise, becoming cultivators, hunter gatherers or even seeking employment with the colonial administration. These individuals would switch to the pastoral mode as soon as they rebuilt their herds.

In this section I describe the social, political and economic organization of the Maasai. This has been extensively documented by prior scholars, and I borrow heavily from the following predominantly anthropological works: Holtzman (1996); Spencer (1997; 1988); Kituyi (1990); Halderman, (1989); Kipuruy (1989); Doherty (1987); Galaty (1983); Ingule (1980); Berntsen (1979); Baxter and Almagor (1978); Jacobs (1971); Bernadi (1952) and from two anonymous and undated articles, likely colonial administrators, I found in the library of the Catholic Diocese of Kajiado.

### *Maasai Age Sets*

The age-set is a central institution in Maasai social and political organization. It comprises initiates of the same period who have been formally integrated as a corporate group. Maasai conceive of their age system as passing through four named stages of the male life cycle: boyhood (*ilaiyok*), warriorhood (*ilmurran*), elderhood (*ilmoruak*) and ancient elderhood (*ildasati*). Women are not grouped into corporate sets but are attached to male age sets by association. They tend to be identified with the male age sets with whom they danced as young, unmarried maidens; and later, through marriage, adopt the age-sets of their husbands. Political action among the Maasai occurred and still occurs within the age set system under the leadership of men selected from the age set. Through membership in age sets, men participate in political affairs, cooperate in political action and individuals acquire political power and influence.

Until he is circumcised a man is not part of any age set. An age set consists of males circumcised within a specific ten to fourteen year period. Usually the initiates were twelve to 15 years old, though the first boys circumcised into a new age-set might be a few years older. Among most Maasai sections, this fourteen year period is divided into 2 shorter periods of about 7 years each. The men of the first 7 years period are the right hand circumcision while those of the second 7 year period are the left hand circumcision. These two groups are usually identified by separate names until their joining in the *olng'esherr* ceremony described below.

After circumcision, the boys become junior warriors. During the 2<sup>nd</sup> or 3<sup>rd</sup> year of junior warriorhood, age mates from one or more localities<sup>3</sup> band together in a warrior village called a *manyatta*. Within the warrior villages bonds are created and strengthened among the age mates. These villages also serve as educational institutions in which the young men learn the traditions and expectations of social life. The villages also serve as a forum through which the young men develop oratory and debating skills necessary for community administration. In the past individual warriors and whole age sets earned praise and respect by successfully raiding cattle which increased their individual wealth and that of their grazing unit.

Roughly 5 years after the circumcision period was opened, when the young men are aged roughly at 18-26 years of age, the most important ceremony of a section, the shaving of the warriors (*eunoto*) took place. During this ceremony, the warriors' dreadlocks are shaved and they replace their spears with a stick; such ceremonies are performed at the level of the section for the entire section. At this ceremony also, age set leaders such as the speaker (*ol aiguenani; pi il aiguenak*), the ritual leader (*ol aunoni; il aunok* or *ol otuno; pi il otunok*) and the knot tier

<sup>3</sup> During my fieldwork, I observed that warriors from several group ranch areas belonging to the same Maasai section formed the warrior villages.

(*olobornkeene*) are vested with office. Men who emerge as leaders at this time remain as leaders in the age set and in society as a whole until they passed into official retirement. The shaving ceremony thus marks the apex of organization and unity for the warriors of a section. It also marks their transition into a new status, senior warriorhood.

Several years after the shaving ceremony of the right hand circumcision group, young uninitiated men started to band together in preparation for the formation of a left hand circumcision group. The right hand circumcision group precedes the left hand circumcision group in matters of ritual and political importance. The age sets of all sections maintain some temporal uniformity, even though each section has its own dynamism.

After about fourteen years, the right and left hand groups are unified into an official age-set during the *olng'esherr* or *embolosat* ceremony and are subsequently named. This becomes their official name. They now stop being senior warriors and graduate into junior elderhood. This ceremonial cycle unifies all members of the territorial sections. The name conferred to an age set is shared by all elders across all sections of the Maasai. It is worth noting that the naming of the age sets originates from the Keekonyokie and Kisonko sections and are subsequently adopted by all other sections of the Maasai. This universal acceptance is significant. It demonstrates the unity of the age set system throughout Maasailand and acts as a cohesive force across the entire Maasailand.

As senior warriors are graduated to elderhood by performing the *olng'esherr* ceremony, each age set above them is automatically advanced in status; i.e. junior elders become senior elders to make room for the new junior elders formerly senior warriors. And senior elders are retired from active political life. The principal role of junior and senior elders, who range in age from 28-56 years, is to maintain law and order in their locality. In conjunction with their local age set spokesman they meet regularly in local elders' councils (*entiguana*) to settle disputes and make decisions for their locality as a whole. Although politico-judicial matters are shared between senior and junior elders and their respective spokesmen/leaders, senior elders tend to dominate in the decision-making process while junior elders execute their decisions. Retired elders, usually above 65 years old, are no longer considered legitimate participants in public affairs, though they are accorded great respect. Their only active social role is to give advice in matters of public ritual practices and to instill in their grandchildren a sense of traditional values.

This cyclic progression of corporate age sets through a fixed system of rank stages establishes a status hierarchy to which ideal modes of behavior and authority are related. One age set is automatically senior to the next. One age set pays respect (*inkanyit*) to all groups senior to it and receives respect and deference from all those junior to it. Relations between members of the

same age set are cordial, cooperative and informal based on their status as coevals. However, the expected relations of deference and respect between adjacent age sets are complicated by rivalry and competition. Junior age sets are often eager to assume the roles of their seniors; seniors are often reluctant to hand over power or share certain rights with their juniors. Alternate age sets, united by the *olpiron* bond, share special relations of solidarity and mutual support. During the circumcision of members of a new age set, the young elders of the alternate age set above them (i.e. the junior elders at the time) ceremoniously bring their age set into existence by lighting a fire for them with a fire stick. By 'breathing life into' the ritual fire that symbolically 'gives birth' to the new age set, the junior elders establish their position as the 'fathers' of the new age set. They are the sponsoring elders (*//piron*) and are responsible for the education and 'policing' of the young warriors. The *ilpiron* elders teach the warriors the values respected by society and levied punishments for their misdeeds.

In this cyclic system, changes of status entail changes in prestige and influence and hence in power and authority. An age set is at the lowest point of the power continuum at its institution, and reaches the apex at senior elderhood. However, the differentiation of authority according to different spheres of activity, in concert with the structural relationships between and among age sets brings to play a balance of power within the age set system core to the maintenance of the Maasai decentralized political system. Kinship, lineage and clans are of minor political significance. The cross cutting nature of the age system unifies territorial and clan fragmentation.

### *Territorial Organization*

The Maasai were (and still are) divided into autonomous sections<sup>3</sup> (*iloshon*, s\=olosh) based on localized age grade organization. The *olosh* is the highest level of territorial unity and is the basis of organizational authority in the hands of age-set leaders, elders' councils and sectional leadership. Each section is associated with recognized boundaries and each defended these boundaries against intrusion by way of the warrior age set (*ilmurran*). Access by non-members had to be negotiated. Pastoral producers defined their rights to resources in the context of their membership in *olosh*. Maasai relations were pursued in the context of the *olosh*. The *olosh* constituted the context within which social organization and the pursuit of economic resources were realized. The precolonial land of the Maasai was the collectivity of all the lands dominated by the *iloshon*.

<sup>3</sup> There are 12 sections of the Maasai. The areas I studied were inhabited by three—the Loodokilani, Matapato and Purko.

Most *olosh* contain areas of widely different ecological character, from high potential forest to low potential semi-arid scrub land and members of *olosh* co-coordinated the use of the range to obtain maximal mutual benefit. Some of this coordination was achieved by mutual agreement to reserve highland pasture for dry seasons and areas in closest proximity to each settlement for young and old stock. Relations among members of *olosh* were generated and sustained by determinate ideological and social practices such as ritual and ceremony and by reciprocity.

Each *olosh* is divided into localities (*inkutot*) which did not own land but managed it. The locality was the basis of the traditional Maasai herding system, which involved herd and family movements from permanent, high potential, dry season pasture reserves based on permanent river, well or spring water supplies to temporary, outlying, low-potential, wet-season grazing areas based on rain ponds and other temporary surface water supplies. Local organization ensured that Maasai stock had access to both types of pasture for grazing and conservation purposes. They helped guarantee that various traditional management techniques were employed, such as the regular burning of portions of grassland to help regenerate new grass growth, and the judicious grazing of goats to prevent destruction of grass roots. Under traditional herd management practices and other self-regulatory mechanisms exhaustion of pasture was temporary and probably not serious since the pastoralists had more opportunity to move their herds elsewhere. The locality was also the basis for age-set activities. Each locality had its own age-set spokesman and its own council of elders to settle disputes and enforce customary law. These bodies had their counterparts on the sectional level, which met to decide on inter-sectional disputes and to organize inter-sectional age-set activities. However the bulk of political activities were organized and carried out by local age-sets without recourse to the approval of the sectional council

The locality was the most important unit within Maasai society in which authority structures were embedded. Individual families secured rights to communal resources only by common residence within the same locality over long periods of time and by regular participation in local age-set activities. Each locality was further subdivided into progressively smaller units, the most basic being the individual household where control over livestock and labor occurred. It is still unclear to me how this concept of locality can be translated under current Maasai organization.

The most relevant cooperation was the grouping of a number of individual households into a common residential site (*elatia*) in which membership was optional. Cooperation between different neighborhoods took the form of granting grazing access to herders who were



temporarily passing through the area. The settlement presented a convenient locus for combining labor and providing security but has no overall authority structure which can determine individual decision-making strategies of herd management, such as where to graze, or when to buy, sell or slaughter an animal. Each household was autonomous and regulated its affairs independently. However, in the common economic interest and congenial cooperation, herds were pastured and watered communally and corralled at night in the open places for security against predators. Elders met daily to discuss herd movements and to determine whose sons will act as herd boys and which elders will supervise them.

Maasai pastoralism allowed for various kinds of accommodations with the agricultural communities living in the region such as the Kikuyu. Through marital exchange the Maasai solidified friendship bonds and adoption. Such relations were important and had implications for complementarity across modes of subsistence. Market exchanges also took place. Such as between Maasai and their farming neighbors, from whom Maasai sought agricultural produce in exchange for livestock. The Maasai also sought the supply of superior steers from mainly Boran pastoralists of northern Kenya and southern Ethiopia. Maasai gave away products not required for the reproduction of their pastoral adaptation and received prestige goods and food. Maasai dependence on trade only rose at times of crisis such as drought or epidemics and receded during good years.

Clearly the Maasai had devised a variety of economic, political and social strategies which enabled them cope under ordinarily difficult circumstances. The essential components of these strategies were:

- control of a variety of resources to provide access to water and pasture at all times
- herd diversification
- trading and linkages with neighboring agricultural groups
- mobility to permit the exploitation of scarce resources during periods of scarcity
- build up of herd sizes
- territorial diversity protected by the Moran (the warrior age-set)
- long standing relationships between clans permitted the sharing of resources among community during severe stress
- Interrelationships between family members, age-sets and clans allowed for gifts and loans of livestock and labor, and for the splitting of herds into more mobile units which would use the scattered available water and pasture.

Through these strategies environmental risks were spread and shared; Maasai pastoralism was able to reproduce itself and remain viable through time.

But these strategies have been seriously challenged when confronted with numerous policy interventions from both colonial and post-colonial states<sup>4</sup>. The most acute challenges focused on attempts to transform land relations and herd management strategies. These were predicated on Maasai environmental destructiveness using tired arguments based on Maasai 'irrationality' and notions similar to that of Hardin's 'tragedy.' The two administrations have between them confined the Maasai to smaller, less biodiverse areas and posed severe threats to Maasai pastoralism. I discuss this in the next section. In spite of this unrelenting onslaught, the Maasai socio-political system has survived and modified itself under changing conditions. Though, for example, the warrior age-set is no longer a militaristic organization, having been undermined by the state's own security organs, it still exists and continues to serve as an educational forum, as a source of community cohesion and in trekking livestock to trading centers.. Age-sets continue to be a community locator, and still the locus of authority and power within the Maasai system of governance. This research demonstrates that these institutions were critical in articulating claims and contesting allocations during the subdivision of the group ranches studied.

### **The evolving nature of land rights and ownership**

#### *The Colonial Period, 1895-1963*

The colonial administration's fixation with the Maasai's 'irrational' and uneconomic herding system was thought to promote livestock accumulation 'for its own sake' thus leading to soil and environmental deterioration, resulted in a battery of policies that were instituted to curb these practices. These policies included the introduction of grazing management schemes, the encouragement of cultivating communities to occupy Maasai territory and most significantly, the proposal for the creation of group and individual ranches in Maasailand towards the end of the colonial era.

When the British colonists entered Maasai territory at the end of the 19<sup>th</sup> century, they encountered vast 'unoccupied' lands. The drought of 1897, and a rinderpest epidemic and inter-sectional wars had decimated both the Maasai and their livestock. Myopically, British administrators concluded that the Maasai had more land than they needed. In 1904 they signed a treaty with a Maasai 'chief' who agreed that the Maasai would vacate a large part of their territory in the rift valley. They moved to the lower plateau, where the British guaranteed them

<sup>4</sup> The Maasai are now, under Kenya's current administrative system, also divided into sublocations, locations, constituencies and districts. They are part of a province through which they are territorially incorporated into the Kenyan system.

permanent settlement for as long as they shall "exist as a race." The British backtracked on this agreement and in 1911 forced Maasai to move to yet a smaller and less fertile reserve in the south, the current locations of Kajiado and Narok districts where the bulk of the Maasai currently reside. This southern Maasai reserve was declared a 'closed' district, severing ties between the north and the south (Kipuri, 1989). The northern part, close to 2 million hectares, was renamed the 'white highlands' for the settlement of European settlers, whose agricultural and other commercial activities were anticipated to power economic development in the new and straggling Kenya Colony. The confinement of Maasai in the reserve and the declaration of a closed district not only excluded Maasai from their best grazing but it also cut them off from livestock trade and breeding exchange with Borana herders from northern Kenya and southern Ethiopia. 1904 and 1911 represent the first wave of land alienation from the Maasai.

The second wave of land alienation through the colonial authority was in the development of game reserves and parks for wildlife conservation (unrestrained hunting by the British?) and tourism promotion. In 1946 Tsavo was designated a game reserve; two years later its western half became a national park with boundaries including water resources that had belonged to the Maasai. This was followed by Amboseli and Chyulu hills as game reserves. Soon after over 7000sq. km of Maasai lands and other immeasurable pastoral resources such as permanent water sources, seasonal parks and salt-licks were lost as Amboseli, Nairobi, Masai Mara, Kitengela and Olorgesailie tumbled out of Maasai control into game reserves and parks. Once again most of the land expropriated from the Maasai constituted dry-season highland or swamplands both crucial for sustaining Maasai livestock management systems.

What is significant is that by 1932 Maasai cattle herds had recovered and were indeed large. Restrictions from trading, improved veterinary care and prevention of Maasai from participating in local markets (extinguishes competition for the white settlers in the dairy and beef industries) had resulted in considerable herd growth and subsequently in soil erosion and degradation within the confines of the Maasai reservation. The government identified the problem as one of overpopulation in the African areas and felt that radical measures needed to be taken to rectify the situation. This led to the creation of the Kenya Land commission of 1934 and the subsequent introduction of Grazing Schemes as a way of instituting grazing control among the pastoralist populations.

Under this innovation, parts of Maasailand was divided into grazing blocks which were opened and closed on a four-month rotational basis that was intended to allow the land to rest and the grass to recover. Livestock numbers were limited and a permit was required to keep cattle. This was an unpopular system among the Maasai who were not used to having outside

restrictions placed on their land use. The first grazing schemes were established in the Leroghi plateau of Samburu district in 1935, and spread to other areas: Baringo, West Pokot, Machakos, Kitui and Narok and Kajiado. By the mid-1950s, grazing schemes had been established in areas totaling 9,500 square miles containing some 475,000 head of cattle (Munei, 1987). The grazing schemes in Maasailand failed due to drought conditions.

Undeterred, and lacking in creativity, the colonial administration continued to relentlessly pursue solutions to the Maasai problem. A series of commissions that were an offshoot of the Kenya Land Commission were appointed and were important in shaping the future of Kenya's Maasai.

The Carter commission (GoK, 1934) investigated land problems and considered the legal and historical justification for occupancy of particular areas in Kenya. This commission, basing its judgments on general economic considerations, further diluted the treaties of 1904 and 1911 and some Maasai land could be leased to other Africans or Europeans for agricultural or more efficient pastoral use. This would create an example to the Maasai of sustainable forms of land and animal husbandry. The commission saw no reason to increase the amount of land under Maasai pastoral use. The Maasai had enough land which they misused by overstocking; to allocate more land would make the situation worse!

The Dow commission (GoK, 1955) made a series of recommendations aimed at better management of the pastoral areas to end gross misuse. They proposed ranches, access to markets, better breeding practices, and commercialization of stock farming as solutions to the pastoral problem. The commissioners also proposed that new methods of production and exchange should be provided and customary rights to land ended. It was inefficient.

The Swynnerton plan (GoK, 1955) recommended the individualization of tenure and increased commercialization of animal production. It emphasized individual land tenure and individual enterprise, since development based on communal land tenures were deemed to have failed. The plan proposed remedies in the form of: livestock marketing, controlled grazing, water supply, and tse tse and livestock disease eradication. The prime objective was to exploit the potential of Maasai stock to contribute to national economy. But since the 'result' of individualized tenure in central province was landlessness and political unrest, the colonial government chose a different path for the pastoral areas. Instead of individual holdings the Swynnerton plan concentrated effort in promoting schemes and 'group ranches'. The schemes were supposed to be managed according to 'scientific principles', such as grazing rotations, water and veterinary facilities provided, and small scale irrigation practiced. Environmental interventions such as soil conservation, afforestation and rehabilitation were to be taken up to

restore denuded areas. In order to ensure that these innovations were strictly followed the government was to impose strict measures such as 'grazing guards', fines and imprisonment for pastoralists who were lax in observing the rules. A classic example of planners' and administrators' preoccupation with technical solutions.

#### *Post-Colonial, 1963 to current*

Kenya gained independence from Britain in December, 1963. The newly-formed Kenya administration followed the policies laid out in the Swynnerton plan. The independent Government of Kenya embarked on a zealous land reform initiative embodied in the Land Adjudication Act of 1963. This was aimed at establishing freehold title to land and to promote long term investment in former reserve land thought essential to restore and increase productivity. For this to occur security of tenure was considered paramount, and land registration accorded priority. In the pastoral areas, and particularly in Maasailand, land adjudication was conducted with the expectation that Maasai would adjust their herd management strategies, destock, and conserve the resource base. Instead of attempting to directly control herders and their livestock management techniques, government changed tactics employing a less obvious though just as blunt a strategy.

Adjudication first began in higher potential land and many individual holdings were allotted to wealthy Maasai, politicians, and others with ties to the administration i.e. the educated and the political elite. This comprised the 'individual ranchers' who were allotted large parcels of land, usually over 2000 acres. Because the individual ranchers were to be used as a model for the rest of the Maasai to emulate, conditions had to be created that would ensure their success. Low-interest credit for the purchase of superior breeds and the construction of on-farm infrastructure such as boreholes, water pans was availed through the Agricultural Finance Corporation. The individual ranchers also had support from livestock extension officers from the ministry of agriculture and livestock development.

However, land was insufficient for all Maasai to receive individual titles and group ranches were developed and implemented. Enactment in 1968 of the Land Group Representatives Act legitimized the transformation of rangelands into private property and offered disposal rights to groups of individuals where such groups could show traditional claim to the land. Group ranches ideally would encompass usual herding areas and enclose sufficient grazing and water resources to provide year round security.

Thus Group ranches were created with the expectation that they would provide tenure security, creating incentives for the Maasai to invest in range improvement and ultimately to

reduce the tendency to over accumulate livestock **Republic** of Kenya, 1974). Group ranches would also act as collateral for loans to enable investment in range enhancement and livestock improvement. The program entailed a shift in land tenure and organization from one under which the range was under common ownership, to an abridged version of the original commons, variable in size and membership, but held under corporate title.

To implement this development program the Kenyan government sought loans and grants from international agencies such as World Bank, USAID, Swedish aid agency, Canadian development agency and the United Kingdom. The loans were granted under the auspices of the Kenya Livestock Development Program (KLDP). This program combined investment and extension services with the establishment of group ranches under a land adjudication and registration program.

Specifically, group ranch objectives were: to increase range productivity by bringing them into commercial production; to maintain production by keeping stocking rates of ranches within limits set by 'carrying capacities'; to conserve natural resources in pastoral areas by controlling their exploitation; and to provide human populations with an adequate standard of living.

The objectives of group ranches were to be achieved through:

- Registration of permanent members of each ranch; these members were thus to be excluded from other ranches;
- Allocation of grazing quotas to members to limit animal numbers and the carrying capacity of the ranches;
- Development of shared ranch infrastructure (such as water points, dips, stock handling facilities and fire breaks) using loans. Members would be collectively responsible for loan repayment.
- Members would manage their own livestock and would be able to obtain loans for purchasing breeding stock and cattle for fattening.
- A group ranch committee would be elected to manage all group ranch affairs including:
  - Overseeing infrastructure development and loan repayments
  - Enforcing grazing quotas and grazing management
  - Maintaining the integrity of the group ranch boundary

The government's implementation of group ranches under the Land Groups (Representatives) Act of 1968 was intended to provide for greater simplicity, lower costs and lower tax rates in handling of group ranch affairs as opposed to corporate law. In the group ranch the entire group holds the title to the ranch. Each individual has residency rights, but the group as a corporate

body controls the means of production i.e. grazing, water, and tillage and may establish mechanisms for the allocation of the means of production. This it does via the elected group ranch committee. The group ranch committee is a group of no more than ten and no less than three individuals, elected by group ranch members during the groups' annual general meeting. The Act required that each group ranch hold annual general members' meetings presided by officials from the land adjudication office. By way of the Act, the committee was provided considerable authority to deal with group ranch financial and administrative functions. The group ranch committee, as we shall later, became the crucial authority figures in matters relating to subdivision and later in the allocation of subdivided parcels to group ranch members.

The Department of Land Adjudication and Registrar of Group Representatives, both in the Ministry of Lands and Settlement were extensively involved in the initial establishment of group ranches. The Range Management division of the Ministry of Agriculture played a key role in drawing up group ranch development plans. The Ministry of Water Development coordinated water development. The Agricultural Finance Corporation administered the loans provided by the funders.

Why was the new Kenyan administration intent on implementing the group ranch program? The Kenya government had a genuine need to raise the low levels of productivity associated with subsistence pastoral practices in semi-arid regions such as Maasailand. Group ranching schemes appeared to offer the most efficient means of utilizing development loan investments to bring pastoral regions into commercial production. Group-based schemes were expected to enjoy economies of scale. For group ranches, capital costs per unit of ranch area were estimated to be only about one third of those for individual ranches (Grandin, 1986). Moreover development costs would be further reduced in group ranching schemes by the fact that ranches were already fully stocked by the members' privately owned cattle and there was no need to provide funds for ranch employees, such as would have been the case had commercial or company ranching schemes been opted for.

The group ranch option also seemed to offer the possibility of developing pastoral lands without making pastoralists landless. This was a major concern since similar programs to individualize communal lands in the high potential Kikuyu areas resulted in landlessness and political unrest.

Many scholars agree that although the Maasai did not accept or even understand some features of the group ranch (such as grazing quotas, boundary maintenance and the management committee), they nevertheless accepted the idea of group ranches primarily because they needed to secure their land against appropriation by government, against the incursion of non-Maasai

cultivators and from land grab by the elite Maasai (Rutten, 1992; Bekure et al, 1991; Galaty and Ole Munei, 1991; Grandin, 1986; Galaty, 1981, 1980). The history of Maasailand since the 1800s has been one of dispossession. European settlement took away areas such as Uasin Gishu, Nakuru and Nyandarua Districts; while District boundary changes transferred parts of Maasailand to Machakos, Nyeri and other areas. More recently still, population pressures in the mostly high potential areas resulted in infiltration of immigrants into Maasailand (Fratkin, 1994; Kituyi, 1990; Halderman, 1989). The transfer of land from Maasai owners to non-Maasai buyers particularly affected these areas. Because group ranches issued titles to land, they enabled the Maasai to retain control over the land they occupied since independence. Group ranches also restricted further alienation of large tracts of better-watered land to the political elite. The Maasai also felt that if land were subdivided into individual units the resulting land size per family would be inadequate to support livestock pastoralism.

For the Maasai, group ranch development carried with it the promise of water development in the form of dams and boreholes, as well as the promise of improved livestock husbandry through introduction of dipping facilities and regular vaccination against prevalent animal diseases. Water is a crucial limiting factor in Maasai livestock husbandry and any measure that promised to enhance herd survival and productivity was likely to engender Maasai support. The Maasai thus accepted the Group ranching scheme for this suite of reasons; very little in common with the Kenya government's development objectives.

Development scholars are critical of the often unstated assumptions underlying the creation of group ranches (Campbell and Axinn, 1980). These are that an increase in commercial cattle production can be initiated in Maasai subsistence economy; that increased cattle production can be increased by adding water points; that a market system would absorb increased production; that market prices would be free of distortions; and that credit would help in increasing productivity. It is not clear whether these conditions existed or could have been created with ease. They colonial crafters of group ranches and their counterparts in the post-colonial Kenyan administration unsurprisingly failed (or refused?) to identify the logic under which Maasai herders accumulated livestock. Second and equally significantly official beef prices remained low and controlled in the 1970s and 1980s (Evangelou, 1984; White and Meadows, 1981). Maasai would not have sold even if they wanted to. Group ranch development thus had minimal effect in persuading Maasai to move toward commercial beef production.

A major shortcoming of group ranches was their lack of ecological viability (Helland, 1980; Halderman, 1985, 1972; Migot-Adholla and Little, 1981; Njoka, 1979; Davis, 1971). Group ranch demarcation was not based on any Maasai institution normally used for organizing



production as had been intended by government. Consequently each group ranch did not include the complement of dry and wet season pasture that would ensure year-long herd survival. Most ranches were far too small to provide an adequate balance between wet and dry season grazing. Studies by anthropologists reveal that group ranch demarcation, instead of following traditional territorial structures that guaranteed an adequate balance of dry and wet season graze, were demarcated to suit planners' convenience. Physical landmarks such as streams and hills formed the bases of group ranch boundary demarcation. A crucial consequence of this error is the increase in the vulnerability of Maasai livestock to drought (Campbell, 1984, 1991).

The group ranch concept is now well into its third decade, yet there is consensus among scholars and planners that this policy innovation is a dismal failure (Galaty and Ole Munei, 1999; Rutten, 1992; Munei, 1991). Not only has it failed to meet its stated objectives but has also jeopardized the socio-economic and cultural welfare of the Maasai (Fratkin, 1994; Kituyi, 1990; Kipuri, 1989). There is a growing trend toward subdivision of group into individual ranches, and frequent sale of portions of individual holdings to prevent foreclosure on development loans (Galaty, 1988; Kimani and Pickard, 1998). The economic and ecological viability of this fragmentation in semi-arid to arid environments is a source of great concern. The following sections present the complex of reasons and interactions that motivated group ranch members to subdivide. Although the decision to subdivide may have appeared somewhat tidy and perhaps uncontroversial due to the majority voting rule, there was minor conflict over whether or not to subdivide. Similarly struggles over exclusion/inclusion dominate this part of the process. These sets of interactions and negotiations are as well captured in the following section.

### **Subdividing the Group Ranch: Members' Motivations**

#### *Presidential exhortations and the call to subdivide*

The turning point in the race to subdivide group ranches in the Maasai districts of Narok and Kajiado came when president Moi on several occasions in 1983 and 1989 (Nation newspapers/Kenya Times) voiced his support for the process. In 1983, president Moi, speaking at a funds drive in Narok, urged members of group ranches to subdivide. He stressed the need for individuals to develop their own pieces of land. Noting the unviability of group ranch operations, he expressed the fear that group ranches may in future spark 'trouble' because registered members were inviting their friends to reside in the group ranches. The president's exhortation was in 1986 reinforced by the Narok District Commissioner, who noted that all group ranches in his district were dissolved according to the wishes of all members, and that private, individual ownership would now make it possible for individuals to farm the land. In 1987 political and

civic leaders in Kajiado resolved that all group ranches in Kajiado district be subdivided *equally* among members. In 1989 speaking at another fund raising event in Kajiado town President Moi directed that all loans given to dairy farmers in Kajiado district be written off owing to the fact that cattle died in the 1984 drought. He directed that the process of group ranch subdivision be speeded up so that owners of parcels get title deeds to their land. He instructed the then head of the civil service to send a team of surveyors to Kajiado district. He once again noted that 'the issue of having group ranches will create problems in the future'.

The president's encouragement for subdivision, though likely originating from pressures within Maasailand itself had two effects. First, it fostered a grudging acceptance for subdivision from within the ranks of a reluctant bureaucracy that had been advocating greater caution in the subdivision of group ranches. Second, it served to cap local debates on the issue, and group ranches in Kajiado district began to vote for their dissolution and subsequent subdivision into individual parcels. The four group ranches studied in this account all resolved to subdivide in 1987, 1988 and two in 1989. This was consistent with the general trend within the district.

A second issue that president Moi touched on was the 'rescheduling' and eventual writing off of loans borrowed from the Agricultural Finance Corporation. Though this was likely intended to benefit the elite individual ranchers who had experienced extensive livestock losses in the 1984 drought, it appears to have been broadly interpreted to apply to group ranches as well. Consequently, those group ranches that, owing to loan encumbrances, had been denied consent to subdivide by the Registrar of group ranches were now free to start subdividing their land. These group ranches had taken loans for the implementation of group ranch projects and were previously held back due to non-repayment of loans. Government surveyors were released to undertake the activity. By tipping public opinion in the favor of subdividing, by supporting the 'rescheduling' of loans taken by ranchers and by galvanizing a reluctant bureaucracy, the president's policy endorsement may have accounted for the apparent 'wave' among group ranches to subdivide.

Prior to the president's announcement, government officials from the Departments of Lands Adjudication and Range Planners from the Ministry of Livestock Development were cautious and indeed stopped short of outrightly discouraging group ranches against subdivision. According to the minutes of the annual general meeting at Enkaroni group ranch of 26<sup>th</sup> February, 1985, for example, the then registrar of group ranches 'emphasized the grave consequences of ranch subdivision without basic infrastructure.' At the same meeting, the Range Officer noted that 'it was unfortunate that members' wish to subdivide the group ranch would result in unviable units which would be expensive to develop because of their small sizes.' He further pointed out

that if the land were partitioned equally, each member would be entitled to 79 acres (34 hectares) in which one would not be able to keep more than 7 head of cattle. Present also was the District Land Adjudication Officer who strongly reiterated the inordinate expenses of individual parcel management and requested members to reconsider their decision. The president's pronouncement served to silence the bureaucracy, forcing it into action where previously it was unwilling. Government surveyors were assigned to the process, while range officers were enlisted to ensure the viability of ensuing parcels following subdivision.

It must be recognized that official sanction for subdivision came at a time when most group ranch members had seen the necessity to subdivide. Records for the group ranches studied indicate that there had been considerable debates on the merits and demerits of subdivision prior to the president's 1989 encouragement. Minutes of Enkaroni group ranch meetings in February and May of 1985 had as their sole agendas discussions on the merits and demerits of subdivision. Not all meetings and debates were recorded. Those that did not occur under the auspices of a formal annual general meeting of members, such as those organized through the local chiefs administrative umbrella, were not recorded in writing. Such meetings were numerous in each of the group ranches in the run up to subdivision.

If the president's remarks merely quickened the pace of decision making, and if the bureaucracy was not actively encouraging group ranches to subdivide, what is it that motivated group ranch members to subdivide? In the next section I show the complement of factors that drove individuals' preferences for subdivision. These included: increasing populations within the group ranches and the imperative to keep recruiting new members off the pool of maturing youths; the notion of 'development' and progress associated with individual land ownership; the problem of differential access to and exploitation of group resources owing to variations in livestock ownership among group members; the problem of outsiders, primarily the neighboring individual ranchers, who grazed their livestock within group-held land without fulfilling reciprocal obligations; and the notion that group held land may easily be interpreted as 'vacant' land that could be issued for the settlement of population overflowing from the densely populated highland regions of the country. I categorize these as economic, demographic and governance/political strategies. While many of these factors come into play in each of the group ranch areas studied, the import of each of these motivations varies owing to the unique features and experiences of each group ranch area.

*"Land does not give birth ": Demographic Pressures*

Fundamental to the reason to subdivide across all group ranches studied were members' concerns over increasing populations in the context of a fixed, non-expanding land resource base. Land does not give birth. The periodic registration of new members as age sets matured had direct implications for the size of parcel that each would receive in the event that land was subdivided. The recruitment into membership of young men as they attained maturity implied that the share of group ranch land entitled to each member progressively diminished, with the anticipated outcome that parcels would be small and unviable upon the eventual subdivision of the group ranch, at some unknown though certain time in the future. This concern reflects a general sense that land subdivision was inevitable; a sense that is tied to events in Kajiado district and elsewhere in Kenya.

By the time the Enkaroni group members, for instance, were debating whether or not to subdivide in 1985, many group ranches in Kajiado were doing the same while others such as those in Kaputiei and in Ngong divisions had already subdivided decades ago or were at advanced stages. More broadly subdivision in Kajiado began as early as three decades ago, in the late 1960s, with the initial enclosure of the formally larger, communally shared Maasai range into the group ranches as we know them. This large-scale enclosure was punctuated by the demarcation of few, very large, individual ranches that were distributed to the few Maasai that were willing to pursue lives independent of the collective. These comprise the so-called 'individual ranchers', a crop of administrative and political elite that were allocated tremendously large chunks of land by the government of Kenya. The late 1970s and early 1980s saw key areas of Northern and Eastern Kajiado district individualizing formerly group held land. This general tendency toward individualizing land is lent further empirical support by the fact that land in most of Kenya, and in particular amongst communities that neighbor the Maasai such as the Kikuyu, Kamba, Kisii, and the Kipsigis, is held under individual title.

An examination of the evolution of the rules of registration and admission into group ranch membership highlights the population and scarcity problem. In all the group ranches studied registration began with the combined registration of the Ilterito, the Iinyangusi, the Iseuri, and the Ilkiseiya age sets at the time when group ranches were formed. In Meto and Enkaroni group ranch areas, recruitment of new members ended with the registration of the Irang Irang age set in 1984 and the register was 'closed' to any future member recruitment. The severity of the population issue is reflected in Nentanai group ranch area, the smallest group ranch in Kajiado district, where even the Irang Irang age set was not registered. More junior age sets such as the Ilkingonde, initiated around the time when these group ranches were ready to subdivide, found

the register closed and were shut out of a process by which they too would have become landowners. This applies to all other age sets such as the Ilmajeshi and the Ilkilaku/Ilpaang'u that were created after the Ilkingonde. They were all excluded because their inclusion would have reduced the share of group land available to each member that had already registered.

When the group ranches were first carved out of vast open Maasai territory that used to be controlled by specific sections of the Maasai, the intent was to register those families living in territory that was controlled by the section of Maasai that resided and thus held claim to that particular territory. This first registration required that community elders and government chiefs verify the residential status of each individual prior to his registration. Anyone certified as a genuine resident and whose identity was endorsed by a select grouping of elders was registered. Male household heads and some of their young male sons were registered. Included in this first registration were non-maasai from Kikuyu, Kamba, Somali and Wa-Arusha (of Tanzania) ethnicities who at the time were variously employed as cultivators and traders. They were affiliated either through marriage, friendship etc with local Maasai and were incorporated into Maasai socio-cultural structure through the age set and clan institutions. Each of the four group ranches studied of Enkaroni, Meto, Nentanai and Torosei had a very small minority of non-Maasai as registered members. For Enkaroni group ranch, in particular, the first registration was conducted under a somewhat peculiar circumstance. Enkaroni is inhabited by the Purko, the smallest Maasai section in Kajiado district. The boundaries of most group ranches are contiguous with the government's administrative locations, which are the smallest administrative units in the country. Since the Purko were extremely few, it was not administratively prudent to create a location specific for the Purko. Proposals at the time intended to annex the Purko to a neighboring section, the Ildamat. The Purko resisted this proposal by registering any male resident in the area, whether adult, child, non-Purko and even non-Maasai as a way of preventing this artificial assimilation into the Ildamat.

Beyond the restriction of residency and maleness there were no other requirements in the early years following group ranch establishment. But there seems to be movement towards greater strictness in the rules of member registration in later years. While earlier registrations were open to all male residents, later registrations imposed several restrictions: membership eligibility was narrowed to those born and raised within the group ranch and to those that had been initiated into adulthood according to Maasai custom; their endorsement by the general membership during annual general meetings was emphasized; new members were charged a registration fee and were required to possess a national identity card. These rules were ultimately negated with the closure of the register of members when each group ranch resolved to subdivide.

The closing of the register locked out eligible males such as the Iranglrang in Nentanai, the Ilkingonde in Enkaroni and Meto and the Ilkishili in Torosei. Women, excluded right from the inception of the group ranches, were eventually as widows, registered largely through the prompting of government officials. They were also registered as a matter of expediency. Registering a single widow on behalf of her eligible sons as opposed to registering the adult sons of the deceased reduces the ultimate number of individuals registered. This plays into the numbers and scarcity situation.

When the decision to subdivide was taken, the members and the committee undertook a laborious effort of sifting through the register to verify the eligibility of those registered. In Meto group ranch for example, the wa-Arusha, migrant laborers from Tanzania who came to assist in cultivation were first struck off the register owing to their Tanzanian nationality. Second, those double registered i.e. their names appeared in the Meto register as well as in the registers of adjacent group ranches were removed. By the time subdivision arrived there was a concerted effort by the committee and the membership more generally to exclude individuals that did not bear the Kenyan Maasai identity, in whatever form. For those that bore the identity, there was a further attempt to exclude them on the basis of age and gender. These efforts were driven by perceptions and realities of scarcity. Thus the specter of an expanding population and the imminent land scarcity suggested by such an increase was important in motivating individuals to subdivide.

### *The Individual Ranchers*

In addition to an increasing membership, the impact of the early individual ranchers in motivating group ranch members to subdivide cannot be overemphasized. As indicated earlier, individual ranches were established in the late 1960s and early 1970s at the same time as the group ranches. Some were established much earlier in the 1950s. These individual ranches were issued to members of the Maasai community that were willing to give up their traditional practice of communal living.

The independent Kenyan government, in its creation of the group ranch program offered those interested the option of owning individual ranches, as opposed to joining the group ranches. While the majority of the Maasai rejected this offer, the Maasai elite comprising individuals in government administration (nationally and locally), politicians, as well as the educated, accepted the offer for individual ranches. These individual ranches were intended to act as models that would be emulated by groups in the future. Consequently, not only were they extraordinarily large, between 3000-4000 acres, but the government provided them with necessary infrastructure

and support to ensure their success. Individual ranchers using their land titles as collateral thus had access to development loans from the Agricultural Finance Corporation and to extension services from the relevant government departments such as the Ministry of Livestock and Water Development. With this kind of support they appeared successful: Many individual ranchers constructed permanent stone houses, put up temporary and permanent watering facilities; increased the quantity and improved the quality of their herds. With time group ranch members, who were faced with increasing challenges to collective decision-making began to find the group concept unworkable and to see in individual ranching a reasonable and viable alternative. Group members were eager to access these loan facilities and achieve a similar success.

The individual title was viewed as the gateway to development as 'one cannot develop on *public* land.' Privatizing land was perhaps the magic bullet that would unleash development in Maasailand. A title to land represented complete and secure ownership, but more. It could be used as collateral to acquire loans for farm and livestock improvement; it could be used as security against which unforeseen circumstances such as illness could be confronted. For the poor in particular, individual ownership represented not only their extrication from a grazing interaction in which they were exploited as we see below, but also an opportunity to manage their livestock in harmony with pasture availability; an ability to earn alternative incomes either by leasing out excess pastures, cultivating, selling charcoal, and in extreme cases, selling off part of their land. With individualization, the poor would become property owners and have access to alternative productive resources that would enable them improve their status within the community.

This association of 'development' with individually owned assets is particularly strong in Meto, where large individual ranches virtually surround the entire group ranch save for the hills on its border with Tanzania. Group members witnessed individual ranchers using land titles as collaterals to take loans and which they used to increase the number and quality of livestock and to improve infrastructure. The livestock enterprise appeared to succeed and indeed thrive under individual ownership.

Meto is perhaps one group ranch where the role of alternative subsistence strategies was given serious consideration during the decision to subdivide. Being periodically ravaged by the East Coast Fever disease, livestock populations were increasingly threatened and cultivation assuming increased importance in the livelihoods of group ranch members. Under individualized system each individual would determine how much land to put under cultivation relative to grazing. Also the returns to investments of labor and seed would be realized by the same individual. Land use restrictions under group ranching made cultivation difficult, this in addition

to the risk of crops being destroyed by free ranging livestock. The increasing incidence of cultivation was noted with concern by the group ranch chairman during the general meeting of 27<sup>th</sup> September 1989. Cultivation in Meto was greatly facilitated by the hired labor of the wa-Arusha of Tanzania or through kinship ties with the Kikuyu. Though crops may fail in bad years grain surpluses in good years would be sold to members of the neighboring Torosei group ranch. Others however prefer to transport their surplus to Bissel market 56 Km away. Competitive pricing of maize in Tanzania hampers sales in Torosei, while Bissel sales are rendered less profitable by the high costs of transportation.

The success of the individual ranchers and group members' envy of it must be qualified. To some group ranchers, the very creation of individual ranches in the late 1960s and early 70s was the equivalent of a land grab in which huge chunks of communal land were hived off and transferred to exclusive individual use without the community's consent. Some individuals also harbored a niggling fear that this land grabbing might renew itself and the remaining parts of the group ranch might be taken in very much the same way as had happened during the creation of the individual ranches. These fears were especially acute amongst the members of Nentanai who also are surrounded by individual ranchers, but who have also witnessed livestock holding grounds in nearby Bissel being grabbed by influential individuals.

The members of Enkaroni group ranch viewed individual ranchers as a menace. Though some may have admired and even envied the 'development' exemplified by individual ranchers, most had more reason to resent than to admire their successes in the livestock enterprise. Individual ranchers would release their livestock to graze in group ranch pastures during the wet season and retreat into their fenced and exclusive ranches in the dry, while denying group members the use of their ranches during this time. The individual ranchers were in effect using the group ranch as a wet season grazing area and setting aside their own land as dry season grazing areas i.e. *olopololis*. These *olopololis* were exclusive, accessible only to the individual ranch owners themselves.

Why did Meto and Nentanai group ranches tolerate the herds of individual ranchers, while Enkaroni did not? Enkaroni, which in Ol-Maa means the 'place with no river', is not only inadequately supplied with water and pasture as well. It's location places it in a somewhat distant position to any alternative source of pasture and water. Meto, right on the border with Tanzania has unrestricted access to dry season pastures and water in nearby Tanzania. Nentanai's closeness to the Maparasha hills accords it the same advantages as Meto. In fact Nentanai is often referred to by individuals in Enkaroni as one of the last pasture refuges during the dry season. Both



Nentanai and Meto are severely ravaged by East Coast Fever, and the declining herds may have tempered competitive tensions with the individual ranchers.

#### *Stock holdings and grazing interactions*

Herds within the group ranch were a conglomeration of livestock belonging to both livestock-poor and livestock-rich individuals. Livestock ownership was not factored into pasture availability and all group members grazed on the same pastures. Livestock-poor individuals were discontented with this arrangement, as it did not differentiate between the pasture demands of different members. They felt that they were subsidizing the livestock enterprise of the rich, with no apparent gain to themselves. This was particularly evident in the drought periods when all livestock, belonging to both rich and poor, which after exhausting available pasture would be forced to migrate out of the group ranch. These migrations would result in substantial herd losses. Losses were particularly acute for the poor, who having set off with only a few cattle would often return with none. Livestock poor individuals were bearing the costs of collective herding, yet the benefits were concentrated among the wealthy few. These grazing inequalities and the benefit-cost differential dovetailed with the exploitative interactions with the individual ranchers and pushed group members into viewing subdivision as a desirable alternative. With subdivision, each individual would acquire his own parcel and be forced to manage his pastures according to the number of cattle that he owned.

#### *Challenges with group decisions*

The group ranch committee members were particularly sensitive to difficulties in collective decision-making. This group of 10 individuals, elected from the wider group ranch membership and mandated with running and overseeing all development efforts on the ranch were facing endless frustration over several issues. First, enforcing livestock quotas and getting individuals to limit or reduce stock quantities as part of ranch management planning was impossible. Livestock under indigenous Maasai herd management is owned and managed by individuals; herd size is individually determined. The economic and symbolic function of cattle occasioned a focus on accumulation amongst rational herd owners. The committee was unable to mediate against this powerful incentive structure and convince herd owners to reduce their herds. Second, and in addition to the uncontrolled accumulation of livestock by group ranch members, the committee faced considerable defiance of their attempts to define and enforce grazing and settlement patterns within the group. Individuals would for example graze livestock in areas deferred for dry season grazing, or even construct homesteads in the same. Similarly group

members would invite kin and friends to graze on group land without consulting the committee. Others would set wild fires to decimate tick infestations and to improve pastures. Yet still others were guilty of non-payment of their contributions for the financing of group projects such as water, schools etc.

While most of these challenges were resolvable and some resolved, for example by forcibly evicting unauthorized settlement or chasing away non members, these solutions were untenable (nor attractive) in the long run. The committee thus encouraged and even campaigned for subdivision as a way of divesting themselves of these responsibilities. When recalling some of the trials the group scheme underwent, the group ranch chairman for Enkaroni observed that 'it is only the government that can manage large pieces of land like group ranches.'

Consequently, the group ranch committee members invested much effort in encouraging subdivision. They not only campaigned for subdivision by presenting it as a government required initiative, emphasizing President Moi's previous advice to the community, but they also stirred deep-seated fears by suggesting that future, post-Moi governments may settle non-Maasai in the group ranches if left undivided. This may have played a pivotal role in hardening members' resolve to subdivide. This fear of immigrants and especially the Kikuyu must be contextualized. Though the wa-Kamba were rewarded for their role in the World War by being given land in parts of Northern and Western Kajiado, the Kikuyu were perceived as a bigger threat in spite of historical symbiotic Maasai-Kikuyu relations. Not only were the Kikuyu more numerous and economically stronger, but recent experiences of unfair land transactions in other parts of Maasailand have left Maasai suspicious of Kikuyus. The validity of such arguments can easily be called into question, because group ranches are legally titled and have thus far represented a most effective form of protection of Maasai land from government annexation or private/individual appropriation. Nonetheless, land remains a deeply emotive issue for the Maasai in their memory of the state's historical capacity to ruthlessly seize their land regardless of local community interests and in the wake of unequal land transactions with 'market-sawy' immigrants.

Clearly a multiplicity of factors underlies group ranch members' decisions to subdivide their collective holdings. The demand for exclusive, individual property rights in land follows quite closely economic and demographic predictions. But there are also distributional implications arising out of challenges to group governance and a defensive element against outsiders as well.

The preceding account has laid out factors that motivated demand for exclusive, individual property rights. But it is incomplete. It homogenizes a host of differentiated preferences amongst actors, and it obscures the concrete struggles, bargains and controversies that

defined the decision making process. A process that closely followed the age and gender differentiation of Maasai society; and one that was characterized by conflicting agendas and disparate abilities to influence the nature and direction of change. An analysis of the preferences of individuals and groups of actors, and the ways in which they pressed their claims in the run up to subdivision greatly enhances the understanding of the dynamics. It places in perspective the problem of why subdivision happened in the first place.

The following section highlights the heterogeneity of actors and interests in subdivision. It presents how these interests were articulated, mediated and tempered within the framework of a mix of formal-legal and customary institutions, to achieve the outcome of subdivision.

### **Group ranch actors and their preferences**

Maasai in the four group ranches I studied of Enkaroni, Meto, Nentanai and Torosei belong to the Purko, Matapato and Loodokilani sections. The Maasai community, like any other, can be classified into the following components: the elders, the *ilmurran*, the youth, the women and the children. The elders can further be disaggregated into two categories: senior and junior elders. These two categories of elders personify a power and authority structure that is entrenched in ritual, is defined by age and experience, and is given expression by decision-making responsibility and privilege within the community.

#### *The Elders*

In Enkaroni and Torosei group ranches, the age differential correlated closely with preference for subdivision, while in Meto and Nentanai it did not. In Enkaroni, for example, the most senior elders during the time when subdivision decisions were being debated were the Iiterito and the Iinyangusi. Majority of individuals in these age groups, though few in number, were strongly opposed to subdivision. To them land subdivision symbolized the end of Maasai pastoralism, the beginning of poverty, of a disintegration of community, and in the extreme land sales. In their reasoning subdivision would reduce the amount of land available for livestock, constraining the viability of livestock, leading to a reduction in the number of livestock that each could potentially own, ultimately resulting in poverty. Such poverty would then motivate individuals to sell parts of their land in their bid to survive. Such sales, if to outsiders, would result in the loss of Maasai land to non-Maasai. This restricted movement and 'caging in' of individuals in their parcels would undermine community cohesion. This seemed to be a standard preference of the most senior elders. There is though one exception. The senior Iinyankusi of

Meto and Nentanai group ranches were not against subdivision, in fact they strongly supported the subdivision of their group ranches.

Despite the senior elders' interjections, Enkaroni group ranch was still subdivided. But the elders' voices of dissent did not go unheeded judging by the widespread acknowledgement that elders' were the main stumbling block to subdivision. The Uteri to and Ilnyangusi were ineffective in pressing for their agenda. They were few and kept dying off as the debates progressed; the Hterito were too old and weak to leave their compounds and attend meetings; while many Ilnyangusi disgusted with the whole idea simply refused to attend meetings convened to discuss subdivision. When the matter was taken to a vote<sup>s</sup> amongst group members, the senior elders were outnumbered by the more numerous Iseuri and Ilkitoip—who were not only younger and stronger but who comprised the larger part of the 10-member group ranch committee.

Remarkably, the elders did not evoke their powers to curse those that went against their wishes because their 'sons' continuously appealed to them about the gains of subdivision. Their official sons are the Ilkiseiya, the right hand or older grouping within the Ilkitoip age set. Father-son relationships across age sets serve to solidify inter-age set relationships. While proximate age sets struggle against each other for power, leadership and community recognition, alternate age sets usually separated by a minimum of 14 years are characterized by a supportive, though paternalistic relationship with deference for the older age set. Within an age-set, on the other hand, individuals enjoy bonds that are cordial and mutually reinforcing; solidarity is a fundamental organizing principle. Thus the Ilkiseiya, the recognized 'sons' of the Ilnyankusi, many of who were in favor of subdivision, appealed for their 'fathers' blessings at many *barazas* or meetings convened by the group committee to discuss subdivision. As it were, these meetings may have been an exercise in public relations designed to contain the disapproval of the seniors. Their will was virtually ignored. The Iseuri and the Ilkiseiya, the younger, more numerous and most powerful elders on the group ranch, got the subdivision that they preferred.

The preference for subdivision by the Ilnyankusi elders in Meto and Nentanai departs radically from the 'conservatism' expressed by the Ilnyankusi of Enkaroni. The Ilnyankusi of Meto and Nentanai favored subdivision. Their preference for subdivision in these two cases was conditioned on the fact that members of their age set own the somewhat numerous individual ranches surrounding Meto and Nentanai group ranches. In the whole of Maasai in general, the Ilnyankusi were the first to be issued individual ranches, and have used

As specified by the group ranch Act of 1968, all group ranch decisions must be made in the presence of a quorum comprising at least 60% of the total membership, and more, that any individual decision must be put to a vote subject to a 60% majority rule.

their large parcels as collateral to develop their ranches and even to acquire more land<sup>6</sup>. The Ilnyankusi in Meto and Nentanai group ranches at the time of subdivision were in favor of subdivision because they felt that their peers who had obtained individual ranches had cheated them out of their land. Most regretted their earlier choices of not taking individual ranches when they were up for grabs. Here, the Ilnyankusi that disfavored subdivision were few and did not matter. Some disfavor until now, though at the time of subdivision they wisely recognized that it would still happen and chose not to resist.

The remaining groups of elders, the Iseuri and Ilkiseyia were much in favor of subdividing. Both these age sets had good representation within the group's management committee. For the Iseuri and the Ilkiseyia a key motivator was the need to 'develop' following the example of the individual ranchers. Each of the individuals envisioned a greater security with subdivision and the ability to make independent decisions with regard to cultivation, to livestock management and with the development of infrastructure and housing.

#### *Rich and Poor livestock herders*

The rich and the poor, who cut across these age sets, can also be grouped into preference categories. The rich, who own large numbers of livestock, and cattle in particular, were predominantly not in favor of subdivision. Their large herds would not be sustained under restricted, smaller sized parcels. Free grazing of their herds within the group ranch made them the disproportionate beneficiaries of the group ranching system; they were not in favor of change.

The poor on the other hand favored the idea of subdividing, though some noted that they 'feared' the rich as they expected the rich to influence decisions and to acquire larger parcels during the process of subdivision. Nonetheless the poor individuals were interested in the transition primarily because they did not have large herds and restricted grazing within the confines of individual parcels would in fact enable them to better manage their limited herds. Subdivision would also open up new income generating opportunities for the poor. They would lease excess pastures to the rich, and benefit from milking these as well. They would cultivate. They could sell charcoal, or even a part of their land. Subdivision would thus create avenues for poor individuals to uplift their status within the community. Thus in spite of the shadow of a possible land grab by the rich herd owners during subdivision, the poor had considerable

<sup>6</sup> The ownership of individual ranches within Kajiado and indeed Maasailand is dominated by the Ilnyankusi. This may be because Maasai political leadership at both national and local levels at the time when group ranches were being created and individual ranches demarcated in the 1960s comprised exclusively of members from this age set. The Ilnyankusi have now been nudged out of leadership by their followers, the Iseuri, who are also facing increasing challenges from their followers, the Ilkiseyia age set.

incentives to support the drive for subdivision. In any case, and as they argued, their poverty at one point in time does not preclude them from gaining riches at another.

### *The women*

Since women were not registered as group ranch members, they were not allowed into group ranch meetings. Women's not being registered may have followed Maasai cultural interpretations in which land and land use decisions are the responsibility of male elders. Women acquired rights through their relationships with males either as wives, daughters or sisters. Women in the studied group ranches thus did not participate in the decision of whether or not to subdivide. They 'followed their husbands decisions' or 'took their husbands stand.' Those that attempted to confront their husbands over the issue were met with indifference and sometimes outright hostility. On matters to do with land, women were decision takers. Though widows, as the executors of their deceased husbands' shares in the group ranch were sometimes permitted to attend group ranch members' meetings, they could not address men publicly. Nonetheless, their votes counted when time came to vote on whether or not to subdivide. Similarly, the registration of widows as replacement for their deceased husbands, helped contain the numbers problem. Instead of registering the adult sons, it was more convenient to register widows, who in turn would distribute to their sons.

Women thus had no forum within the structures of the group ranch to pursue and articulate their claims. They did not attempt to challenge the basis of their exclusion; the same elders who had crafted the rule to exclude them could not be relied upon to change the rules in their favor. Though women were denied participation, it did not deprive them of a preference and an opinion regarding subdivision.

Most married women favored subdivision on several grounds: inheritance for children, land ownership and freedom to conduct independent decisions. The few that were wary of subdivision cited restricted access to grazing and a breakdown of shared life patterns as fundamental constraints. Their lack of involvement in the process may also have colored their opinion against subdivision. Today, these same women are even more resentful of subdivision; not only have the conflicts over trespass increased but inconveniences to their daily lives are more. Subdivision has made their daily provisioning activities even more difficult. While one before had the entire group ranch to draw on for fuel wood, she is now forced to get fuel wood from a finite source within the confines of her parcel. Parcel owners have also sealed off the usual, shorter access routes to water. Those married women with young sons disfavored, as they knew their children had no chances of inclusion in the exercise.

The widows favored. Subdivision would allow them to become landowners through the inheritance of their deceased husbands' shares in the group ranch. This would ultimately give them some independence and control within the group ranch and their sons' futures would be assured as well. This had no precedence in Maasai culture. It signified a turning point in gender relations and likely the beginning of subtle shifts in the status of Maasai women. As one elderly widow put it 'women are now able to own land and livestock and bad sons won't have a chance to sell land.' Several widows did not attend the meetings because their in-laws represented them. One of these complained of inadequate involvement clearly resented the fact that "the brother of her late husband took charge and he is the one who showed her parcel."

### *The Youth and Struggles for inclusion*

The term youth is in itself ambiguous and relative. This study considers youth to be those male individuals that had not yet been initiated into elderhood but had been initiated into adulthood through circumcision by the time the process of subdivision began in the studied group ranches of Enkaroni, Meto, Nentanai and Torosei. At the time when subdivision issues were being discussed in mid 1980s, and in fact by the time members resolved to subdivide into individual parcels, several groups of youths in these ranches were eligible for registration as members. These were the Ilkingonde of Enkaroni, the Ilkingonde of Meto, some Hkishili (also=Ilkingonde) of Torosei and the Irang Irang of Nentanai. In all sections of the Maasai, the Irang Irang (referred to as Ng'orisho among the Matapato) are the immediate seniors of the Ilkingonde.

Like everyone else on the group ranch, these sets of youths favored the idea of subdivision, for very much the same promise of individual progress and development suggested by the individual ownership of land. Perhaps even more significant was the measure of independence from their fathers that the individual ownership of land portended. Maasai youths are typically reliant on their fathers for the initial acquisition of cattle and other stock to start them off in the livestock enterprise. This dominance by older folk is evident in other spheres of an individual's lifetime, as in the rites of passage. The younger is often at a less powerful position of an increasing power continuum. Land, a basic resource in the livestock enterprise is highly valued; and the youth saw in land ownership the ability to divest themselves, at least in an economic sense, of part of the hold their fathers, and ultimately elders, had over them. The urge to break away was all the more pressing due to the polygynous structure of most Maasai households. Not all wives in a polygamous household were treated equally; and the probability of disfavor

trickling down to children could not be discounted. It was not unlikely that such disfavor would manifest itself in the distribution of assets from father to sons.

Even though the youths favored land subdivision they were excluded from membership and subsequently an avenue through which they, by right, would have acquired a critical productive asset.

Though the age sets excluded varied somewhat, the basis of their exclusion was remarkably consistent across all group ranches: the problem that increasing the number of members would reduce the size of parcels that each would ultimately receive. The perception of the severity of the problem also varied depending on the group ranch. The fact that the Irangrang age set, a relatively more advanced age wise, were excluded in Nentanai is an indication of a more acute version of the problem: the small size of this group ranch made the range of whom to include even more restrictive. The inclusion of Ukingonde/Ilkishili in Torosei group ranch, yet their exclusion in Enkaroni and Meto is difficult to explain but may be a consequence of the times at which different ranches began serious discussions on subdivision. Group ranch records indicate that Enkaroni and Meto began discussion as early as 1982 and 1985. It is unclear for Torosei as records do not have any indication. Nentanai, the smallest group ranch began somewhat earlier than the rest and even resolved to subdivide two years earlier, in 1987, than the other three.

In Torosei group ranch, majority of the Ilkishili, who are also the same as Ilkingonde in other group ranches, were registered in 1985 around the time of their circumcision and four years prior to the resolution to subdivide. About 18 individuals were not registered because they were not circumcised by the time. Thus it is these individuals who initially sought registration. The registration of youth in Torosei however got complicated because this group ranch has not yet formally subdivided. Although they have resolved to subdivide, and informal demarcation has been conducted by the committee, it has not been legally surveyed and demarcated. Thus there is a sense that these demarcations are not final and can be adjusted as the process is not complete; and youths initiated much later than the Ilkishili, the Umajeshi age set, have as well begun agitating for registration.

In Enkaroni, which resolved to subdivide in 1988 and begun negotiations over subdivision in 1985 but could not proceed due to outstanding loans to the Agricultural Finance Corporation, the Ilkingonde age set were not registered. Though they had been initiated into adulthood by the time members resolved to subdivide, they were still excluded because the decisions to subdivide had been made, at least in principle, by 1985 during which time the Ilkingonde were undergoing initiation. By 1988, the Ilkingonde were Ilmurran and were still excluded primarily on the grounds that their registration would render land parcels much smaller



after subdivision. They were thus to look to their fathers for land. The situation in Meto group ranch was very similar to Enkaroni in this regard.

Nentanai, Kajiado district's smallest group ranch was unique in that a more senior age set to the Ilkingonde, were denied registration. Once again the primary reason for excluding the Iranglrang here was the decline in parcel sizes for the rest of the members if they were registered. They were to wait for distribution from their fathers. Nonetheless, about 7 Iranglrang were secretly registered by the committee in 1987 when the group ranch members opted to subdivide. This was justified on the basis that these Iranglrang were members of large families with many eligible sons.

The exclusion of youths in all these group ranches did not go uncontested. The youths did not accept the grounds of their exclusion. Arguing that land in traditional customary practice belonged to all, access to land at least for them as adult males originated from their membership within the community i.e. from the community, rather than from their fathers. As such, they had had every right to demand registration as this was their only avenue of accessing land through their membership within the community. They consequently organized to challenge their exclusion, and did this using various channels both internal and external to the community. This varied from the elders, to the committee, to the local administration, to government officials, right up to Maasai politicians of national stature, but with no success.

The excluded Iranglrang of Nentanai were the least organized and their unsuccessful confrontations did not go beyond the committee level.

In Torosei, the 18 excluded Ilkingonde actively sought registration from the committee in 1989. The group ranch committee did not accede to their demands. Three years later, this group, supported by their registered age set members together with their Il-Piron i.e. their 'fire-stick' fathers of the Iseuri age set, sought to convince the rest of the group members to support their bid for registration. This was unsuccessful, as the Ilkiseyia and Iranglrang denied their support. This denial was justified by the argument that their under age sons too should be registered; and was reinforced by the historical rivalries between members of adjacent age sets that is characteristic of the Maasai socio-political structure. Later, in 1996, when the Umajeshi, the age set immediately junior to the Ilkingonde came of age they sought registration as well. The committee referred the Umajeshi to seek support from the Ilkingonde and from the Iseuri. This was a natural decision because the Umajeshi at a future undetermined time will be united with the Ilkingonde to form a single age set, with the Iseuri as their sponsors and fire stick fathers. The Iseuri offered support, but the Ilkingonde insisted that their own unregistered 18 must first be registered before the consideration of the 160-200 Umajeshi.

Secondly, the Ilkiseyia and the Iranglang age sets, at an annual general meeting in 1998, categorically refused to support this second attempt at registration on the same grounds as before. Although the determination of such a meeting should have been conclusive, the question of the registration of these age sets is still pending largely because the committee itself is undecided on the issue. Out of the ten committee members, five, including the chair are Iseuri and desire the registration of their 'sons'-the Ilkingonde and Umajeshi. The other five, being of the Ilkiseyia age set, do not want this to happen. In addition, the unregistered youth have threatened to disrupt the activities of the surveyor when and if he comes to formalize the committee's earlier demarcation. Currently, the unregistered youths are anticipating being joined by the Ilpaang'u the most junior age set in the hierarchy. These are the official sons of the Ilkiseyia and it is likely that they will gain the support of the Ilkiseyia. The youths have decided to keep their struggles within the community until then. This tug of war among rival age sets is one of the factors contributing to the continued delay of Torosei group ranch's subdivision process.

The process by which Ilkingonde in Enkaroni and Meto advanced their claims took very much the same form as in Torosei. It was defined by similar alliances across age sets that were built around longstanding competition and rivalries among adjacent age sets and cordial, paternalistic relations between age sets twice removed. The Ilkingonde youth used their leader the Ilkingonde Ilaiguenani or age set spokesman to approach the elders. The age set spokesman or ilaiguenani is a much-respected individual who represents a crucial component of the traditional Maasai leadership institutions. The selection of spokesman is widely vetted by the elders (in particular the fathers of the individual's age set) and is based not only on personal integrity and charisma, but also on family and untainted family history. The Ilaiguenani for each age set is inaugurated during the Eunoto or shaving ceremony that admits the ilmurrans into elder hood; a ceremony where the ilmurrans' fascinating dreadlocks are shaved, and in which they exchange their characteristic spears for the sticks typically held by elders. All spokesmen whether of younger or older age sets have the power to discipline and even to curse individuals within their age sets. In addition, they are treated in much the same way as elders—they have direct access to the elders and sit together in exclusive elders' meetings.

In negotiating for their registration as members, the Ilkingonde, by way of their Ilaiguenani organized for a meeting with the group committee and influential group ranch elders. The elders were approached in the traditional fashion with blankets and local brew. Some elders, especially those with sons of the Ilkingonde age set agreed to support them. The elders of the Ilnyangusi who disfavored subdivision were also in support of the Ilkingonde registration. The

issue of Ilkingonde registration was however not resolved during this meeting; they all reached a consensus that it be put to vote at a more formal general meeting of all group ranch members.

Meanwhile, the committee members were running a parallel campaign against the registration of the Ilkingonde. They would for example cite the problem that each individual's share would reduce by an amount proportional to the number of new additions to the register. This agitated most peoples' immediate concern—that they would get small parcels. Part of the decision to subdivide the group ranch was in fact fuelled by this concern.

As part of their campaign against the Ilkingonde registration, the committee also made specific assurances to those in support of the Ilkingonde (in particular their fathers) that they would increase their parcel sizes to enable them accommodate their sons. In other instances, the committee would threaten to reduce the amount of land allocated to specific individuals supporting Ilkingonde registration. In addition the committee pressured the Ilkingonde Ilaiguenani to control and quieten his group, failing which they would engineer his removal from leadership. Each ilaiguenani has the power to curse as a way of enforcing compliance. They however also silenced the most vocal Ilkingonde leaders by promising them registration or promising them that they would see to it that their fathers were given large enough parcels to cater for their sons. These strategies were effective in dividing the Ilkingonde; it saw some individuals dropping out of the group; it saw their spokesman backing down and imploring his Ilkingonde compatriots to drop their agitation.

The Ilkiseiya and Irang Irang agesets (collectively known as the Ilkitoip), had their own argument against the registration of the Ilkingonde, not too different from the Ilkiseiya and Irang Irang of Torosei. They said that if the Ilkingonde were to be registered, then even their sons, some of the Umajeshi age set that falls behind the Ilkingonde and others even younger should be registered as well, since they too have rights to land in Enkaroni. By the time this matter was taken to vote during a general meeting, majority of the members voted against the registration of the Ilkingonde. A resolution was passed that no Ilkingonde (save for orphaned ones) be registered; and that all Ilkingonde be allocated land by their fathers.

Dissatisfied with this resolution, the Ilkingonde sought alternative means to have it reversed. They first appealed to the locational chief; he was indifferent. The Enkaroni chief, a group ranch member belonging to the Ilkiseiya age set, was reluctant to address the youths problem. Then they took their complaints to the District Officer in Kajiado town, who was indifferent to their plight. The youth finally resorted to the District Commissioner, the highest government authority within Kajiado District. Events at the DC's office demonstrate the group committee members' determination to lock the Ilkingonde out of membership. It also

demonstrated the extent of their influence as well. The DC initially declined to see the Ilkingonde; the Ilkingonde in their part refused to move from his office, claiming that they would camp at the DC's office until he responded to their request for a meeting or showed them where to go and settle. The DC agreed then to meet with the Ilkingonde, but only in the presence of their locational chief.

When the chief came to the meeting, he pointed out to the DC that these were a bunch of unruly youths intent on subverting the subdivision of Enkaroni group ranch. The chief further noted that he could not recognize the youths as hailing from his location. He dismissed them as imposters and suggested that they be disciplined for creating disturbances within his location; he recommended that they be jailed. Several of the youths were indeed jailed for a few days. This served to deter the youths; they were defeated and did not seek an alternative. Going to court was not a viable option as some were still in school and many were dependent on their fathers. Financing a court case would have been impossible. The youths returned home and re-approached the committee, which would not give them a hearing.

It is instructive that the Ilkingonde did not seek intervention from the Lands Office in Kajiado. The land adjudication officer in Kajiado, was also the assistant registrar of the group ranches. This office in Kajiado, as it relates to group ranch matters, closely follows the Group ranch Act of 1968. This Act only recognizes group ranch registered members and accords complete control of new member registration to existing group members by way of a 60% majority voting rule. The role of government is advisory and supportive. Any government involvement in matters of group ranch registration would be in excess of their mandate, and in contravention of the law. Recourse to the District Administration provided a leeway, albeit a very narrow one, to getting their concerns addressed. The District Commissioner heads the Kajiado land arbitration committee. Although this land arbitration group settles disputes, it settles disputes of a specific kind: those having to do with land that is individualized i.e. belongs to private, individual entities. The DC, even if he had wished, would have been unable to use his office to solve the registration of the Ilkingonde. At best, he would have used his stature as the top administrative agent in Kajiado responsible for security within the district, to plead with group ranch officials and members to register the youth.

The attempts of unregistered youths in Meto took the same form and followed the same pattern as in Enkaroni. About 216 youths, mainly Ilkingonde, variously sought support from the elders, the committee, and the local and district administrations in their bid to have their names added onto the register of members. As with Enkaroni, they organized under the leadership of their age set spokesman. Similarly, they sought support from the Iseuri, their fire-stick fathers.

Also similarly, they were denied support by the Ilkiseyia and Irang Irang, as expected following age set rivalries and in view of the fact that the sons of the Ilkiseyia and Irang Drang were underage and ineligible for registration. The youths in Meto also wrote a letter to the district land adjudication officer dated 10<sup>th</sup> June 1991, who referred them back to the committee. They were not registered.

Unlike the Enkaroni and Torosei youths, the Meto youths took their complaints further afield. They took their case to the Registrar of Group Representatives; the highest ranking government official in the ministry of lands and settlement under whose portfolio group ranch administration falls. They also sought audience with the Vice President, who at the time was a leading politician in Kajiado and nationally, and who had on several occasions intervened in group ranch matters in his home constituency.

The Registrar promised to convene a special general meeting to deal with this problem. This information leaked to the committee who went to see him before he took action and successfully blocked him from convening the meeting. The youths had placed their hopes in the registrar; his failure to decisively address the issue dealt a huge blow to their efforts. In seeking assistance from the Registrar, the youth were in effect calling upon his open support for their registration several years earlier. During an annual general meeting on 26<sup>th</sup> February 1987, the Registrar speaking on member registration, reminded the registered members that there were those who were minors during incorporation of their group ranch and who have now attained the age of majority and required registration. He informed the registered members that the non-registered were their sons who had a right to seek registration from a court of law and whatever the judge rules will be final. He however cautioned the non-registered members to refrain from using violence and not to take the law in their own hands, as there is always a court of justice.

The Vice President on the other hand arranged appointments with the youths, which he didn't show up for. The youths eventually gave up. They felt that the committee had used delaying tactics in solving their registration problem and that subdivision was too far-gone to reverse. They had struggled with the question of registration over a period of 4-6 months. These struggles faced other setbacks such as the disappearance of the Meto group ranch file from the Land Adjudication Department's registry in Kajiado, as well as the periodic absence of those that were in school who also had taken a leadership role. About 100 youths were involved, though only 15 representatives were selected to forward their complaints beyond the group ranch.

The committee intimidated the youths with threats that if they continued pursuing the issue of registration then their fathers would be given small parcels and/or issued parcels in unfavorable locations. One Ilkingonde had the following to say: " the committee threatened me

that if I don't remove from my age group my mother will be given land in a terrible area; so I removed from my age-group because I knew the committee had the power to do it." In addition to threats and intimidation, the committee took up their complainants' leaders and registered them as a way of weakening the group.

In documenting the overwhelming support for subdividing among group ranch members, we should be careful not to lose sight of the fact that several individuals opposed to subdivision recounted the use of threats and intimidation by committee members. One particular Ilkiseya elder mentioned, "Though he and a few others were against subdivision they were threatened that they would be left out without land." He feared victimization and consequently desisted from complaining.

### **Discussion and Conclusions**

The events outlined in this chapter demonstrate that individuals and groups will seek to alter situations that are disadvantageous to them, as they anticipate gains in a new and changed circumstance. To the group ranch members, the benefits expected in the new, individualized property rights structure outweighs the costs of transforming the old as well as the additional costs of maintaining the new structure.

The costs and benefits as well as risks of institutional change were however varied owing to the differentiated structure of group ranch communities. Consequently, for the excluded youths and women, the costs of institutional change outweighed the benefits as it created new uncertainties with regard to future access to productive resources. As a result, the youth contested their exclusion and using diverse forums to articulate and press their claims. Women on the other hand, lacking a forum to articulate their preferences, disengaged from the process. Rules created to exclude women had a cultural basis which they were neither ready nor equipped to challenge.

In the case of the livestock poor individuals, the costs of organizing to transform property rights and subsequently to defend the new rights were outweighed by the promise of certain benefits within the altered property rights structure. These included new income opportunities such as leasing pastures and cultivating; accessing capital markets via titles as collateral; and the management of individual herds in tune with pasture resources thus eliminating or reducing the need to migrate during dry spells.

The incentive structure of the wealthy herd owners is unclear. Though they disfavored the idea of subdivision because restricted access to pastures would threaten the viability of their large herds, they did not organize to alter the direction of decision making. Indeed they supported group ranch subdivision. That individuals who would logically be most disadvantaged by change,

and who had the resources and influence to delay or deter change, made no effort to do so is curious. The outcome of change, as evidenced by the distribution of land parcels, favored these individuals as will be demonstrated in later sections. The prior negotiation of such an outcome may have accounted for their stoic acceptance of change.

The conditions that influenced individual benefit-cost calculus's are consistent with predictions made by property rights theorists, and which were outlined in the introduction to this discussion. Land titles issued by the state upon completing subdivision would be used by individuals to access capital markets that were previously inaccessible to them. By freeing capital and creating opportunities for investment, titles are ultimately expected to increase the value of land. In this regard, titles can also be viewed as lowering the cost of obtaining development credit. In addition, the title as a symbol of ownership security, signals to potential buyers who do not have local knowledge thus broadening the land market to remote purchasers beyond local buyers (Alston et al, 1996).

Population growth, manifested by the progressive increase of group ranch members with the recruitment of groups of maturing youth was an important motivator for subdivision. For many members, it became obvious with time that a shortage was pending. By increasing resource scarcity population pressure enhanced the value of the resource. Individuals then found it to their benefit to invest resources in meeting the costs of privatization.

The group ranch, as with all collective goods, was subject to various kinds of incentive problems that created high governance costs for collective organization. Because in the traditional indigenous Maasai system livestock are individually owned and managed, the 'symbolic' function of cattle as well as a need to maximize family welfare in a relatively risky environment, created an incentive for rational herders to accumulate livestock. The group ranch committee, mandated with the management and administration of the group ranch, was unable to enforce livestock quotas and impose limits on grazing capacities. This would have gone against traditional values. More importantly, the committee, being wealthy herd owners themselves would likely not have acted against their own self interest. Consequently the size of herds went unregulated, with wealthy herd owners reaping disproportionate benefits from the collective and the livestock poor shouldering the uncompensated costs of collective grazing. These grazing externalities imposed on the poor by the wealthy, most pronounced during dry drought, undermined the provisioning abilities of poor herders, undermined the reproduction of pastoral livelihoods and negatively affected their incomes. The grazing of individual ranchers in the group domain only served to exacerbate the problem. Both became an externality that poor herders could no longer ignore. Since with private property the potential yields and profit expectations

can be attributed exclusively to the individual, a strong incentive was created for the livestock poor individual to support group ranch subdivision. This would eliminate the costs of collective herding. For the committee as well, private property eliminates governance costs such as those incurred to reach collective agreement and to organize a community of users. The opportunistic tendencies of members to circumvent rules, for example when they cultivated, or constructed settlements in prohibited areas, or when they invited their friends to graze in the group ranch, further increased the costs of governance.

The footprints of states, both colonial and post-colonial, in this transformation cannot go deep enough. The creation of a system of group and individual ranches in close proximity, the latter advantaging those privileged in the community was in and of itself an important contributor. [Actually, I need help thinking this through!!]. The state created a system that it failed to support. The elite individual ranchers could not be sanctioned; though committee had authority to regulate herds—there was no sanctioning system to support this; in any case traditional values militated against this.

Beyond actuating the predictions of property theories, this chapter also begins to draw attention to certain crucial features of the process of transformation. Some of these features seem to have escaped the focus of many theorists. The struggles of the youth for inclusion, and their search for help across multiple forums ranging from local cultural institutions, government administration and national politicians, is an indication of the multiple identities they could draw upon as they articulated their claims. First as sons, second as adults in indigenous Maasai custom, third as citizens of the republic and lastly as constituents. There might be distinct advantages in doing so which may not have been realized in this particular instance. This is consistent over much of Africa where access and control over land is contested and negotiable, where successful competition for access requires investment in social relationships, and where shifting identities are used in contestation (Berry, 1993; 1989).

The changing structure of land ownership transcends the transformation of economic and political relations, into transforming entire cultural structures and practices (Okoth-Ogendo, 1989; Karuti, 2000). The youth can no longer gain access to land as adult members in their communities; they now are dependent on their fathers for land. Inheritance has taken on new meaning; and youth are now not only dependent on their fathers for livestock but for land as well.

Though institutional change, and in particular the transformation of property rights in land, may be triggered by changes in relative prices and other factors within the economic sphere, it does also seem to be a political process involving negotiation and bargaining among diverse



agents, is somewhat embedded within local socio-cultural structures and involves the state government in crucial ways.