

**THE TRANSFORMATION OF PROPERTY RIGHTS IN KENYA'S MAASAILAND:  
TRIGGERS AND MOTIVATIONS**

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## ABSTRACT

This paper explores the puzzle of why the pastoral Maasai of Kajiado, Kenya, supported the individualization of their collectively held group ranches, an outcome that is inconsistent with theoretical expectation. Findings suggest that individuals and groups will seek to alter property rights in their anticipation of net gains from a new assignment, even as they seek to eliminate disadvantages that were present in the status quo property rights structure. Heightened perceptions of impending land scarcity, failures of collective decision making, the promise of new income opportunities and the possibility of accessing capital markets motivated individuals to support group ranch subdivision. More importantly individuals were confronted with a declining security of tenure over their lands. Their supporting a transition to individual rights also represents a rational response anticipated to secure land claims against unauthorized appropriations by both Maasai and non-Maasai elite. Given the differentiated structure of group ranch communities, the costs and benefits of property transformation were unevenly distributed. The political process yielded beneficial outcomes for those with access to decision making, while creating vulnerabilities for those with less access such as women, the youth and poor herders.

Property rights, privatization, land tenure, group ranches, Maasai, pastoralism, Kajiado

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# THE TRANSFORMATION OF PROPERTY RIGHTS IN KENYA'S MAASAILAND: TRIGGERS AND MOTIVATIONS

Esther Mwangi<sup>1</sup>

## 1. INTRODUCTION

This paper explores current processes of property rights transformation in Kenya's Maasailand. It addresses the puzzle of why Maasai pastoralists in Kajiado District of southwestern Kenya are supporting the subdivision of their collectively held group ranches<sup>2</sup> into individual, titled parcels.

Viewed against the backdrop of Maasai pastoral livelihoods that have evolved in conditions of climatic variability and resource heterogeneity, the decision to subdivide is puzzling. Rainfall over most of Kajiado district is low, between 400-500mm (about 16-20 inches) each year and variably distributed across space and time. The mobility of Maasai herds allows for maximum and equitable exploitation of patchily distributed water and pasture.

Subdivision of collective holdings, their parcellation and subsequent distribution among individuals may more severely impede mobility, which is a vital component of livestock production systems under conditions of variability (Bruce and Mearns 2002; Niamir-Fuller 1999, 1998, 1995; Mehta et al 1999; Behnke and Scoones 1993; Sandford

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<sup>2</sup> Early experiments with land tenure reforms in Kenya's rangelands were group ranches in Maasai territory in the late 1960s and 70s. A group ranch is land that has been demarcated and legally allocated to a group such as a tribe, a clan, section, family or other group of persons (Kenya, Republic of, 1968b). The group ranch is composed of a body of members to whom legal title has been jointly 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 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.

1983). Reduced mobility will likely magnify vulnerability to drought and may jeopardize the viability of the livestock enterprise upon which pastoral livelihoods are dependent (Van der Brink et al. 1995). In the longer run, it may also undermine the reproduction of the pastoral culture (Kituyi 1990; Doherty 1987). No doubt the Maasai are aware of this.

But then *why* do they still pursue the subdivision of group ranches? Unlike previous division of land in this area, when donor sponsored, government-driven initiatives carved out group and some individual ranches from the open, undivided Maasai range, the clamor for subdivision and individualization of these past two decades has emerged from within the Maasai community itself (Southgate and Hulme 2000; Kimani and Pickard 1998; Woodhouse 1997; Blewett 1995; Galaty 1994; Rutten 1992; Kituyi 1990).

Why would the Maasai pursue a seemingly ‘irrational’ system in the face of a more rational alternative such as group ownership? This is a concern shared by many scholars who puzzle at why seemingly perverse property rights persist in the face of what would appear to be obvious alternatives. The property rights approach offers a dynamic explanation for the conditions under which private property develops (Eggertsson 1990; North and Thomas 1981, 1977, 1973; Demsetz 1967), and the mechanisms that define the process of transition (Platteau 2000; Firmin-Sellers 1996; Knight 1992; Libecap 1989).

This paper first lays out in greater detail the framework that will be used to analyze individuals’ motivations for supporting the subdivision of their collective holdings. It then briefly outlines the methods used and provides some background to the study area, after which it discusses the rationale for group ranching. This section also discusses the results of prior work on the evolution of group ranching in Kajiado district.

The final sections present this study's findings and discusses their significance in relation to explanations provided by property rights scholars.

## **2. THE INDIVIDUALIZATION OF PROPERTY RIGHTS: AN ANALYTICAL FRAMEWORK**

Certain conditions within the socio-economic sphere may motivate individuals and groups to seek to privatize/individualize property rights in land. These conditions may 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. A change 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 resource 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 may 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 surveys, 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.

This paper uses the framework outlined above to explore the puzzle of why group ranch members supported the individualization of their collective holdings. It discusses 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, and their interactions is analyzed. There is an 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.

### 3. THE STUDY SITES AND METHODS

Kajiado district is located on the southern tip of the Rift Valley province, one of Kenya's eight provinces (Figure1). Most of the studies on group ranch subdivision were mainly conducted in the Keekonyokie and Kaputiei areas of northern and eastern Kajiado district, which are generally closer to Nairobi (Kenya's capital city), are ethnically diverse and receive higher rainfall totals relative to other parts of the district. These areas represent no more than 8 percent of the district. Very few studies have been conducted in the more arid areas that are more representative of the district and which are also fairly distant from Nairobi. The results of these prior studies suggest that closeness to major cities and towns, high populations of immigrant cultivating communities and high agricultural potential are important conditions for the drive towards subdivision and increased privatization in Kajiado district.

But what of the rest of Kajiado, where these conditions hardly hold and where there is still pressure to subdivide? The sites selected for this study are an attempt to represent conditions different from those in the above-mentioned cases, i.e. conditions that are reflective of the situation over most of the district.

The four study sites were selected from one ecological zone, where the conditions of soils, vegetation, geology and rainfall as well as ethnic composition are relatively homogeneous. Four group ranches were selected: Enkaroni group ranch area, Meto group ranch area, Nentanai group ranch area and Torosei group ranch (Figure 2). These were selected to include variations in size and location, in proximity to main the main livestock marketing center of Bissel, and in how far along each was in the subdivision process (See Table 1 below). Because of reduced transportation costs, land closer to markets tend to



have higher values, creating greater incentives for creating and formalizing ownership and individuals. Larger group ranches with many members, on the other hand, more likely face higher costs of organizing for change.

**Table 1--Basic information for Enkaroni, Meto, Nentanai and Torosei**

<b>Group ranch</b>	<b>Year GR was created</b>	<b>Size (ha)</b>	<b>Number of Members</b>	<b>Year when member resolved to subdivide</b>	<b># of titles Issued by Oct 2002</b>	<b>Distance from Bissel (Km)</b>
<b>Enkaroni</b>	April 1975	11,378	356	May 1988	310	8 (5miles)
<b>Meto</b>	December 1977	28,928	645	Sept 1989	400	65 (40)
<b>Nentanai</b>	December 1977	3696	57	March 1987	42	18 (11)
<b>Torosei</b>	June 1977	45,44	300	Sept 1989	-	56 (35)

Fieldwork was conducted over a one-year period from January 2001 to January 2002. A second and complementary phase of fieldwork was conducted from June to August of 2002. The first part of the 2001 fieldwork was focused on administering interviews. These interviews were designed to find out why individuals supported subdivision, which category of individuals were most or least in favor of subdivision and why, as well as taking a look at the evolution of group ranch membership rules. For Torosei group ranch, which had not formally subdivided by the time fieldwork, a slight variant of the original survey instrument included questions intended to reflect reasons why this group ranch delayed subdividing yet members resolved to subdivide about the same time as with the other group ranches of Enkaroni and Meto.

A total of 334 interviews were conducted across different categories of elders, the youths, married women and widows for all four study sites. The table below provides a

breakdown of these respondents by group ranch and social category. The proportion of general membership, interviewed in each group ranch is as follows:

	No. of Members	No. of Members Interviewed	% Interviewed
Enkaroni	356	48	13
Meto	645	88	14
Nentanai	57	30	53
Torosei	300	64	21

These varying sample proportions reflect disparities in the number of localized settlements within each group ranch, and tend to be higher where a group ranch had a larger number of settlement areas or localities owing to its larger size, as in the case of Torosei group ranch. Nentanai is a unique case because it had a total of only 57 registered members, 30 of who were interviewed.

## THE MAASAI GROUP RANCHES

### *Why Group Ranches?*

Group Ranches were primarily intended to foster the commercialization of Maasai livestock management systems and to transform land into an economic good subject to free buying and selling. 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.

The transformation was envisaged to be simpler, with lower costs and tax rates under a special new Act, the Group (Land Representatives) Act, than under corporate law. Group ranching was also envisaged to facilitate the commoditization of Maasai herds and lands without creating a large pool of landless individuals. Paradoxically, it

was also envisioned to provide an evolutionary mode of transformation that would be based on the traditional ways of the Maasai.

The Land Adjudication Act of June 1968 facilitated the creation of group ranches (Kenya Republic 1968a). It provided for the recording of rights and interests in customary lands, and their assignment to their customary users. The Land (Group Representatives) Act on the other hand provided for the governance and administration of group ranches. Under the Land (Group Representatives) Act, every member of the group ranch is deemed to share in the ownership of group land in *equal, undivided shares*. And each is entitled to reside in group land with family and dependents (Kenya Republic 1968b). Each group ranch is required to elect its group representatives who are expected to ensure that the rights of any person under recognized customary law are safeguarded in so far as that is *compatible with the operations of the group*. They are also authorized to hold property on behalf of, and to act on behalf of and for the collective benefit of all members of the group. The Act empowers the group to craft its own rules regarding the running of its own affairs such as procedures for the administration of its property, the registration of new members, and the disbursement of funds for group projects. Each group is required to hold a general meeting of its members every year. All group members are entitled to attend these meetings and to vote in them. No business should be transacted at a meeting of a group unless at least 60 percent of the members of the group are present at the meeting. Further, a resolution of the group must be supported by the votes of at least 60 percent of the members of the group present at the meeting.

Out of the group representatives, a committee is to be elected by open ballot each year at the group's annual general meeting. The committee comprises a Chair, Vice

Chair, Secretary, Treasurer and 3 other members of whom at least 2 are elected from the group representatives. The committee is required to assist and encourage members to manage the land or graze their stock in accordance with sound principles of land use, range management, animal husbandry and commercial practice. The last item in the Act provides for dissolving the group ranch. This can only occur following a written application signed by a majority of the group representatives.

To implement this development program, the Kenyan government sought loans and grants from international agencies such as the World Bank, USAID, the Swedish Aid agency, Canadian Development Agency and the United Kingdom. The loans were granted under the auspices of the Kenya Livestock Development Program (KLDP). The Department of Land Adjudication and the 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 donors.

The first group ranches to be adjudicated in Kajiado District were in the Kaputiei section of eastern Kajiado. Here, 14 ranches averaging 1900 ha, with about 100 families each were established in the latter part of the 1960s (Davis 1970). In some northern areas of Kajiado district however some individuals rejected group ranches and were instead given individual tenure to holdings of usually less than 100 ha (Grandin 1987). A total of 57 group ranches were later adjudicated in other parts of the district.

*Why did the Kenya Government and the Ordinary Maasai Accept the Concept of Group Ranching?*

The Kenya government needed to increase the low levels of productivity associated with subsistence pastoral practices in order to supply growing urban populations with reasonably priced meat. Group ranching schemes appeared to offer an efficient means of utilizing development loans to bring pastoral regions into commercial production. Group-based schemes were expected to enjoy economies of scale for the provision of infrastructure such as livestock dips, water and roads. 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). Group ranches were already fully stocked by the members' privately owned cattle and there was no need to provide funds for ranch employees. 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. Famine relief was also increasing becoming a burden and a political embarrassment to the Kenya government. Inputs through the project were anticipated to lower the need for famine relief activities (Jahnke et al. 1972), while stabilized ranching was expected to provide a better opportunity to control overgrazing.

And why did the ordinary Maasai accept group ranches? 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 accepted the idea of group ranches primarily because it afforded them protection against further land appropriation from government, against the incursion of non-Maasai and from a land grab by the elite

Maasai (Fratkin 1994; Campbell 1991; Galaty 1980; Goldschmidt 1980; Hopcraft 1980; Halderman 1972; Hedlund 1971). The history of Maasailand since the late 1800s has been one of dispossession (Tignor 1976; Sandford 1919). In 1904 and 1911 the Maasai were evicted from a large chunk of their northern territory by the Colonial administration to create space for the settlement of European immigrants whose agricultural and other commercial activities were anticipated to power economic development in the new Kenya Colony. In response to settlers' demands, private, individually owned farms and commercial ranches were formed in these areas. Maasai contestation over the appropriation of these lands were unsuccessful. 1904 and 1911 represent the first wave of land alienation from the Maasai who were relocated to reservations in the south, where they currently reside. These southern areas were either too small or too arid to support transhumant pastoralism or just simply inhospitable; the northern boundary of this reserve was drawn to exclude the most valuable water supplies, which were included in the land alienated to the Europeans.

The Kenya Land Commission of 1932 which was mandated with evaluating current and future land needs of the African population, to determine whether it was feasible to set aside more land for African communities and to evaluate African land claims over land alienated to non-natives, did not find favorably for the Maasai (Kenya Colony and Protectorate 1933). This Commission held that the Maasai occupied Kenya's best pastoral land, were Kenya's wealthiest tribe, and had sufficient land to meet their needs and more, and instead they should be forced to lease out their land to other communities, particularly the cultivators. This would bring tsetse-infested areas into cultivation and it would help relieve overcrowding in other African areas, particularly in

the Kikuyu Reserve. The passing of the National Parks Ordinance in 1945 paved the way for the second wave of land alienation, primarily to promote wildlife conservation and tourism through of National Parks, Game Reserves and Game Conservation Areas. A total of 25792 Km<sup>2</sup> was further carved out which constituted dry-season highland or swamplands and salt licks that are strategic resources for the sustenance of Maasai livestock management systems (Kituyi 1990). These series of recent historical events created a political risk of outsiders appropriating Maasai lands. More recently still, population pressures in the high potential areas of the country resulted in infiltration of immigrants into Maasailand (Fratkin 1994).

Group ranch development also 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 (Davis 1970).

It is now widely accepted that group ranches failed to meet their intended objectives. Barely ten years after their creation there were demands for their dissolution and subsequent division into individual, titled units for distribution among registered members. This disintegration began as early as the mid-1970s to early 1980s for the Kaputiei ranches of north eastern Kajiado district. Demands for subdivision in other parts of the district gained momentum between 1984 and 1996. By 1985, 22 group ranches had resolved to subdivide; 7 went ahead and subdivided (Munei 1987). By 1996, 22 group ranches had actually subdivided and individual land titles begun to be issued (Kimani and Pickard 1998). 11 other group ranches were in various stages of subdivision. By 2000, 31 group ranches had subdivided and been issued with titles. 14 others had resolved to

subdivide and were being surveyed and demarcated. Only 12 had resisted subdivision.

What fueled the increased demands for subdivision?

## 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 Kenya's President Moi on several occasions between 1983 and 1989 voiced his support for the process. In 1983, President Moi, speaking at a fund drive in neighboring Narok district, urged members of group ranches to subdivide (*Daily Nation*, 7/19/1983; *Kenya Times*, 7/19/1983). 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. Two years later President Moi reiterated his call for subdivision in Trans Mara district. Here he advised Maasai leaders to begin land adjudication to enable each family to develop its own farm (*Kenya Times*, 3/9/1985). In 1986 the Narok District Commissioner announced 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 (*Daily Nation*, 8/7/1986).

Kajiado district joined the fray in 1987, when political and civic leaders resolved that all group ranches in Kajiado district be subdivided *equally* among their respective members on the basis of the 'family' unit (*Daily Nation*, 1/23/1987). Speaking at another fund raising event in Kajiado town, President Moi directed that all loans given to dairy farmers in Kajiado district by the Agricultural Finance Corporation be written off owing



to the fact that cattle died in the 1984 drought and farmers consequently had no means through which to repay their loans (*Daily Nation* 4/15/1989). The President also directed that the process of group ranch subdivision be speeded up so that owners of parcels could get title deeds to their land.

The President's encouragement for subdivision, likely originating from pressures within Maasailand itself, had two effects. First, it fostered a grudging acceptance of 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. Group ranch members in Kajiado district began to vote for the dissolution and subsequent subdivision of their group ranches. The four group ranches studied in this research, consistent with the general trend in the district, resolved to subdivide in 1987, 1988 and two in 1989.

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. As a result, 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 earlier taken loans for the implementation of group ranch projects and were prevented from subdividing because they had not completed paying off their loans. By tipping public opinion in favor of subdividing, by supporting the 'rescheduling' of loans taken by ranchers, and by

overriding 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 announcements, government officials from the Departments of Lands Adjudication and Range Planners from the Ministry of Livestock Development were cautious and indeed stopped short of openly 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<sup>3</sup>, for example, the 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 be able to keep no 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 thus served to silence the bureaucracy, forcing it into action where previously it was unwilling. Government surveyors were assigned to the process, while range officers from the Ministry of Livestock Development and Planning were enlisted to ensure that subdivided parcels were viable.

It must be recognized however 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

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<sup>3</sup> Meetings File: Enkaroni group ranch, District Land Adjudication Office, Kajiado District.

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<sup>4</sup>. 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 chief's administrative umbrella i.e. the local *baraza*, were not recorded in writing. Such *barazas* 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.

Table 2 below illustrates individual preferences for subdivision according to age set and status for each group ranch. Table 3 goes further to list the various reasons that individuals cited for desiring to have their group ranches subdivided. These reasons are provided for each group ranch and also aggregated across all group ranches. The figures in these tables in addition to more extended explanations offered by each individual in their interview session, form the basis for analysis and discussion in the following sections. All figures in Tables 2 and 3 relate to registered members of the group ranch whose membership status conferred upon each of them rights to decision making. They each received individual parcels upon group ranch subdivision.

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<sup>4</sup> Meetings File: Enkaroni Group Ranch. Department of Land Adjudication, Kajiado District.

## POPULATION INCREASE AND A STATIC RESOURCE BASE

Fundamental to the reason to subdivide across the group ranches studied of Enkaroni, Meto, Nentanai and Torosei were members' concerns with increasing human numbers in the context of a fixed, non-expanding land resource base. As young men matured, they were recruited into group membership. This recruitment commonly involved the collective registration of an entire age set. Members' shares to group ranch land were gradually diminishing with the expansion of membership. The anticipated outcome was 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 also reflects a general sense that land subdivision was unavoidable; a sense that is tied to events in Kajiado district and elsewhere in Kenya.

Tables 4 and 5 present population figures for each group ranch for the past 20 years and incorporate three population census data. Table 6 gives an indication of new registrations across time in some of the group ranches.

Table 2--Breakdown of group ranch members' preferences for subdivision

Age Set/Status <sup>5</sup>	Enkaroni		Meto		Nentanai		Torosei	
	Favor	Disfavor	Favor	Disfavor	Favor	Disfavor	Favor	Disfavor
Ilterito	-	-	1	0	-	-	-	-
Iinyankusi	2	2	4	2	6	1	0	0
Iseuri	11	1	14	1	8	0	8	7
Ilkiseyia	17	1	16	7	3	2	9	3
Irang'irang/Ng'orisho	10	0	10	3	3	0	9	3
Ilking'onde/Ilkishili	3	0	5	0	-	-	13	10
Widows	2	2	12	3	2	2	2	2
<b>Total</b>	<b>45</b>	<b>6</b>	<b>62</b>	<b>16</b>	<b>22</b>	<b>5</b>	<b>41</b>	<b>25</b>
	<b>(88.24%)*</b>	<b>(11.76%)*</b>	<b>(79.49%)*</b>	<b>(20.51%)*</b>	<b>(75.86%)*</b>	<b>(10.34%)*</b>	<b>(63.08%)*</b>	<b>(38.46%)*</b>
<b>Grand Total</b>	<b>170</b>	<b>52</b>						
	<b>(76.58%)*</b>	<b>(23.42%)*</b>						

\*Proportion of registered members that were interviewed in 2001

<sup>5</sup> The age-set is a central institution in Maasai social and political organization and comprises of males initiated within a specific ten to fourteen year period. Political action and cooperation in social and economic activities tends to occur within the structure of the age set. An age set pays respect (*inkanyit*) to all groups senior to it and receives respect and deference from those junior to it. However, the expected relations of deference and respect between adjacent age sets are complicated by rivalry and competition, while relations between members of the same age set are cordial, cooperative and informal. Appendix Table 1 indicates approximate ages of individuals within each age set. Younger age sets were yet unnamed during data collection.

**Table 3--Factors that motivated group ranch members to prefer subdivision**

	Enkaroni		Meto		Nentanai		Torosei		Total
	Elders	Widows	Elders	Widows	Elders	Widows	Elders	Widows	
Motivation	15	0	50	15	19	3	42	4	<b>148 (64%)</b>
Acquire title for development									
Land scarcity from expanding population	20	0	43	11	12	0	47	3	<b>136 (59%)</b>
Threat of loss to non-Maasai and others	15	0	41	12	6	2	53	2	<b>131 (57%)</b>
Individual Ranchers	12	0	15	2	9	2	2	0	<b>42 (18%)</b>
Herd Inequality in group ranch	8	1	-	-	1	0	1	0	<b>11 (5%)</b>
Problem with Group Decisions	7	0	5	1	3	0	5	0	<b>21 (9%)</b>
Government directive	1	0	4	0	1	0	3	0	<b>9 (4%)</b>
Politicians influenced	1	0	6	0	2	0	2	0	<b>11 (5%)</b>

**Table 4--Number of members in each group ranch in three time periods**

Ranch	1982	1984	2002*
Enkaroni	190	336	356
Meto	408	425	645
Nentanai	51	51	56
Torosei	165	165	300

\*For the subdivided group ranches, the year 2002 refers to number of members that were eventually registered and to whom land was allocated.

Source: District Land Adjudication Office, Kajiado District.

**Table 5--Total population in the study areas**

Name of Location*	1979		1989		1999		2002 Projection at 4.5% Growth Rate	
	Male	Female	Male	Female	Male	Female	Male	Female
Enkaroni	**	**	731	757	1209	1340	1384	1534
Meto	1629	1766	2401	2551	2529	2511	2895	2875
Nentanai Village	**	**	**	**	192	234	210	268
Bissil	**	**	1922	1878	4567	4851	5229	5554
Torosei	1696	1607	987	897	1209	1340	1384	1534

\* Each of the locations coincides with a group ranch, except Nentanai which falls under Ibissil location.

\*\*Data not available.

Source: Central Bureau of Statistics, Ministry of Finance and Planning (2001b 1994, 1981).

**Table 6--Number of individuals registered**

Group Ranch	Registrations*
Enkaroni	1984: 89 registered
Meto	1980: 23 1985: 134 1989: ? 1992: 38
Nentanai	
Torosei	1985: 117

\* These are in addition to those registered when the group ranches were first incorporated in the 1970s.

Source: Group Ranch Meetings Files, Enkaroni, Meto, Nentanai, Torosei. Department of Land Adjudication, Kajiado District.

By the time the studied group ranches of Enkaroni, Meto, Nentanai and Torosei were debating whether or not to subdivide, many group ranches in Kajiado were engaged in the same discussion while others such as those in Kaputiei and in Ngong divisions had already subdivided about a decade earlier or were at advanced stages. This general tendency towards individualization can be seen in other parts of Kenya such as amongst the Kikuyu, Kamba, Kisii, and Kipsigis communities who neighbor the Maasai and whose land is now held under individual title.

The links between increasing numbers of registered group ranch members and accompanying perceptions of land scarcity is reflected in the ever more stringent rules for recruiting individuals into group membership. In all the group ranches studied, registration began with the combined registration of the Iiterito, the Ilnyankusi, the Iseuri, and the Ilkiseiya age sets at the time when group ranches were formed (See Annex I for age set chronology in the study areas). 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. More junior age sets found the register closed and were shut out. Their inclusion would have reduced the share of group land available to each registered member. In Nentanai group ranch, which is Kajiado's smallest, even the relatively more senior Irang Irang age set was not registered!

When the group ranches were first carved out of vast open Maasai territory the intent was to register those families that resided in specific areas and who held claim to that particular territory. This first registration of group ranch members registered male household heads and some of their young male sons. Very few non-Maasai from Kikuyu, Kamba, Somali and Wa-Arusha (of Tanzania) ethnicities were included in this first registration. Many of them were



employed as cultivators and/or traders and were affiliated to local Maasai either through marriage or friendship and had been incorporated into Maasai socio-cultural structure through age set and clan institutions.

Apart from residency and being male, there were no other restrictions in the first few years following the establishment of group ranches. Later years however limited eligibility to a set of criteria. An individual thus had to have been born and raised within the group ranch, had to have been initiated into adulthood according to Maasai custom, had to be endorsed by the entire membership during annual general meetings, had to possess a national identity card and had to pay a registration fee. These rules were ultimately negated with the closing of the register of members when each group ranch resolved to subdivide.

Closing the register of members locked out eligible males such as the IrangIrang in Nentanai, the Ilking'onde in Enkaroni and Meto and the Ilkishili in Torosei. Women, who were excluded right from the inception of the group ranches, could only be registered as widows, and then only after the insistence of government officials. More strictly enforced rules of eligibility to membership are just part of a wider exclusion mechanism. Questions of identity and belonging also emerged when group ranch members resolved to subdivide. Members and their committees undertook painstaking effort to verify the identity of those registered. In Meto group ranch for example, the wa-Arusha, migrant laborers from Tanzania, were struck off the register because they were of Tanzanian nationality. Similarly, individuals whose names were doubly registered in Meto as well as in the registers of adjacent group ranches were struck off one register. Multiple registrations of an individual within one group ranch register under different names was also corrected for. Exclusion was thus a prime theme in group ranch subdivision. In earlier times exclusion was based on gender. In later years age became the basis of exclusion. Yet later still

identity, i.e. whether one was Kenyan Maasai or not and/or whether one belonged to one group ranch or the other became the basis of exclusion. These efforts at exclusion fed off notions and realities of land scarcity that were in turn fuelled by expanding human numbers in the group ranches.

#### THE INDIVIDUAL<sup>6</sup> RANCHERS: LAND TITLES, LAND GRABBING AND COMPETITIVE GRAZING

Most individual ranches were established in the early 1960s to early 1970s. Individual ranches were a tactical scheme in the broader plan to commercialize land and livestock production in Maasailand, as an offshoot of earlier government policies—the Kenya Land Commission of 1932 and the Swynnerton Plan of 1955. Because the individual ranchers were to be used as a model for the rest of the Maasai to emulate, conditions were created to 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 available through the Agricultural Finance Corporation. This was part of World Bank financing to Kenya's Livestock sector under the Kenya Livestock Development Program. The individual ranchers also had support from livestock extension officers from the Ministry of Agriculture and Livestock Development. The first individual ranch was established as early as 1954 (Campbell 1993). By 1963, 24 individual ranches had been created (Rutten 1992). In 1965, 28 more individual ranches were established in the Kaputiei area to the east of Kajiado district (Hedlund 1971). These took up about 7 percent of the entire land held territorially by the Kaputiei Maasai. Adjudication first began in higher potential and better watered areas of Kajiado district such as Ngong division in the north and

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<sup>6</sup> An individual ranch is a production enterprise in which an individual member of a 'tribal' society may, with community consent and the authorization of the local country council, legally register communal land as private property.

Loitikotok to the south on the foothills of Mt Kilimanjaro. The first owners of individual ranches were all Maasai, but “Maasai with a difference” (Simpson 1973). They included politicians, local chiefs, local store keepers, government officials as well as cattle traders i.e. wealthy and/or influential individuals with ties to the administration.

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

The individual title was viewed as the gateway to development. 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, 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 individuation, the poor would become property owners and have access to alternative productive resources that would enable them improve their status within the community.

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 the community's land were hived off and transferred to exclusive individual use without the community's consent. There remained a niggling fear that this land grabbing might renew itself and the remaining parts of the group ranch might be taken in much the same way.

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 group members had more reason to resent than to admire the individual ranchers' successes in the livestock enterprise because it occurred at their expense. 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.

Thus the individual ranchers' 'successes', in a crude sense, achieved one of the goals that had driven the establishment of individual ranches in Kajiado district: to act as a model that could be replicated by the wider Maasai community. But this demonstration effect was counterbalanced by their exploitative grazing on surrounding group lands. It was also offset by perceptions amongst some group members that the individual ranchers represented a land grab. These latter situations generated resentment rather than envy. All three reasons - demonstration effects, exploitative grazing and land grab - appeared to motivate interest in the subdivision of collective holdings.

## LIVESTOCK HOLDINGS AND GRAZING INTERACTIONS INSIDE THE GROUP RANCH

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 with varying livestock holdings. 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 would be forced to migrate out of the group ranch after exhausting available pasture. 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 thus bearing the costs of collective herding, yet the benefits were concentrated among the wealthy few. These grazing differentials amongst group ranch members themselves dovetailed with the exploitative tendencies of 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 COLLECTIVE DECISION MAKING IN THE GROUP RANCH

The group ranch committee members were particularly sensitive to difficulties in collective decision-making. This group of 10 individuals, elected from the wider group of ranch membership and mandated with tasks of running and overseeing all development efforts on the ranch were facing endless frustration over several issues. Enforcing livestock quotas and getting

individuals to limit or reduce stock quantities as part of ranch management planning was difficult. Individuals own livestock under indigenous Maasai herd management and herd size is individually determined. The economic and symbolic value of cattle occasioned a focus on accumulation amongst rational herd owners. Milk is a crucial component of basic subsistence. Cattle are important for cementing social relationships either through bride wealth or stock exchanges among friends and relatives. They are also an insurance against droughts. The committee was unable to mediate against this strong set of incentives and to convince herd owners to reduce their herds. Without an agreement on a limit to herd size, the group ranch did face a tragedy of the commons.

In addition to the uncontrolled accumulation of livestock by some 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<sup>7</sup>. 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 and schools.

While most of these challenges were resolvable and some were actually resolved, for example by forcibly evicting unauthorized settlers or chasing away non-members, these solutions

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<sup>7</sup> This problem was particularly acute in Torosei group ranch and subdivision here was also seen as a way of cutting off members from other neighboring group ranches particularly Shompole (which is much more arid than Torosei) who would bring their herds during the dry season. After exhausting Torosei pastures, they together with Torosei members would all be forced to move into Tanzania. In good times some Shompole people would refuse to return to their homes and would have to be chased away, but their friends would invite them again. Even if they left, they would leave a large proportion of their livestock behind. The poor in Torosei were the most notorious for inviting their friends as they would benefit from milking their friends' herds. Group members felt that subdivision would help them get rid of this problem, as anyone who would invite their friend would have to bear the burden of accommodating them on their individual parcel.

were unattractive in the long run. The committee thus encouraged and even campaigned for subdivision as a way of divesting themselves of these responsibilities.

Consequently, the group ranch committee members invested much effort in encouraging subdivision. They presented subdivision as a government required initiative, emphasizing President Moi's previous advice to the community. 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. Indeed, 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-savvy' outsiders.

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. An increasing human population heightens perceptions of scarcity while titles acquired after subdivision are envisioned to open up previously inaccessible opportunities. But also difficulties in enforcing rules for resource appropriation within the group ranch, and in excluding outsiders raise concerns over distribution. Members viewed subdivision and individualization as a decisive solution to distributional asymmetries. Similarly, claims to external threats of dispossession create a powerful incentive

for subdivision. Such claims are validated by an historical examination of Maasai land relations (Mwangi 2003a).

Though the preceding account has laid out factors that motivated demand for exclusive, individualized property rights, 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. As illustrated below, this was a process that closely followed the age and gender differentiation of Maasai society and one that was characterized by conflicting agendas and disparate abilities by individuals 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 this dynamic process. It places in perspective the problem of why subdivision happened in the first place.

The following section presents the heterogeneity of actors and interests in subdivision. It illustrates 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.

#### DIFFERENTIAL PREFERENCES FOR SUBDIVISION AMONG GROUP RANCH MEMBERS

In general Maasai society can be categorized into the elders, the *ilmurran*, the youth, the women and the children. Elders can further be disaggregated into three groups - junior, senior and retired elders. These 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.



Among the communities of Enkaroni, Meto, Nentanai and Torosei group ranches, the senior most grouping of elders that featured prominently in the conversations on subdivision, belonged to the Ilterito and Ilnyankusi age sets. The Ilterito, if alive today, would be roughly between 85-100 yrs old, while the Ilnyankusi may be between 70 and 80 years old. The Iseuri may be about 60 to 70; the Ilkitoip (Ilkiseiya and IrangIrang) early 40s-late 50s; the Ilkingonde, mid-20s to late 30s...and so on. The *ilmurran* are usually young men in their mid teens to mid-20s and comprise the ‘warrior’ group in the community. Women, like children, are dependents. They have little to no decision-making authority outside of the household.

### *The Elders*

In Enkaroni the most senior elders during the time when subdivision decisions were being taken were the Ilterito and the Ilnyankusi. Individuals of these age sets were strongly opposed to subdivision. To them subdivision would reduce the amount of land available for livestock, leading to a reduction in the number of livestock ultimately resulting in poverty. Poverty would motivate individuals to sell parts of their land in their effort to survive. Such sales, if to outsiders, would result in the loss of Maasai land to non-Maasai. Restricted movement and ‘caging in’ of individuals in their parcels would also undermine community cohesion. By contrast the senior Ilnyankusi of Meto and Nentanai group ranches strongly supported the subdivision of their group ranches. Later paragraphs in this section show the reason for this preference.

Despite the senior elders’ interjections, Enkaroni group ranch was still subdivided. Though Torosei group ranch resolved to subdivide it is still organizing for a formal survey and demarcation. In Enkaroni the elders’ voices of dissent did not go unheeded judging by the widespread acknowledgement that elders’ were the main stumbling block to subdivision. The

Ilterito and Ilnyankusi here were however ineffective in pressing for their interest. They were few and kept dying off with time and as the debates progressed. The Ilterito in particular were too old and weak to leave their compounds and attend meetings, while many Ilnyankusi disgusted with the whole idea simply refused to attend meetings convened to discuss subdivision. When the matter was taken to a vote<sup>8</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 ten 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 fourteen years are characterized by a supportive, though paternalistic relationship characterized by 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* that were convened by the group committee to discuss subdivision. As it were, these meetings seemed to have been an exercise in public relations designed to contain the disapproval of the seniors because their will was virtually ignored. The Iseuri and the Ilkiseiya, who were the younger, more numerous and most powerful elders on the group ranch, got the subdivision that they preferred.

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<sup>8</sup> 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 percent of the total membership, and more, that any individual decision must be put to a vote subject to a 60 percent majority rule.

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 numerous individual ranches surrounding Meto and Nentanai group ranches. 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, livestock management and in the development of infrastructure and housing.

#### *Rich and Poor Livestock Herders*

The rich and the poor, who also belong to the different age sets, can also be grouped into preference categories. The rich, who own large numbers of livestock/cattle, initially disfavored subdivision. Their large herds would not be sustained under smaller sized parcels. Free grazing of their herds within the group ranch made them the disproportionate beneficiaries of the group ranching system.

The poor on the other hand favored subdividing, though some expressed a ‘fear’ of the rich whom they anticipated would influence decisions and acquire larger parcels during the process of subdivision. The livestock-poor individuals were interested in the transition primarily because they did not have large herds. Restricted grazing within the confines of their individual parcels was expected to enable them to better manage their small herds. Subdivision would also open up new income generating opportunities for the poor. They could lease excess pastures to the rich, and benefit from milking the herds of the rich as they grazed in the leased pastures. They could also cultivate. They could sell charcoal, or even a part of their land. Subdivision would thus create avenues for livestock poor individuals to generate much needed income from alternative activities and 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 incentives to support the drive for subdivision.

### *The Women*

Since women were not registered as group ranch members, they did not have decision-making powers. 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. Widows, as the executors of their deceased husbands’ shares in the group ranch were sometimes permitted to attend group ranch members’ meetings but they were not allowed to address men publicly. Several widows did not attend the meetings because their in-laws represented them. However 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 had no forum within the structures of the group ranch to pursue and articulate their interests and 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.

Many 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 constraints. Their lack of involvement in the process may also have colored their opinion against subdivision. Today, these same women that disfavored subdivision are even more resentful of subdivision; not only have the conflicts over trespass increased, but inconveniences to their daily lives have increased. Subdivision has made their daily provisioning activities even more difficult. While before they had the entire group ranch to draw on for fuel wood, a woman 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. Married women with young sons were particularly opposed, as they knew their children had no chances of being included in the exercise.

The widows favored subdivision because it 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.

*The Youth: Struggles for Inclusion*

In this study, youth are defined as those male individuals that had not yet been initiated into elder-hood but had been initiated into adulthood through circumcision by the time the process of subdivision begun in the group ranches of Enkaroni, Meto, Nentanai and Torosei<sup>9</sup>. When subdivision issues were being discussed in mid 1980s and 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 Ilkishili (also=Ilkingonde) of Torosei and the Irang Irang of Nentanai. In all sections of the Maasai, the IrangIrang (referred to as Ng'orisho among the Matapato) are the immediate seniors of the Ilkingonde.

These sets of youths favored the idea of subdivision for very much the same promise of individual progress and development suggested by individual land ownership. Perhaps even more significant was the measure of independence from their fathers that the individual ownership of land promised. 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, such as in the rites of passage. The younger is often at a less powerful end of an increasing power continuum. Land, a basic resource in the livestock enterprise is highly valued. 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

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<sup>9</sup> Interviews across all group ranches studied indicated that circumcision was one of the requirements for registration. Galaty indicates that though this is a reasonable characterization for the current purpose, the notion of 'becoming a man' is a process, defined by several sequential events, circumcision being just one out of these. Personal communication, 26<sup>th</sup> October 2002.

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 subdivision they were excluded from membership and subsequently an avenue through which they, by right, would have acquired a critical productive asset.

Though the excluded age sets varied somewhat, the basis of their exclusion was remarkably consistent across all group ranches: 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. That the IrangIrang age set, relatively more advanced age wise, was 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 exclusion of youths in these group ranches did not go unchallenged. They argued that land in traditional customary practice belonged to all, access being conferred to adult males via their membership in the community rather than by inheritance from their fathers. As such, they were well within their rights to demand for registration. They subsequently organized to challenge their exclusion, and did this using various avenues both internal and external to the community. They sought the intervention of the elders, of the local administration, of government officials, and even from Maasai politicians of national stature. They did not succeed.

#### 4. DISCUSSION

The events outlined here demonstrate that individuals and groups will seek to alter property rights in their anticipation of net gains from a new structure. To the group ranch members, the benefits expected in the new, individualized property rights structure outweigh the costs of transforming the old as well as the additional costs of maintaining the new structure. This new property rights structure also promises to eliminate disadvantages that were present in the status quo property rights. Table 2 suggests that group ranch members' preferences for subdivision were consistently high regardless of whether or not a group ranch was close to the main livestock market or of its size and membership. Meto group ranch for example was distant from Ilbissel market and was relatively large in terms of membership yet close more than 80 percent of its members favored subdivision. The cost and benefit structure was similar for each of the four group ranches.

The costs and benefits as well as risks of institutional change were however not homogenous within each group ranch owing to the differentiated structure of group ranch communities. 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 used 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 specific benefits within the altered property rights structure. These included new income opportunities



such as leasing pastures and cultivating, accessing capital markets by using 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 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. 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 evidenced by the distribution of land parcels, greatly favored these individuals (Mwangi 2003b). The prior negotiation of such an outcome may have accounted for the wealthy cattle keepers' seemingly stoic acceptance of change.

The conditions that influenced individual benefit-cost calculations are consistent with predictions made by property rights theorists, and which were outlined in the introduction to this chapter. 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, acts as a signal to potential buyers who do not have local knowledge (Alston et al. 1996). It thus broadens the land market to remote purchasers beyond local buyers.

Population growth, typified by the progressive increase of group ranch members and an almost automatic recruitment of groups of maturing youth, was an important motivator for subdivision. For many members, it became obvious with time that a land shortage was pending.

By increasing resource scarcity population pressure enhanced the value of the resource.

Individuals then found it beneficial to invest resources in meeting the costs of privatization.

The group ranch, like 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 drought, undermined the provisioning abilities of poor herders, undermined the reproduction of pastoral livelihoods and negatively affected herders' incomes. The grazing of individual ranchers' herds in the group domain only served to exacerbate the problem. Sanctioning the politically influential individual ranchers may not have been in the best interests of the committee. Thus both wealthy herd owners and individual ranchers 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 motivational factors suggested by this study such as land scarcity, failures of collective decision making, new income opportunities conform fairly well with theoretical expectation. However, individuals were also confronted with a declining security of tenure over their lands, particularly when viewed in the context of land appropriations conducted earlier in the colonial period. This uncertainty in ensuring the security of Maasai tenure created a risk that made the transition to individual units seem more rational to the Maasai.

Thus even though the transformation of property rights in land, may be triggered by changes in relative prices and other factors within the economic sphere, it is also a political strategy for securing control and the process of change a political process that involves struggles among diverse actors who are embedded within local socio-cultural structures. In the end this political process yields beneficial outcomes for those with access to decision making, while creating vulnerabilities for those with less access such as women, the youth and poor herders.

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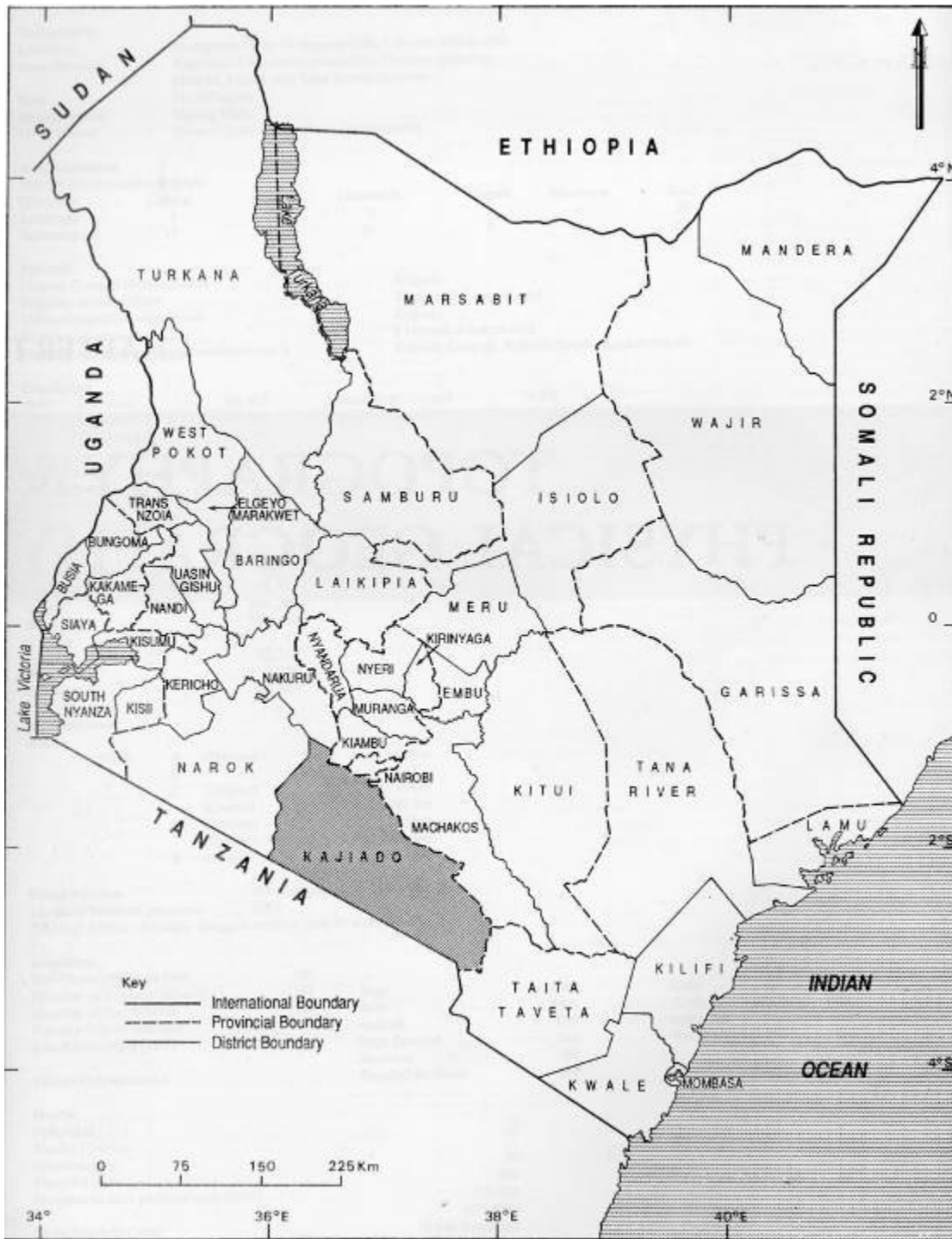
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APPENDIX I

Figure 1--Location of Kajiado district



Source: Kajiado District Atlas 1990

APPENDIX II

Figure 2-- Location of study sites: Enkaroni, Meto, Nentanai, Torosei



**Appendix Table 1--Ilpurko, Ilmatapato, Illoodokilani age sets**

<b>Group Ranch</b>	<b>Section</b>	<b>Retired Elders</b>	<b>Retired Elders</b>	<b>Senior Elders</b>	<b>Elders</b>	<b>Junior Elders</b>	
<b>Enkaroni</b>	Ilpurko	Ilterito >90	Ilnyankusi 70-89	Iseuri 57-68	Ilkiseyia 45-54	Ilkingonde 30-38	Ilkilaku 18-25
<b>Meto</b>	Ilmatapato		Ilnyankusi *Ilkalikal 75-90 **Ilkamanik 65-75	Iseuri Ilkololik 60-65 Ilepurulek 55-60	Ilkitoip Ilkiseyia 45-55 Irang'Irang' 35-45	No Name Ilking'onde 30-35 Ilmajeshi 25-30	No Name Ilpaang'u 18-25
<b>Nentanai</b>	Ilmatapato		Ilnyankusi Ilkalikal 80- 90 Ilkamanik 75- 80	Iseuri Ilkololik 60-70 Leputulek 50-60	Ilkitoip Ilkiseyia 40-50 Iing'orisho 35- 40		Ilpaang'u 20-25
<b>Torosei</b>	Illoodokilani	Ilterito Ilkitatin >100 Ilmadidani 90-100	Ilnyankusi Ilkalikal 80- 90 Ilkamanek 70- 80	Iseuri Ilkololek 60-70 Ilkisakara 50-60	Ilkitoip Ilkiseyia 45- 50 Irang'Irang' 40- 45	No Name Ilkishili 35- 40 Ilmajeshi 30- 35	No Name Ilpaang'u 20-30

\*Right hand

\*\*Left Hand

(Source: Own field work)

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