Negotiating Rural Land Tenure: An exploration of influential factors in Maasai household decisions to hold land as individual private property in Ewaso Kedong, Kenya

by

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Abstract

Rural land users in arid and semi-arid lands in Kenya find themselves in a period of history with unprecedented levels of change to the way land is held and accessed. In many pastoralists' settings, including Kajiado County, rangelands are undergoing processes of fragmentation and enclosure attributed to transformations of land tenure from communal to individual private land holdings. The processes of privatization are of concern to development agencies, policy makers and scholars working on, and discussing the issue of what land tenure type would lead to rural development. Kajiado is an arid and semi-arid land where livestock keeping through pastoralism historically proved to be the most suited livelihood strategy.

This dissertation uses a case study of Ewaso Kedong in Kajiado to explore both theoretical and empirical arguments to establish the rationale used by Maasai households in their choice to hold land as individual private property. The field study and subsequent discussions are based on the thesis that pastoralism as a livelihood strategy has historically been practiced on communal lands in arid and semi-arid areas (ASALs). The communal land regime enabled for the frequent movement of livestock in order to access water and pasture resources that are rare, seasonal and spread over large areas in the vast ASALs. To describe the changes and choices of land tenure made by Maasai households, I purposively selected adult men and women from indigenous Maasai households, and held individual interviews using an interview guide with pre-determined questions. The findings from the study indicate that changes have occurred

to the land tenure of the Maasai. The changes have occurred since 1885, and are attributed to the Maasai search for tenure security that would enable households to strategize and manage uncertainties created by changes in climate, and by other events in their wider environment. There is a perceived superiority of registered land rights which has led to more subdivisions, fences and land sales. The emerging land markets have benefited households differently; some have been able to create wealth, while others have become poorer. The property relations practiced by the Maasai were found to be complex; shifting between contractual and social relational. Subsequently, the assets and identity of the Maasai are changing: there is a reduction in the size and composition of households, decision-making has devolved from the level of community elders to the household where it has become more participatory and inclusive of women and children, and the place called home has changed from being a territory to delimited land parcels. I draw the following conclusions from the study: no land tenure type has been able to provide absolute security of tenure to the Maasai as they have lost land under each land tenure regime. The Maasai are integrating into the wider market economy by reorganizing their assets, social relations and livelihood strategies, and the basis on which the Maasai are making decisions is comprehensive considering the institutions, laws, and environments surrounding their decision-making processes.

Preface

The Journey that brought me here

My interest and desire to study land tenure and household decision-making has been a lifelong process. Since childhood, I have sought to comprehend reasons why some rural families are able to provide for a livelihood from land, while others live in abject poverty. The search for answers begins with my childhood experiences. I spent the earlier part of my life in the Kisii highlands of Kenya, leaving for the city of Nairobi to pursue university education. Kisii lies on a highland equatorial climate, receives rain almost throughout the year, averaging a reliable annual rainfall of over 1500 millimeters. The region is made up of fertile soils and cool temperatures of between 15^{o} and 25^{o} Celsius. These climatic conditions support livestock keeping and the cultivation of crops such as maize, bananas, coffee, tea, millet, beans, potatoes, and pyrethrum, among others. Therefore I grew up in a rural setting where families were able to provide for their subsistence and cash needs from land, and as a result I developed great respect for land and for the people who work on the land.

In my desire to understand other communities, especially people living in poverty, I chose to focus my Bachelor's degree in sociology, anthropology, and literature. This gave me a chance to gain more knowledge on "man" within society; historically and in the present. After my study program I was employed by an environment and development organization. My work tasks included the gathering and sharing of information on natural resources conservation activities of land dependent communities. It was during this time when I encountered rural communities struggling to earn a livelihood from land. Their struggles were a new phenomenon to me, and it has taken me many years to understand how households with access to land could live in poverty.

Ten years after my bachelor's studies, I went back to university in search of answers to what ails development endeavours of rural people. I pursued a master's degree in

Development Studies at the Institute for Development Studies, University of Nairobi. The field research for my dissertation took me to Wajir district in northeastern Kenya. Wajir is one of the arid regions of Kenya faced with multiple challenges of poverty in the form of food insecurity, violent conflicts over access to water and pastures, low levels of education, and poor infrastructure. In my field study, I explored the cause and consequences of water resource-based conflicts among livestock herders. Through the study, I gained insights into the daily struggles and survival strategies of households situated in arid and semi-arid lands (ASALs).

Equipped with more knowledge on the different aspects of development, I sought employment with an international development organization, where I worked as an advisor on conflict transformation and peace building. My work tasks involved collaborative activities at the cross border level with neighbouring communities in Ethiopia, Kenya, Uganda, and South Sudan, i.e., Karamoja Cluster, an area inhabited by a group of pastoralists who reside on communal lands from where they share water and pastures. The communities experience frequent conflicts over access to water and pastures for livestock, especially during the dry season. The hardships I observed made me wonder if stakeholders in the conflict ever wished for a different way of accessing land and raising livestock, other than through pastoralism on communal lands.

More encounters with resource-based conflicts and household poverty, especially in ASALs made me wonder how the situation would be if natural resources-dependent communities were to access land through a land tenure type other than communal. The lingering questions shifted my attention to Kajiado district in Kenya, where households access land on group or individual basis. Subsequently, when I found myself back to university to pursue doctoral studies, I chose to focus on changing land tenure and the basis on which pastoralist households make decisions on choice.

Through the years spent working in the natural resources management sector, I have gained more knowledge and experience on rural settings. The experience includes

people's assets, how they organize and implement development activities, and overcome challenges. From my many travels to different communities, I acquired knowledge on different cultures and practices, and subsequently more skills on how to navigate in different research sites.

While pursuing my doctoral study program, I took advantage of my visits back to Kenya to update myself on new developments in the land tenure sector, including policy formulation and implementation. I made visits to Kajiado district in 2008 and January of 2010 before my actual field work in the summer of 2010. I also made visits to the national archives and to relevant offices in Kajiado district where I referenced general documents on the Maasai community. During my various visits, I made contacts with people in Kajiado, including my field guide with whom I continued to communicate while in Canada, making arrangements for my imminent field study.

All these career endeavours in rural areas of African countries, and prior visits to my study area made it easier for me to navigate the Ewaso Kedong area during my field research, within a presumably short period of time. Other non-Kenyan researchers might have taken weeks or even months to set up the contacts and background knowledge from which I entered the field in the summer of 2010. In addition, I speak English, Kiswahili, Kisii, and other local languages spoken in Kenya, an asset that enabled me create quick connections with the young and old in my study area.

Dedication

I humbly dedicate this dissertation to:

Professor Mary B. Omosa - Orina, 1961 - 2009

and

Julius M. Omosa, 1972 - 2012

Acknowledgements

This has been a long journey, and support from people at the university, field of research, and family made it possible for me to come this far. First and foremost, First and foremost, I am very grateful to my supervisor, Dr. Naomi Krogman and co-supervisor, Professor Frank Tough, for your academic input which involved providing guidance throughout my coursework, field study and dissertation writing. The knowledge and skills I gained from working with you will remain valuable in my future endeavours. Thanks to my defense committee: Dr. Malinda Smith, Dr. Lynette Shultz, and Dr. David Natcher. The questions and suggestions you made awoke me to the many possibilities I could do with my vast knowledge.

My field research study area is located more than 8000 miles away from my institution of learning. A number of people and institutions in Kenya assisted in making my field research a reality: The National Council for Science and Technology for granting me a research permit, the personnel at the Ministry of Lands, Kajiado district offices for being very welcoming and helpful by providing information on land issues in the district. I am most grateful to my study participants for welcoming me into their community and households, and providing detailed responses to my study questions. Thank you for putting your daily tasks on hold to participate in the interview process. Last but not least, many thanks to Solomon my field guide, and Ben our acquired `brother' who was my chauffeur. You reorganized your work schedule at short notice to fit into my interview appointments. I am yet to understand how you always got to destination on the rural (unmarked) roads.

My lengthy study period had a plus to it: I encountered and made new friends with individual students from different parts of the world. I now boast of knowing something new about the people of Canada, China, Ghana, Uganda, Zimbabwe, Brazil, South Africa, India, Sri Lanka and Vietnam, to name a few. Our interaction added to my perspective on how diversity brings us together.

The light at the end of the tunnel would have been hard to see without the continued support of my family: Thanks to my parents for trusting when I told you I will be okay leaving my pensionable job to settle in Canada, the snowy north. I am indebted to each of my siblings for the moral and social support you have provided: Mary, your comments on my earlier research proposal helped shape my study focus, you are part of the reason I shouldered on. Aunty Flo, your seemingly simple words of `just let me know how I can be of help' have been the pillar I have leaned on every time the world appeared endless. Sue, to me you embody a super human being, a medical doctor who knows so much on delicate issues, yet remains `put' as a social being. To all *Mama*'s `babies' born after me, Jossy, Oliver, Julius and Donny, your openness to and with information kept me abreast of important moments in life. Julius, I still marvel at the ease with which you lived life, qualifying as the depository of knowledge on our family tree. A big thanks to all my nieces and nephews out there, for being very adorable and innocent about life!

Last, but most important, I can never find enough words to thank my children and comrades, Darleen and Eugene for your ever encouraging words and deeds, and most importantly, for growing up. We shared moments that have defined the course of our lives: remember how we rushed through each morning for you to get into your yellow school bus and leave me enough time to catch the bus to university? I especially hold dear the memories of our shared use of the dining table: you promptly completed your homework in time for me to set dinner, ate your meals and obediently left for bed in time for me to start reading the `big' books. Your never ending enquiries on my study program gave me the motivation to shoulder on. Ken, thanks for shouldering on financially, you game me a reason to avoid `minimum wage' while writing my dissertation. I must now vacant the status of being a university student; Darleen just started her second year of university, and Eugene next year. Well timed!

In all this, I thank God for the Blessings and ask for His continued care.

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List of Abbreviations

ASALs	Arid and semi-arid lands
CBS	Kenya National Central Bureau of Statistics
CTA	The Technical Centre for Agriculture and Rural Cooperation
DFID	The British Department for International Development
ECA	United Nations Economic Commission for Africa
FAO	Food and Agriculture Organization of the United Nations
GoK	Government of Kenya
IFAD	International Fund for Agricultural Development of the United Nations
KDDP	Kajiado District Development Plan
KLA	Kenya Land Alliance
KWS	Kenya Wildlife Service
UNDP	United Nations Development Programme
USAID	United States Agency for International Development
WISP	World Initiative for Sustainable Pastoralism
World Bank	International Bank for Reconstruction and Development

Canadian $ = 80 Kenya shillings

CHAPTER 1
BACKGROUND TO THE STUDY

Introduction

Rural land users in Ewaso Kedong continuously find themselves at the crossroads of changing land tenure on which they must make decisions on choice, and they have chosen individual private land holdings. The choice they have made raises concerns over decision-making at the household level, and over long term implications to the practice of pastoralism and to social relations among the Maasai people. Ewaso Kedong is located within Kajiado district, an arid and semi-arid land where livestock keeping through pastoralism has provided for the subsistence and cash needs of households for many generations. Kajiado district[1] is located in the arid and semi-arid lands (ASALs) of Kenya (Map 1). The district is characterized by high temperatures with a monthly mean of 30 degrees Celsius, rainfall that is unpredictable, highly variable in space and time and approximating an annual average of 350mm (GoK, 2009; Nori & Davis, 2007). These climatic conditions limit crop farming activities, leaving the local people with livestock production through pastoralism as the most viable livelihood activity (Kenya, Republic of, 2009).

The pastoral resource-use pattern is characterized by risk spreading and flexible mechanisms such as mobility, large and diverse herd sizes and separation and splitting of livestock (Lane, 1996; Grahn, 2005; Nori & Davis, 2007), all enabled when practiced on communally held lands. In communal land tenure, a whole community, clan or ethnic group holds and uses land and its resources in common (Migot-Adholla & Bruce,

[1] Kajiado district changed its name to Kajiado County effective April 2013 in line with changes to the administrative system in Kenya into a devolved system of two levels of government; national and county. The changes are in line with the new constitution (Kenya Constitution 2010). The counties are made up of the 1992 administrative districts. Since the physical map of the counties remain the same as that of the 1992 districts, I decided to go ahead with the use of the term district in line with the date I carried out the research study.

1994; GoK, 2009). Communal land tenure has for centuries enabled pastoralists to move their livestock over vast lands to access the seasonal water and pasture resources in ASALs (Nori & Davis, 2007; Bonfiglioll & Watson, 1992; Niamir, 1987), and to allow for the regeneration of resources, making mobility a very critical factor in the practice of pastoralism in ASALs. Through the practice of pastoralism, households in ASALs are able to provide for their subsistence needs of food, clothing, shelter, and items for ceremonies and rituals, such as exchange of gifts to make peace in times of conflict (Rutten, 1992; Bonfiglioll & Watson 1992), and cash income to pay for other products and services.

However, since the 1980s, the way some of the Maasai of Kajiado hold and access land has changed from communal and group ranches, to individual private land holdings. The choice to hold land as individual private property is of concern both to community and development agencies, especially when viewed from within the larger framework of access to land in Kenya. Kenya covers a total land area of 592,000 sq. km, out of which 80 per cent is covered by arid and semi-arid lands (Map 1), leaving only about 15 per cent of the landmass as lands with a high potential for crop cultivation (GoK, 2002:31) through rain fed agriculture. Out of the country's total population of 36.1 million[2] people, 79 per cent live in rural areas where they depend primarily on agriculture and other land-related activities to provide for their subsistence and as a source of cash income (CBS, 2008). The implication is that land is a central asset for the majority of the population, determining not only how people provide for their subsistence and cash income, hence stay out of poverty, but also how individuals relate with one another while accessing land.

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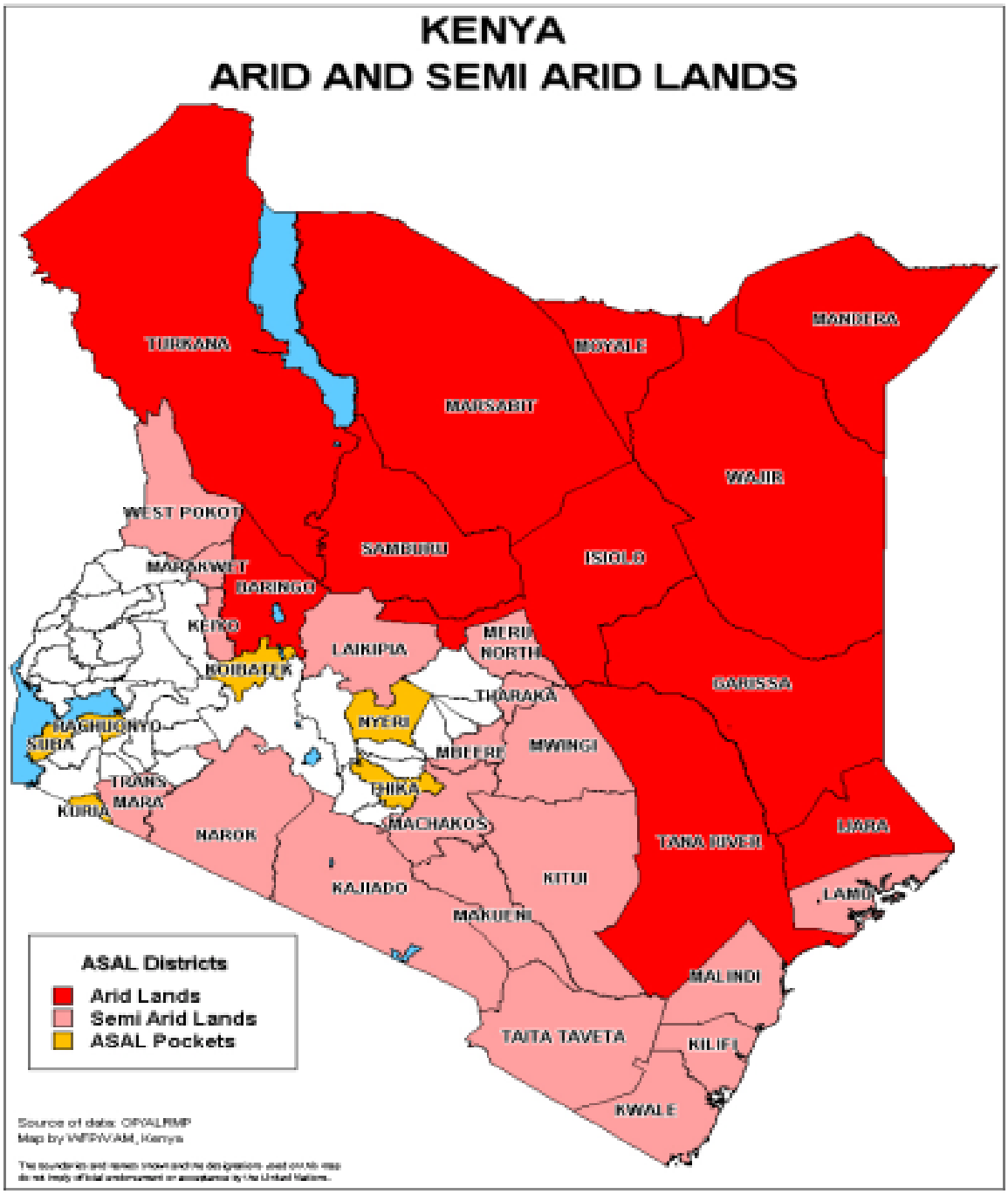
[2] The 2014 population estimates by the World Bank indicate a total population of 43.18 million people in Kenya. World Bank, World Development Indicators http://www.google.ca/publicdata/explore?ds=d5bncppjof8f9_&met_y=sp_pop_totl&hl=en&dl=en&idim=country:KEN:TZA:UGA

Based on the important role of land in the livelihoods of rural people, an assumption is made that if the Maasai are sub-dividing their collective rights on land and registering title to land, chances are that some of the land holders will fence in their land, sell part of their land to anyone willing to pay, while others could choose to diversify activities on land away from pastoralism. Therefore, one wonders why the Maasai who have in the past successfully practiced pastoralism on communal lands, would opt to hold land as individual private property, knowing that individual land parcels are comparably small in size, hence cannot support mobility of livestock to access pastoral resources in the ASALs. The choice of individual private land holdings in Ewaso Kedong calls for a research study to better understand the changes in land tenure.

This dissertation addresses the following issues: if communal land tenure has for centuries enabled Maasai households to provide for their subsistence and cash needs, what has changed so that in contemporary times people are opting to hold land on individual private tenure? If the Maasai households have chosen individual private land holdings in an ASAL where pastoralism is the most suited livelihood activity, will they continue to rely on livestock to provide for their livelihoods? Considering that the practice of pastoralism on communal lands required and resulted in strong social relations among members of the Maasai community, what is the nature of expected social relations on individual private land holdings?

Map 1: Map of Kenya showing location of arid and semi-arid lands



The long road to individual private land holdings

Mboe*, aged about 80 years is one of my interviewees in the field research study. I use the sequence of events in Mboe's life to illustrate the changes that have occurred to land tenure of the Maasai, and on choices that Maasai households have had to make along the way. *Mzee*[3] Mboe was born within a Maasai household in the Keekonyokie *il Oshon* (Section)[4] of the Maasai (Map 2). As a Maasai boy, Mboe was initiated into a Maasai age-set[5] through which he graduated into the ranks of a Maasai warrior and to his current position of a Maasai elder. As a boy, together with his male siblings and age-mates, Mboe herded calves and less mobile livestock to nearby pasture lands while his sisters, mother and grandmother stayed within their *boma*[6] (*enkang*) to take care of household chores which included cooking, milking cows and caring for children and other needy members of their household.

At the age of 15, Mboe, together with a group of male age-mates went through an initiation ceremony of circumcision, through which they graduated into Maasai warriors known as Morans[7]. Mboe's tasks evolved from those of a boy to a Moran who

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*Mboe is one of my study participants but that is not the participant's real name. All names of participants in the study have been changed to keep the privacy and confidentiality of the interviewees.

[3] *Mzee* is a Swahili term used to refer to elderly (age-wise) and respectable men in society. Such men are usually married and have adult children. However, in the study, the majority of wives and adult children use the term in reference to their husbands, fathers or fathers-in-laws, even in cases where the men in question are not that old. Being old is traditionally determined largely by having grandchildren or holding a senior leadership position within the community. What type of Mzee is being referred to in the study is best discerned from the context.

[4] In the Maasai traditional communal land tenure, land was sub-divided and accessed in levels, from the household to the level of the Maasai community. Individuals accessed land as members of a Household, Neighbourhood, Locality, Section and Maasai community. A Maasai Section (*Oloshon*) refers to the largest grazing unit with a fixed territory that allows for resource fluctuations and as a result provides free access to the land by all members of a Section (Grandin *et al.*, 1982).

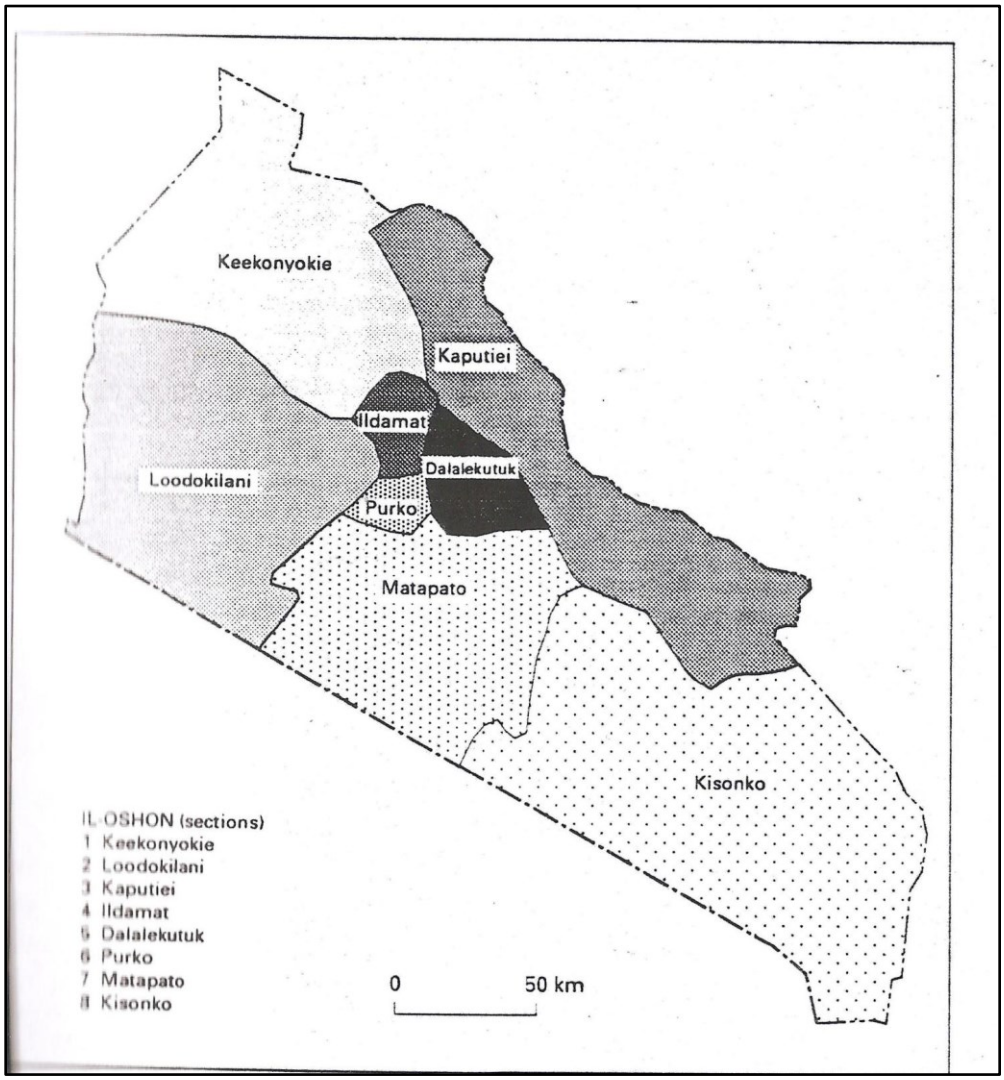
[5] A Maasai age-set is a corporate group of males initiated at the same period through circumcision (Galaty, 1992). The groups of males are differentiated by age into boys, warriors, and elders whereby each age-set progress through a system of rank stages, establishing a status hierarchy to which ideal modes of behavior and authority are related (Rutten, 1992; Morton, n.d.).

[6] A *boma* is a Swahili word for a Maasai compound surrounded by a fence made from thorn bush and tied together to form a circular fence to keep livestock in and predators and raiders out, especially at night. *Bomas* are temporary settlements that are built afresh every time the household moves to new grazing areas (Rutten, 1992).

[7] Maasai Morans are young men aged between 15 and 30 years old. During this period in life, the young men live in isolation in special residents called *manyatta* from where they learn cultural customs and practices. The Morans as the community's livestock herders and warriors to protect livestock and people from outside threats, are taken through rigorous activities and exercises aimed at building courage, strength and endurance (Morton, n.d.; Rutten, 1992).

herded livestock to faraway places, especially during the dry season. Information on the migratory routes they were to follow was provided by clan elders. The journey of herding livestock involved migrating as a group of Morans to mid-season and dry-season grazing lands that were located many kilometers away from *bomas*.

Map 2: Map of Kajiado showing the eight Maasai Sections



Source: Rutten M. (1992). *Selling Wealth to Buy Poverty. The Process of the Individualization of landownership among pastoralists of Kajiado District, 1890-1990*. Verlag Breitenbach Publishers. Saarbuckeken. P. 132.

The group movements with livestock were aimed at pooling labour to pasture large herds of livestock from many *bomas*, and for the effective defense of livestock from

thieves and predators. The return of livestock to the *bomas* depended on the arrival of rain, which indicated the availability of water and pastures. On some occasions, Mboe, together with fellow Morans could be called upon to pursue stolen livestock, or to defend the rest of the community when there was an impending attack from competing ethnic groups.

At the age of around 30, Mboe's father, in consultation with clan elders made arrangements and Mboe married a beautiful Maasai girl from another clan, for the Maasai cultural practice does not allow a man to marry from his own clan. Mboe's father paid the traditionally prescribed number of livestock to the family of the girl as bride wealth. On marriage, Mboe was given his livestock[8] from his father's stock. Mboe's wife upon leaving her family home, was given her livestock which all along had been part of her father's stock, and on arrival at her marital home, the livestock became part of her husband's stock.

On arrival of the new bride, the Maasai traditional practice of giving livestock to daughters-in-laws was fulfilled when Mboe's mother and her co-wives each gave a cow to Mboe's wife, which she added to her husband's stock. All these livestock combined, made a large herd under the management of Mboe. After the birth of Mboe's first child, Mboe's father held a large ceremony that involved a celebration where Mboe was allocated a parcel of land within his father's *boma;* Mboe, now had authority to construct a homestead for his wife and children. Mboe was also given `Maasai secrets' on roles, obligations, responsibilities and expectations on the life of a married man, to be observed if he was to one day ascend into eldership and leadership of the community, which was a coveted position.

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[8] The traditional practice of the Maasai was that each child (boys and girls) was given a cow at birth. The cow stayed within the larger stock of the household and all calves of such a cow formed part of the stock for the particular child. The cow and its offspring were given to the child at adulthood, mostly identified with marriage.

Mboe started a new life with his wife in a separate household, from where he continued to relate with the extended family and community according to Maasai cultural dictates. The life of Mboe's wife continued to revolve around the homestead just like it had been while at her father's *boma.* She continued with the nurturing of children (her own and those of other relatives within the *boma*), milking cows, taking care of calves and preparing food for the family members. In these activities, Mboe's wife collaborated with her mother-in-law, sisters-in-laws, and other female members of the household. Mboe, being young and energetic continued to participate in the herding of livestock to faraway places in search of pastures.

In the 1950s, Morans from Keekonyokie Section were being advised by elders not to go too close to the traditional dry-season grazing areas, which were located at the Ngong hills in the northwestern section of Kajiado district. The reason given was that the government (colonial) had given parcels of land in that area to people from outside the community to cultivate crops, and they would not like livestock to stray and damage their crops. This meant that the Morans had to travel routes that were different from the traditional ones as they went out in search of water and pastures. Due to the new developments of fenced off lands for the cultivation of crops, Morans were sometimes forced to retreat back "home", located in the wet season grazing areas, before the onset of rains.

In the late 1960s, Mboe heard stories of an initiative by the government of Kenya in the form of group ranches[9] and that heads of Maasai households were to be registered with a specific group ranch. Henceforth, individual households were to access land and pastoral resources only from within their ranch. Once registered with a specific ranch, a household could not access livestock resources on other ranches unless through special

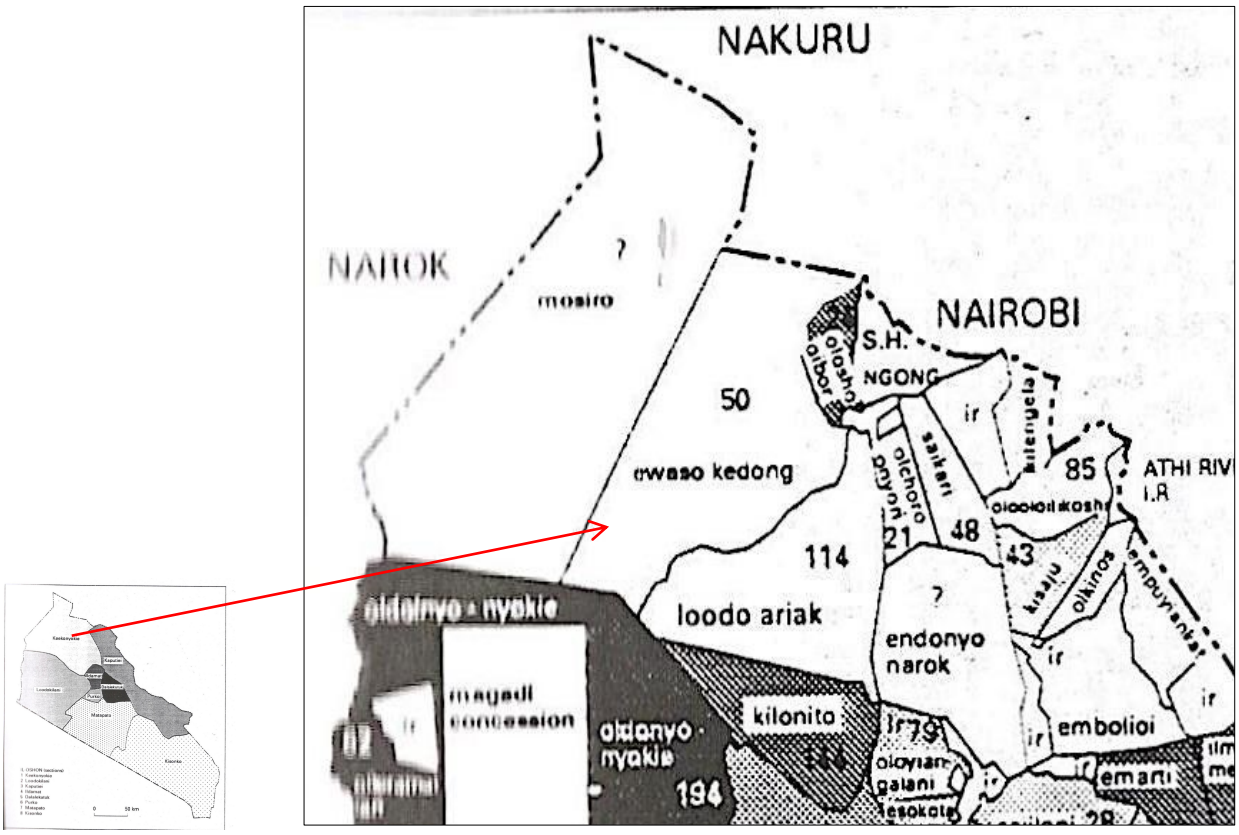
[9] A group ranch is land that has been demarcated and legally allocated to a group of persons (Kenya Republic, 1968). The formation of group ranches involved recording rights and interests in customary lands, subdivision of the land, and allocation of the land to specific groups of customary users.

arrangements with members of the destination ranch. Mboe was later to learn that according to the government regulations on group ranches, only his father qualified to be registered as a member of a group ranch, Keekonyokie Ranch, carved out of the Keekonyokie Maasai Section (Map 2). Henceforth, the rest of the members from the household of Mboe's father, including his wives, unmarried children, married sons and their wives, would continue to access land under the old man's entitlements. The information was disturbing to Mboe who did not qualify to be registered as a member of a group ranch, yet he had gone through the Maasai traditional ceremony that qualified him as the head of his household.

The formation of group ranches was enticing to some Maasai, especially those who were no longer able to access the traditional dry-season grazing lands due to the introduction of crop cultivation in the Ngong area. However, the same information was confusing to some Maasai who did not understand why they should be registered to access the same pastures they had accessed for many years as Maasai pastoralists.

Mboe, together with his male siblings and age-mates continued with their role of herding livestock. Over time, Mboe got to learn, this time from the Keekonyokie group ranch management committee, that the boundaries of their ranch had been adjusted through further sub-division of their ranch to create more and smaller-sized ranches. The boundaries of their Keekonyokie ranch had been reduced through subdivision into seven smaller ranches of Mosiro, Ewaso Kedong, Loodo ariak, Oichoro nyori, Olosho Oibor, Ilchoro-Onyori, and Saikeri (Map 3). The household of Mboe's father would now access land from within the Ewaso Kedong ranch (Map 3). The newly formed ranches were obviously smaller in size when compared to the size of the original Keekonyokie ranch. Households would once again access pastures from within a comparably smaller area of land.

Map 3: Keekonyokie Group Ranch subdivided into seven smaller ranches



Source: Maps adapted from Rutten, M. (1992). *Selling Wealth to Buy Poverty. The Process of the Individualization of landownership among pastoralists of Kajiado District, 1890-1990.* Saarbuckeken.Verlag Breitenbach Publishers. P. 296.

To learn more on the new rules of accessing land and pastures from within the smaller ranches, Mboe's father and his sons were advised to participate at meetings called by the management committee of Ewaso Kedong ranch. The information provided at the group ranch meetings included areas within their Ewaso Kedong ranch that were open to livestock at different seasons of a given year. They also learned that individual households were free to seek pastures outside of their ranch, so long as the concerned households sought permission of entry from the management committee of the destination group ranch. Mboe wondered what would happen to households that previously accessed the mid-season grazing lands now forming part of the Ewaso Kedong ranch. Were the group members of Ewaso Kedong ranch going to deny access

to livestock owners trying to access their traditional mid-season grazing lands? If that was going to be the case, where were such livestock expected to feed from during the dry season?

Group ranching did not take long in that by the late 1970s, members of various ranches made formal applications to the government to have their ranches sub-divided into individual land holdings. Some group ranches were sub-divided, including Ewaso Kedong ranch. During the sub-division of group ranches, only individuals registered as group ranch members, (majority of who were elderly men) and therefore shareholders of the ranch were considered for land allocations. In Mboe's household, only his father as a shareholder qualified to be allocated land in the Ewaso Kedong ranch. The name of Mboe's father was put in the land register as the owner of a parcel of land within Ewaso Kedong adjudication section (Figure 1 and Google Map 4).

Land owners were encouraged to formalize their land allocations by registering title to their land. When Mboe's father made an application to register title to his land, he opted to further sub-divide his parcel of land and register different title deeds in the names of his wives and married sons. Mboe's title was for the parcel of land he had already been allocated through the traditional Maasai ceremony that gave him authority to construct a homestead (Figure 2). Mboe's father registered title to one parcel of land in his name and three other titles, each in the names of his wives. The understanding was that each wife would sub-divide their land allocation and give a title to the then minor sons as they became of age, i.e., after marriage.

Mboe's father also let his wives and sons know that the parcel of land registered in his name was his personal property, which he could sell if and when he so wished. According to the Registered Lands Act (Kenya, Republic of, 1963), a title deed gives the title holder rights and authority to execute a range of functions with respect to land, including powers to exclude and alienate such lands. Mboe's father used his traditional position of head of the household to instruct his wives that the only authority they had

over land registered in their name was to sub-divide and allocate to their sons as they became of age. The instructions contradicted earlier information he had given to his wives and sons indicating that the land registered in his name was his personal property, which he could sell if and when he so wished.

Map 4: Google map showing some individual farms in Ewaso Kedong

Source: https://images.google.com

Figure 1: Sketch Map of Ewaso Kedong ranch sub-divided into individual private land parcels

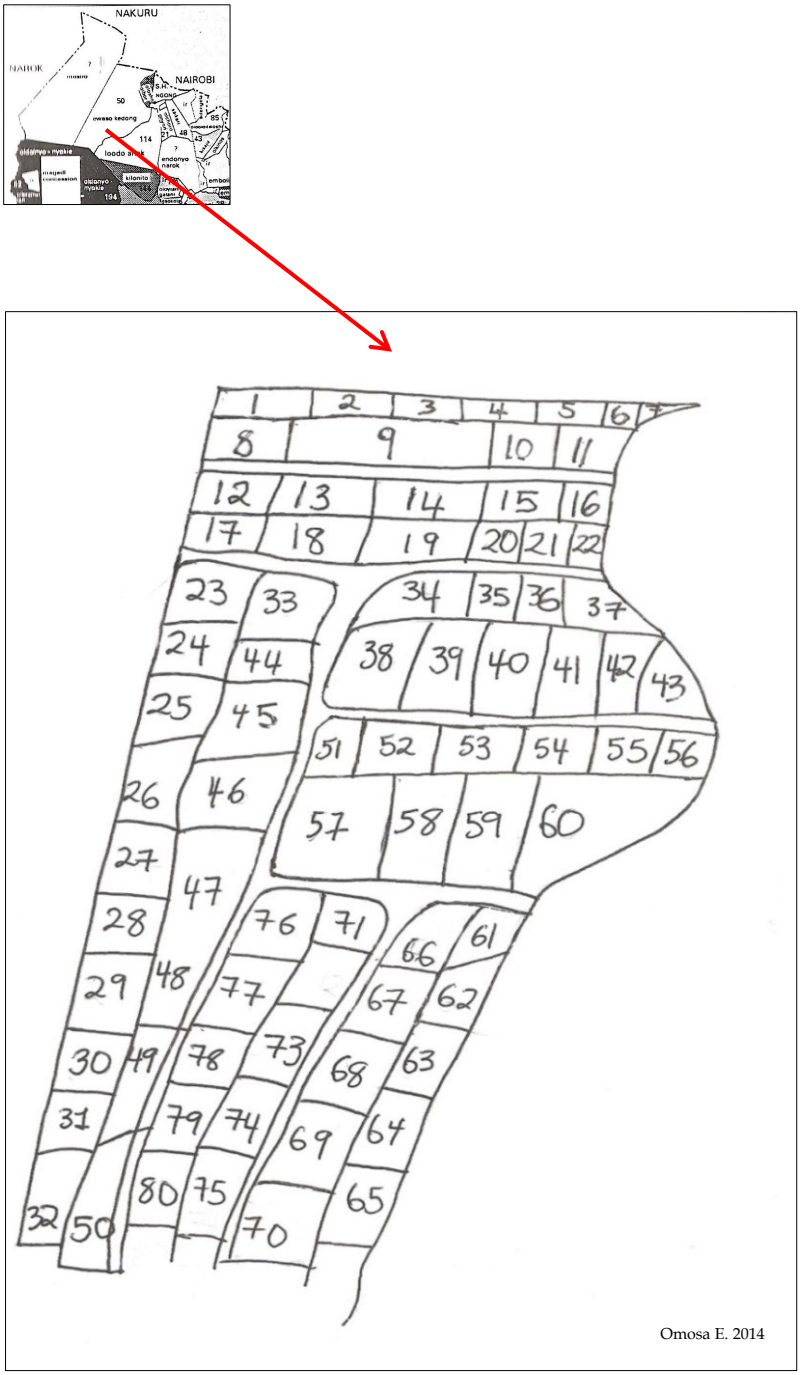
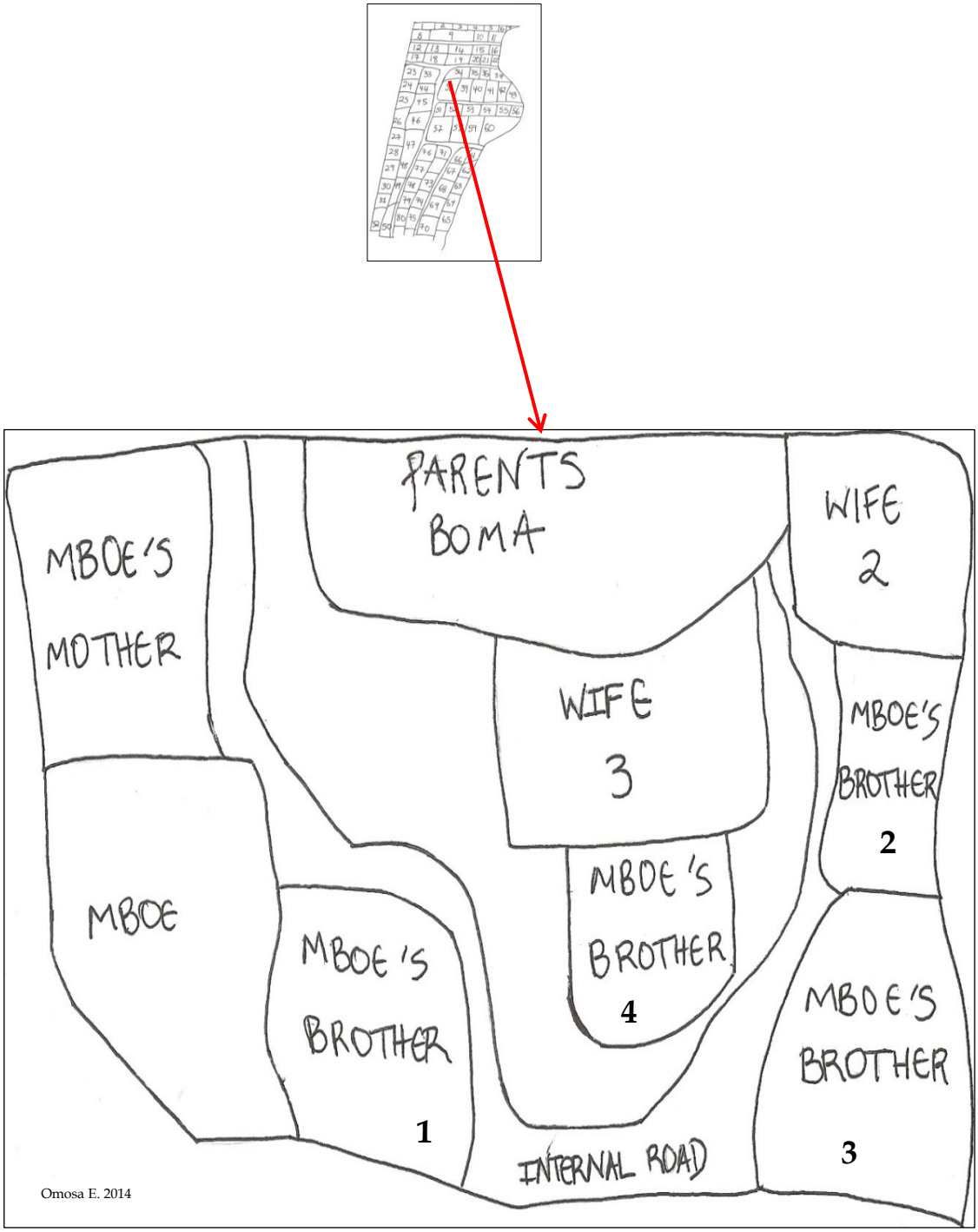


Figure 2: Sketch Map of the land of Mboe's father sub-divided and titled to household members



One is left wondering whether Maasai wives who have a title deed to land registered in their name will exploit the powers that come with a title deed or if they will continue to follow traditional dictates, especially from the head of the household, as they did under the communal land system. For example, a title deed empowers the land holder to exclude others and alienate the land (Kenya, Republic of, 1963). On the other hand, cultural practices of the Maasai patriarchal system (Ole Munei, 1999) dictate that household members implement decisions made by the head of their household. Some of the decisions would include an order for the wife not to sell land even if the land title is in the name of the woman.

Through a title deed, Mboe became a land owner, with powers and authority to make decisions on the management of his land, while his wife and children were to access the land registered in his name. Though happy to have a title deed to his individual parcel of land, Mboe is a worried man: the dry season is fast approaching and from what he has heard about private land ownership, he cannot graze his livestock in the traditional Keekonyokie dry-season grazing lands. Those lands are no longer available as they have been allocated and titled to one of the Maasai households or still belong to one of the many group ranches that have not been sub-divided. Mboe wondered if Maasai land owners, now settled on private lands located on former dry-season grazing lands would allow him to graze his livestock on such lands. If they refuse him access, is he expected to allow them on his land which is located on traditional mid-season grazing lands? If people from different Maasai households who have in the past shared pastures on communal lands can no longer do that, how will they continue with the practice of pastoralism?

Access to pastures is not the only thing that *Mzee* Mboe has to worry about. The changes to land tenure may affect relationships with his wife and children, siblings and parents, neighbours, and with other members of the Maasai community. Therefore, one may wonder why the Maasai who have in the past successfully practiced pastoralism

on communal lands would opt to hold land on an individual basis, knowing that individual land parcels are comparably small in size, hence cannot support mobility of livestock to access pastoral resources which are spread over large areas during different seasons of a given year. To better understand changes to land tenure in Kajiado, I sought to establish the focus of past research.

Research in Kajiado as changes occur to land tenure

Given that Kajiado is an ASAL, change in land tenure from communal to individual private land holdings came as a surprise to many, and has subsequently attracted researchers and scholars (Rutten, 1992; 2009; Mwangi, 2003; Galaty, 1999; Kimani & Pickard, 1998; Cochrane *et al*, 2005; Wangui, 2003) wanting to understand the cause, nature of change and resultant situation. Earlier studies among the Maasai of Kajiado, i.e., before the setting up of group ranches, dwelt more on the social-cultural and political organization of the Maasai (Herskovitz, 1923; Jacobs, 1984b; Galaty, 1977; Galaty, 1980; Galaty, 1982). The objective was to provide an understanding of the ways of livestock-life of the Maasai in terms of organization and access to livestock resources within an ASAL environment. The studies were also prompted by the fact that the Maasai culture has remained conservative for many decades, especially when compared with the many changes that have taken place within other communities of Kenya (Galaty, 1980; 1982).

Therefore a change in land tenure from communal to group ranches and to individual private land holdings prompted researchers to want to understand not only the social-cultural lives of the Maasai people, but also what brought about the changes in land tenure, the process and implications to livelihoods of the Maasai people.

Rutten (1992) carried out a field study in the Olkinos and Embolioi group ranches of Kajiado to understand the impact of sub-dividing group ranches. The study investigated the economic and ecological viability of sub-dividing group ranches in Kajiado. The findings from the study indicate that after the sub-division of group

ranches, over 70 per cent of land owners increased livestock numbers to the extent of overstocking their land. This finding contradicts notions held by some supporters of private property rights on land (De Soto, 2000; the World Bank, 2003; Hardin, 1968) that private land tenure leads to better management of land. A recent analysis by Rutten (2009) on changes to land tenure focused on the benefits of formalized property rights to land[10]. The study identified advantages of private land tenure as follows: a rise in living standards, a lessened exploitation of the poor by the rich, promotion of household engagement in enterprises away from livestock, and increases in chances of households getting development loans from financial institutions. On the other hand, the study also identified that privatization of land is attributed to loss of land to non-Maasai people, loss of Maasai culture, restrictions on the movement of livestock and wildlife, and to severe soil erosion in areas of crop cultivation (Rutten, 2009). To Rutten (1992; 2009), there are positive and negative sides of privatization of land which people need to consider when making decisions on choice of tenure to hold land.

Mwangi (2003) set out to understand the reasons for the transformation of property rights among the Maasai. The field research was carried out in Kajiado using a case study of four group ranches of Enkaroni, Meto, Nentanai and Torosei that were in the process of sub-division. The objective of the study was to understand the motivations for supporting the subdivision of their collective holdings on land. The quantitative study set out to establish among others, which category of individuals were most or least in favor of subdivision and why. The study findings revealed that the Maasai agreed to sub-divide their group ranches based on the benefits they perceived to accrue from private land holdings. The Maasai chose to sub-divide their group ranches into individual land holdings because they saw a scarcity of land in the context of population growth, and feared losing more land based on previous reductions in land

[10] The study methodology involved repeated surveys within 500 Maasai households with the objective to address the advantages and disadvantages of the process of individual land titling within the context of De Soto's claims that formal property rights would increase household and individual incentives to invest and would provide them with better access to credit.

sizes accessible to them. The other reasons were identified as challenges of collective decision-making, especially disagreements between those with less livestock and those with many livestock. Those with more livestock did not support sub-division for they were benefiting from the shared pastures. Widows and the youth supported sub-division, which they viewed as the only way through which they could become landowners. The other factor identified relates to the progress made by households that were already on individual ranches that enticed other land users into wanting individual private land parcels.

To identify the cause of land-related conflicts during and after the sub-division of group ranches, Mwangi (2007b) sought to understand the procedures for the subdivision of group ranches and registration of individual titles to land. Mwangi established that land sub-division was supposed to follow guidelines provided for by the Group (Land) Representatives Act (Kenya, Republic of, 1968). The guidelines reiterate that group ranch land is the property of all shareholders, held by each member in equal but undivided shares. Group ranch members are free to make applications for land allocations in places of their choice within their ranch. Individuals are to pay a surveyor-fee before being shown their parcel of land. Individuals with a certificate of land can make an application to the District Land Registrar and have a title registered to their parcel of land upon payment of the required fee. Based on the findings from the study, Mwangi (2007) reached a conclusion that the transition from group or collective land holdings to private individual lands is "burdened" with problems of procedures and politics. The problems undermine the anticipated gains in holding land on the basis of individual private tenure, illustrated through the following finding in relation to differences in size of parcels of land to members of group ranches:

> In the three group ranches where subdivision was completed and formalized (in Enkaroni, Meto, and Nentanai), two-thirds or more of the registered members have parcel sizes that fall below the averages. More than 25% of former group ranch land is owned by 9% of its registered members. Committee members who spearheaded the subdivision exercise and who were expected to conduct the subdivision fairly, ended up owning between 25% and 35% of the land. The average sizes of committee members'

> parcels following subdivision were 100 ha for Enkaroni (compare to Enkaroni average of 36 ha), 113 ha for Meto (compare to Meto average of 50 ha) and 133 ha for Nentanai (compare to 72 ha average for Nentanai). Committee parcels were more than twice the average size of ordinary members' parcels. Committee members allocated themselves large parcels. Individuals with close ties and affinities to committee members were given large parcels. Wealthy individuals with large livestock herds were also allocated large parcels. They entertained the committee by slaughtering cows and giving them gifts of livestock (Mwangi, 2007b:825).

If the sub-division of group ranches was not done fairly and resulted in more inequalities among Maasai households, one would ask why group ranch members have to date continued to sub-divide their land into individual private holdings.

The study findings by Mwangi (2003; 2007b) relate to findings from earlier studies (Galaty, 1999a, 1999b; Kimani & Pickard, 1998; Rutten, 1992; Grandin, 1986; Ole Simel, 1999) on different group ranches in Kajiado. Kimani and Pickard (1998) examined the reasons for failure of group ranches and their subsequent subdivision. Results from the study indicate that pressure from population growth, and the need to use titles for collateral, motivated group ranch members to ask for sub-division of group ranches. Ole Simel (1999) established that Maasai households reported to be tenure insecure when they witnessed individuals from outside the Maasai community being registered and receiving individual land parcels from the group ranch management committee. For example, the fear to lose land was well-founded in that by 1964, some 8,000 hectares of the best dry-season grazing land around Ngong in Kajiado had been sub-divided into individual farms and registered as private lands (Campbell, 1979). During the same period, large tracts of grazing land were being set aside as individual ranches for some Maasai leaders and government officials, mainly non-Maasai. For example, by 1969 some 16,000 hectares of land used as dry-season grazing areas on the slopes of Mount Kilimanjaro were subdivided and distributed mainly to non-Maasai people (Hedlund, 1971). Therefore, sub-division and registration of individual titles to land was viewed as a quick strategy to protect Maasai land from appropriation by both insiders and outsiders (Mwangi, 2005).

Other studies have established that the sub-division of land has resulted in the election of fences as boundary markers and to protect crops from destruction by livestock or wildlife (Nkedianye *et al.,* 2009). The demarcation and fencing led to subsequent research to fully understand the effects of sub-division on human and wildlife interactions (Thompson *et al*., 2008). Kajiado forms part of the larger Maasai Mara ecosystem which is home to spectacular varieties of wildlife, including the world renowned Great Migration of wild beasts in their millions (Thompson *et al*., 2008; Western 1994; Njoka, 1979). Thompson *et al*. (2008) established that since livestock and wildlife benefit from pastures when there is heterogeneity in landscapes, fragmentation of the lands, therefore ecosystems, would limit options for people and animals.

The other research focus has been on how the Maasai who are no longer able to practice pastoralism on the fenced and reduced sizes of land provide for a livelihood. Study findings indicate that such Maasai households have ventured into other livelihood strategies including business enterprises, waged labour, cultivation of crops and wildlife tourism (Cochrane *et al*., 2005; Herrero *et al*., 2003; Thompson and Homewood, 2002), among other activities. Cochrane *et al*. (2005) applied a participatory action research approach of Family Portraits[11] to identify the drivers and direction of change in Maasai livelihoods. The findings from the study indicate that livelihoods of the Maasai have changed as a result of changes to land tenure, increased human capital from schooling, and the Maasai interaction with institutions such as schools, markets, health care and government. The changes in livelihoods strategies have led to a reduction in livestock mobility and production, diversification of livelihoods to include wildlife tourism, cultivation of crops, and wage employment (Cochrane *et al*., 2005).

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[11] Family Portraits' is a participatory action research approach whereby families to participate in the study are selected by their communities according to specific criteria. Working with a small team of male and female facilitators, the families take ownership of a process of telling and recording their 'story'. The families build up a picture of their household, their history, their livelihood system, the institutions they interact with and the relationships they have. The next stage involves the family analyzing how their livelihoods and institutions are changing, what is driving these changes and how they have responded.

Other studies in Kajiado have sought to understand gender and division of labour as changes occur to land tenure and livelihood strategies of the Maasai (Kipury, 1989; Wangui, 2003). Wangui (2003) set out to understand change dynamics, especially gender relations within the changing production system of the Maasai. Findings from the quantitative study indicate a change in labour from the traditional division of labour based on age and gender around livestock, to a new one. In the emerging set-up, men prepare and cultivate crops on land and are involved in the sale of crops, while women are mainly involved in the weeding, harvesting and threshing. In relation to livestock, the study established that men's labour is concentrated in the grazing and treatment of livestock (big stock of cows, bulls), while women are involved in grazing of small stock such as goats, fetching livestock feeds of fodder, collecting manure, milking cows and selling milk. The changes in labour are attributed partly to the increased interaction of the Maasai with the outside world through trade, education, and migrants to Kajiado (Wangui, 2003).

My review of literature has established that the focus of research in Kajiado has changed over time with changes in land tenure and with increased interactions of the Maasai with the outside world. Earlier research among the Maasai was mainly anthropological, focusing on the social-cultural and political organization of the Maasai. Over time, especially with changes to land tenure from communal to group ranches to individual private land holdings the attention of research has shifted to include issues of population growth (Rutten, 1992; 2009), scarcity of resources (Mwangi, 2003; 2005; 2007), diversified livelihoods (Cochrane *et al.*, 2005), and gender relations (Wangui, 2003). So far, none of the studies focused on household decision-making, and choice of private land tenure, and implications of the choice on the practice of pastoralism and social relations of the Maasai, thus, the focus of my study.

The focus of my study

The review of the above literature reveals the lack of a detailed sociological study with a focus on household decision to hold land as individual private property. Most of the research (Rutten, 1992; Mwangi, 2003; Nkedianye *et al.*, 2009; Woodhouse *et al.*, 2009; Cochrane *et al.*, 2005) has been on the level of the group ranch, and less emphasis on dynamics within households. The other finding from the literature is that majority of the field studies in Kajiado have used a quantitative research design. This prompted me to want to implement a qualitative study that would enable me to provide details from the indigenous Maasai on reasons for their choice of private land tenure, and implications of their choice to the practice of pastoralism and to social relations. Consequently, my study set out to fill the void by considering the following concerns. If communal land tenure has for centuries enabled Maasai households to provide for their subsistence and cash needs, what has changed so that in contemporary times people are opting to hold land on individual private tenure? All of these dynamics in land tenure, together with my experience from the Karamoja Cluster and Wajir district in the northern ASALs of Kenya, prompted me to ask: If land tenure in Kajiado is changing to private land holdings, on what basis are households embracing individual private land holdings, and what are the effects of private-land tenure on the future practice of pastoralism, and on social relations of the Maasai.

Study assumptions

Drawing from information and discussions in the preceding sections, I make a number of assumptions about the study: households make decisions and choices on particular land tenure types if they perceive them as making it possible to achieve desired livelihood strategies. Households strive to hold land in a land tenure type that provides them with security of tenure, allows them to manoeuvre when faced with challenges, and enables them to attain a desired livelihood portfolio. Land rights underpin land-based livelihood activities of the Maasai people, and that changes to land tenure impact on people as individuals and collectively, making it necessary for them to want to

choose a land tenure type that will guarantee them access rights, tenure security and desired social relations. Decisions and choices made at the household level are influenced by both internal and external factors. The assumptions are further understood through my study using the following research question: on what basis have Maasai households chosen to hold land on individual private tenure, and what are the implications of the choices made to the future practice of pastoralism and to social relations among the Maasai?" To answer the research question, the study was guided by the following study objectives.

Study objectives

Findings from past research on land tenure in Kajiado indicate that change has occurred to the land tenure of the Maasai both in terms of size of land accessible and to the way households hold and access land and its resources. To better understand the basis on which households have made decisions and choices, I identify and describe changes that have occurred over time to the way the Maasai hold and access land. The changes to land tenure are discussed in three time periods of pre-colonial, colonial, and post-colonial Kenya. Pastoralism being a land-based livelihood activity in ASALs, the assumption is that any changes to the way people hold and access land will have implications on the practice of pastoralism and how people relate with one another. Through the study, I endeavour to identify and describe the reasons Maasai households have chosen to hold land on individual private tenure when they know from past experience that pastoralism on communal lands is the most suited livelihood activity in ASALs. I then discuss the implications of private property rights on land to the future practice of pastoralism, and to social relationships of the Maasai. The fulfilment of my study objectives demanded that I implement a field-based research study, which I did using the following strategy.

Field study strategy

To put the research question, assumptions, and objectives to a practical test, I obtained specific information from a field study among the Maasai of Ewaso Kedong area in Kajiado district. I used a case study approach to gather detailed descriptions from individual household members, and analyzed the findings to answer the research question. The focus of my study was to generate detailed descriptions of the factors that households take into consideration in their decision to hold land as individual private property. First, Maasai households were selected through purposive sampling based on being on individual private land, after which interviewees were selected from the sampled households on the basis of being adult and indigenous Maasai. Using a semi-structured interview guide with pre-determined open-ended questions, I obtained data from the selected individuals through face-to-face interviews conducted using the Kiswahili language. I recorded all interviews, translated and transcribed each interview, and analyzed the data using the QSR Nvivo 10 qualitative data analysis computer package. The output of the analyses, together with a review of academic and grey literature, enabled me to draw conclusions and make recommendations.

Summary of findings

The study revealed the following major findings in relation to policy, scholarship and development:

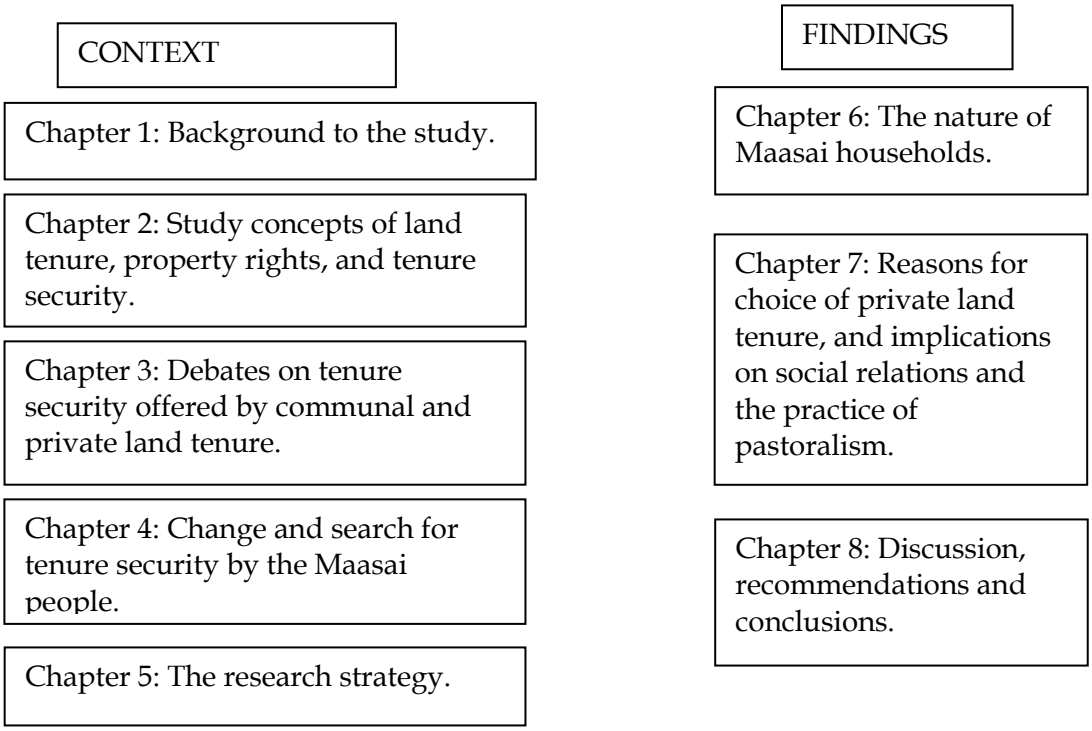
1. A study to understand change in land tenure is best understood through a historical perspective. For the Maasai, change in land tenure is traceable back to 1885 when Europeans came and settled in present-day Kenya.
2. The choice by households to hold land on private tenure is based on a number of expectations: that the land tenure type provides freedom to a land holder to diversify livelihood strategies on land, bequeath land to kin, adhere to provisions in the land policy, and participate in the thriving land market, among other benefits.

3. Change in land tenure from communal to private land holdings has implications on the size of land, i.e., implies smaller land sizes that are not supportive of mobility for the successful practice of pastoralism.
4. Change to land tenure of the Maasai has both positive and negative effects. The negative effects are mainly in terms of limited access to land, and to a reduction in the bundle of rights and related social relations prevalent in communal land tenure regimes. On the positive side, private tenure has enabled some Maasai households to diversify livelihoods from that based on pastoralism and its products of meat and milk, to include crops on land, business in livestock and other cultural items, and wage employment. Livelihood diversification has enabled households to overcome challenges of drought, and therefore stay out of poverty.

Details of the concepts used in the study, the context of the study, the study strategy, findings from the study, discussions and conclusions are found in the body of this dissertation. Sections of these central themes are addressed in each successive chapter as summarized below:

Synopsis of the dissertation

Figure 3: Organization of the chapters



Chapter 1: Introduction. In the introductory chapter, I position the research question and objectives that are central to the body of the dissertation by providing contextual information on the nature of land tenure in ASALs, changes that have occurred to the land tenure of the Maasai community, and choices they have made. I then provide a summary of assumptions and objectives guiding the study, and steps in implementing the field study. I also provide a summary of the study findings by explaining the relevancy and contribution of the research study to development, policy and scholarship, and provide an overview of each chapter of the dissertation.

Chapter 2: Study concepts of land tenure, property rights, and tenure security. Why are land tenure and property rights on land important? A central theme of much of scholarly work is on the importance of tenure security for land users to sustain a land-based livelihood. I begin the chapter with definitions of the concepts of land tenure, property rights on tenure security. These concepts are of primary importance to understanding

the origin of individual private land tenure. To boost the concepts, I trace the origin of property rights on land through a consideration of perspectives under the labour and evolutionary theories. The perspectives point to a situation where land used to be free for all, before members of society put up enclosures. The result is debates on who can access what land, when and how.

Chapter 3: Importance of land and debate on tenure security offered by communal and individual private land tenure. In this chapter I highlight the importance of land to rural households as one way to establish reasons for people wanting to have tenure security. I provide an understanding of communal and individual private land tenure in terms of access rights under each tenure regime. I then analyze the competing arguments put forward by proponents of communal and those of individual private land tenure in a bid to explain the land tenure type well placed to provide security of tenure to rural land users. Analysis of the emerging issues indicate that scholars in support of private property rights on land seek for the formalization of customary land rights, while the opposing scholars seek for legal pluralism and flexibility in property rights on land.

Chapter 4: Changes in land tenure and the search for tenure security by the Maasai pastoralists. In this chapter I provide details on the decisions, choices and changes that the Maasai pastoralists have made since 1885 to date. Pastoralism thrives on mobility on communally held lands and has been the livelihood of choice in the arid and semi-arid lands. Through pastoralism, households have for many years provided for the subsistence and cash needs of their members. In this chapter I narrow down to Kajiado, an ASAL area where changes have taken place to land tenure, to discuss decisions that the pastoralist Maasai households have had to make as land tenure changes from communal to individual private land holdings. To accomplish that, I share information on the nature of a household as a unitary or collective bargaining decision-making entities. The decisions and choices made are further influenced by the nature of social-cultural (socialization, patriarchy, gender relations), and formal institutions (free-

market or social relational) within which individuals and households make decisions and choices.

Chapter 5: The research strategy: context, design, and methodology. This chapter describes the research strategy I used to explore, analyze and present a detailed description of influential factors in household decisions to hold land as individual private property. The chapter is organized into sections: the research paradigm guiding my study, and the research design and methodology. I used a qualitative research design and a case study methodology and purposive sampling to obtain my study sample.

Chapter 6: The nature of the Maasai household. In this chapter I set the scene of Ewaso Kedong area by presenting detailed findings on the nature of the Maasai household in terms of physical structures and composition of households, assets within households and their sources and management. The objective is to present a detailed picture of my study participants, and the context within which they make decisions and choices on land tenure, pastoralism, and social relations.

Chapter 7: Influential factors on household decision to hold land as individual private property, and implications on the future practice of pastoralism and social relations. The study findings are presented in three sub-sections: Factors which households take into consideration when choosing to hold land on private tenure. The factors taken into consideration were found to focus more on advantages provided by private land tenure. In the second section I present and discuss views from participants on the future practice of pastoralism within private land tenure regimes. Most of the participants are of the opinion that pastoralism is on a decline, while others argue that even though pastoralism is on a decline, livestock keeping among the Maasai will adapt and continue. In the third section I present and discuss participant's views on the nature of social relations within a private land tenure regime. The interviewees are in agreement that private land tenure has resulted in mistrust among the people of Ewaso Kedong.

However, all is not lost as the people still make an effort to relate with one another on a variety of issues.

Chapter 8: *Discussion, recommendations and conclusion*. In this chapter, I discuss and interpret the study findings by describing emerging patterns, themes, and relationships, and link the findings to literature. The pattern emerging from my study findings is that Maasai households in Ewaso Kedong prefer to hold land as private property. The conclusion is drawn from the high rate of subdivision of group ranches and formalization of individual land holdings through title registration. The assumption is that Maasai households have considered all available options and arrived at the decision that individual private land tenure is the best choice to enable them provide for their desired livelihoods. I particularly highlight change in land tenure and the Maasai search for security of tenure, the perceived superiority of titled land which the study proves to have shortcomings. I then highlight and discuss the practice of property relations on individual private lands, especially the finding that the Maasai have developed complex relations by borrowing from the free-market model and the social relational practices. As a result of the changes to land tenure, the identity of the Maasai has changed, especially the place they call home from a large `territory' to a smaller areas in in size, to a known location with permanent dwelling units. In the midst of all these changes, the Maasai household has evolved from a unitary to a collective and bargaining decision-making entity. The nature of the bargaining household involves women and children, unlike before when decision-making was a prerogative of male household heads. I conclude that the Maasai pastoralists find themselves in a changing environment. The change has been brought about by changes in the wider environment in the area of legislation on land, changes in climate towards a drier environment, the introduction of land markets and education, eventually introducing change to individual members of the Maasai household, implying that the Maasai are more exposed to changes in the wider environment, and will therefore continue to negotiate and make decisions on their future.

CHAPTER 2

STUDY CONCEPTS: LAND TENURE, PROPERTY RIGHTS, AND TENURE SECURITY

Introduction

What is land tenure, what are property rights, and what land tenure regimes provide tenure security to rural land users? I begin this chapter by providing an understanding of the study concepts of land tenure, property rights on land and security of tenure. These concepts are of primary importance to understanding existing property rights on land and the extent to which they determine choice of land tenure made at the household level. I trace the origin of property rights on land through a consideration of perspectives under the labour and evolutionary theories. The perspectives on land tenure have resulted in debates on which land tenure type will provide tenure security for land users.

Land tenure

The origin of the concept of tenure is traced to the Latin word *tenere* which means to hold or possess, so that land tenure connotes the existence of conditions under which land users may hold and pass on land to other users (Bruce, 1988; Meek, 1949). The conditions also provide guidance on the distribution of rights in land among individuals or groups in society. Subsequently, land tenure is viewed as a framework to regulate the behavior, responsibilities and obligations of land users (FAO, 2002; IFAD, 2008; Lastarria-Cornhiel, 1997), therefore guides relations among people as they access land (Rogier *et al.*, 2006; Bruce, 1988; Schlager & Ostrom, 1992). The concept of land tenure is summed up by FAO (2002) as:

> Land tenure is the relationship, whether legally or customarily defined, among people, as individuals or groups with respect to land. … Land tenure is an institution, i.e., rules invented by societies to regulate behaviour. Rules of tenure define how property rights

> to land are to be allocated within societies. They define how access is granted to rights to use, control, and transfer land, as well as associated responsibilities and restraints. In simple terms, land tenure systems determine who can use what resources for how long, and under what conditions. Land tenure is an important part of social, political and economic structures. … Land tenure relationships may be well-defined and enforceable in a formal court of law or through customary structures in a community. Alternatively, they may be relatively poorly defined with ambiguities open to exploitation (FAO, 2002:5).

Based on the FAO definition, the concept of land tenure implies an institution formulated by society, with rules to govern relationships among land users. The rules relate to who and how access and rights to land are granted, associated responsibilities and obligations. Tenure arrangements have been shown to work best when they are socially accepted, a situation said to occur when the rules are invented by members of the concerned society (FAO, 2002; Ribot & Peluso, 2003; Ostrom, 2003; Ostrom, 1976). Subsequently, land tenure is viewed as a socially acceptable framework which provides the terms and conditions under which rights to land are acquired, retained, used, disposed of, or transmitted by the various members of society (GoK, 2009). Being a socially accepted framework (FAO, 2002; GoK, 2009), land tenure helps members of a given community to avoid risk and conflicts by providing them with conditions under which they may hold and pass on land to other users (Ribot & Peluso, 2003). Therefore, land tenure regulates social relations that are established around land, determining who can use what land and how (FAO, 2002; Lastarria-Cornhiel, 1997). The conditions may be on the basis of communal or individual private land tenure.

Pedersen (2010) furthers the understanding of land tenure as a social framework with the use of the term "social imprint". The underlying argument is that social relations are formed and shaped by customary or legal protocols. The protocols in turn guide behavior, so that the organization of land tenure around a particular regime (private or communal) in terms of access and use, decision-making, rights and responsibilities will be determined by the property rules of each property regime (legal or customary) around expected social relations among land users. The expected social relations relate

to issues such as how land users will relate with one another in respect to a given parcel of land, and how the land users define the particular parcel of land in relation to the larger society (Pedersen, 2010). Lastarria-Cornhiel (1997) notes that land tenure being relations among people as they access land, calls for a clear understanding of sub-divisions within a given community on the basis of for example gender and age in relation to property rights of access. These understandings of land tenure (FAO, 2002; Lastarria-Cornhiel, 1997) have implications: the system of land tenure involves people, a set of formal or customary defined rules, rights to land (Schlager & Ostrom, 1992; Demsetz, 1967) and an overall framework which regulates and enforces land rights, obligations and responsibilities of land users, especially as it relates to rights of access, withdrawal, management, exclusion and alienation (Schlager & Ostrom, 1992).

Based on the above understanding, the concept of land tenure entails components of people, relationships, formal and informal institutions in the social, economic, environmental and political spheres, rules on rights, responsibilities and obligations. The definition alludes to land tenure as being a system where the various components operate as one whole system (Simbizi *et al*., 2014). A further understanding of land tenure is that the framework not only guides relations among land users, but helps to ensure certain rights to land users, i.e., property rights on land.

Property rights on land

The nature of the human being is a constant search to have access and control over "things" as property (Hobhouse, 1913). The "things" can be in the form of land to work upon in order to provide for their needs in the form of food to eat or implements to procure the food. According to Hobhouse (1913) and Gore (1913), the control of such "things" becomes the property of the holder under certain circumstances: the property has to be recognized by others in society as the right of the one who possesses it, the right over such a land has to have certain permanence which is respected both in one's presence and absence, and the control over the land must be exclusive of others.

So, what is a right?

The rights to particular lands or resources are in the form of authority to undertake particular actions related to land and other resources (Ostrom, 1976; Schlager & Ostrom, 1992). Such rights and authority (over certain lands) confer property rights to specific individuals or groups, and in the process make such lands the property of those who possess the land. Subsequently, a right over land or other resources is best understood as particular actions and claims that are authorized and enforceable through society's rules and regulations (Ostrom, 1976; Schlager & Ostrom, 1992). The person or group that possesses rights and authority over such lands is said to have some control over the land as their property. Schlager and Ostrom (1992), Demsetz (1967), and Cotula (2007) further argue that property rights are not absolute to individuals or groups, rather, different individuals or groups can hold different rights to one similar property at different times, summed up as holding a "bundle of rights" to particular lands or resources.

Bundle of rights

The bundle of rights varies along a continuum whereby resource users have different rights to a resource. According to Schlager & Ostrom (1992), the variation in rights classifies resources users into positions of owner, proprietor, claimant and authorized user. The rights range from rights of access and withdrawal, rights of management, rights of exclusion, to rights of alienation (Table 1) (Schlager & Ostrom, 1992:252). The rights of access and withdrawal give authority to the right holder to enter a particular resource such as land, forest or body of water and obtain certain products while observing the laid down rules of entry and withdrawal. The right of management gives authority to a resource user to participate in the formulation of rules to regulate use patterns of a particular resource. The rules spell out the how, when and where withdrawal of a resource may occur. The right of exclusion gives a resource holder authority to determine particular qualifications that individuals or groups must meet in

order to access a particular resource. Exclusion may be based on age, community of residence or implements to be used in harvesting or withdrawing the resource (Schlager and Ostrom 1992; Demsetz 1967), while the right of alienation gives a resource holder the authority to transfer by sell or lease of the particular resource to another individual or group.

Table 1 : Bundles of rights associated with positions

	Owner	Proprietor	Claimant	Authorized user
Access and withdrawal	X	X	X	X
Management	X	X	X	
Exclusion	X	X		
Alienation	X			

Source: Schlager, E., & Ostrom, E. (1992). Property-Rights and Natural Resources: A Conceptual Analysis. *Land Economics* 68 (3). P. 252

For every right that an individual or group holds, there are rules that authorize or require particular actions whenever one is exercising the particular right over the property. Similarly, all rights have complementary duties, and the duty is for someone else to observe the particular right held by another person (Schlager & Ostrom, 1992). Subsequently, the implementation of land rights and observation of related duties implies inherent relations between the right holder and the duty observer, so that property rights only become rights because of the existence of particular relationships between the right holder and the one observing the right (Schlager & Ostrom, 1992; Lastarria-Cornhiel, 1997; FAO, 2002). These relationships between the right holder and the one observing the right are practiced differently in communal and private land tenure regimes. The property rights held are assumed to provide security of tenure to resource users.

Security of tenure

The concept of security of tenure is defined by FAO (2002) and COHRE (2003) as the certainty that a person's rights to a resource such as land will be recognized by others and protected in cases of specific challenges. The certainty is achieved when the rights of individuals or groups are effectively protected by the State or whatever authoritative entity is in place. The protection provided is against the permanent or temporary removal of the rights they hold on land. Subsequently, tenure insecurity occurs when people are at risk that their rights to land can be threatened or lost to competing claims.

Tenure security is critical to land dependent households and communities in that without security of tenure, land users will be impaired in their ability to secure sufficient food and other needs through which they sustain a livelihood (FAO, 2002). To Gelder (2010) and FAO (2002), land holders gain security of tenure through a number of means including perception, practice (*de facto)*, or legal (*de jure)*. Security of tenure through perception occurs when a land holder regards their right as being secure, i.e., mostly based on their response to the issue of "what are the chances of eviction?" (Gelder, 2010). In such a case, tenure insecurity relates to the fear of not being able to reap full benefits from one's set of rights (Sjaastad & Bromley, 2000). In *de facto,* tenure security is provided through actual practice or control of land regardless of the legal status held on such lands. *De facto* tenure security is defined by a number of elements including the length of one's occupation of particular lands, the size of land occupied, in that the larger the land occupied, the larger the critical mass as evidence, especially in situations where the level of community cohesion is high (Payne, 1997, 2001). Legal or *de jure* security of tenure concerns cases whereby the allocation of property rights on land is done through title registration, and is therefore protected by the State authority (Gelder, 2010). This property rights approach views legality as providing tenure security by reducing uncertainty in land holdings.

The three means (perception, practice and legal) through which land holders can achieve security of tenure are not mutually exclusive. There are situations where land holders practice a combination of one or all three together. For example, a child who inherits land from their parents could have a perception of having security of tenure to the land by the fact that they received the land from their parents and the rest of the community acknowledge that right. The continued use of the land, for example in the form of annual crop cultivation gives *de facto* security of tenure to the land holder. At the same time, the land holder could decide to make an application to the concerned authority to have their parcel of land formalized through title registration. A similar argument has been put forward by Toulmin (2009) that in the current reality of population growth and rising competition for land, some people are getting security of tenure through many regimes: validation at the local community level by kin and neighbours, and by the State through title registration. According to Toulmin (2009), this happens in cases where the value of land is rising and there are outside interests on such land.

The total security enjoyed by a person is the cumulative security provided by all sources. However, in some cases scholars have argued that the tenure security provided through the legal system is more secure compared to that provided by *de facto* and perceived means. The arguments have been countered by scholars who believe that perception and practice provide a more secure tenure than legal. In the next section I discuss perspectives on the origin of property rights on land to give more meaning to the concepts of land tenure, property rights, and security of tenure.

Perspectives on the origin of property rights on land

The concern about the origin of property rights on land relates to the need for information for a better understanding of the existing land tenure types, and on-going debates and contestations on which land tenure provides tenure security to rural land users. The most commonly cited are the labour (Locke, 1689) and evolutionary

(Boserup, 1970: 2007) perspectives. The two perspectives are based on a common view that land used to be free for all before members of society defined ways of acquiring rights to some of the free land. The rights to land are exercised at the individual or collective (group) levels.

The Labour theory

The labour theory goes back to philosophers in the classical period (Locke, 1689) who philosophized on the origin of property rights on land from the point of view of a world created free for all. Locke's argument under the labour theory is that the rights entailed in property are established when an individual "mixes their labour" with the freely available land. The new creation becomes personal and private property on the basis that the "individual person own themselves and therefore their labour, and by working on the free object, their labour enters into the object, making the object the individual property of that person" (Locke, 1690)[12]. The proponents (Lankin, 1930; Macpherson, 1979; Hardin, 1968; De Soto, 2000; The World Bank, 1975; 2003; Demsetz, 1967) of Locke's ideas have since elaborated on private property from different points of view. However, the proponents have some convergence points, that: individual owners of property are at liberty to use their property for the betterment of self, the owners put the resource to its best and highest use, they promote a responsible and long-term care of the resource base by making improvements on the resource, and they allocate resources in an efficient manner. To the proponents of the labour theory, property ownership is an individual right and is necessary for the satisfaction of one's needs. On the other hand are scholars who subscribe to the school of thought that property rights on land come about through an evolutionary process.

[12] Locke's theory is a defensive one to protect the individual against the encroachment of the Crown of England in the 17th Century. Hence, his theory was influenced by the historical environment, by religion whose teachings of the church put emphasis on helping man to attain his final supernatural end. Locke's call was on social and political welfare to be served best by allowing the individual the greatest possible freedom with regard to the use and disposal of his property. This was particularly in response to the interference by the Crown.

The Evolutionary theory

Other scholars (Boserup, 1970; 2007; Migot-Adholla, 1994; Platteau, 1996) are of the view that property rights on land occur through an evolutionary process. The process involves rights evolving from a state of commons, whereby a resource is held and shared by many people, to a state of "enclosures" of commons as private property (Bollier, 2014). Boserup (1970; 2007) uses developments and change in the agricultural sector to illustrate how property rights on land evolve from a state of the commons or traditional, to a state of individual private property. The shift from the commons is said to start naturally in conditions of growing land scarcity due to increases in population density, advancement in farming technologies, and the development of agricultural markets (Boserup, 1970). In the initial stages of land use, land is in abundance and the establishment of rights to land is done through first occupation which involves the clearing, cultivation, and continued use of land with acceptable fallow periods (Boserup, 2007). With time, the fallow periods became shorter as the population increases and availability of land for expansion diminishes, a situation which Migot-Adholla and Bruce (1994) use to argue that the commons, especially communally held land are not static, but dynamic, always changing to adapt to change in the wider environment. Population growth and occupation of the best farming land leads to the emergence of distinct boundaries and exclusion of other members of the social group from exercising their right of use permanently or on the basis of seasons (Migot-Adholla and Bruce, 1994; Cotula, 2007; Coldham, 1978). The situation of permanent settlements and exclusion of others is synonymous with privatization of rights to land.

With more population growth and commercialization of agricultural products, land holders start to make long term improvements on their land, a practice that leads to more and tighter exclusive individual rights to such lands (Boserup, 1970; 2007; Coldham, 1978). Scarcity of land imposes a new value on land, leading landholders into declaring more individualized rights on land or whatever other involved natural

resource (Alchian & Demsetz, 1973). In the majority of cases, the declared rights on land do not fit into the protection of customary land tenure, resulting in disputes over land. To manage the conflicts and deter future ones, the State intervenes through the provision of private titles, therefore private rights to land. The evolutionary thesis has over time gained attention and support from scholars (Platteau, 1996; 2000; Yngstrom, 2002; Shipton, 1988; Feder & Noronha, 1987) who discuss tenure reforms and security of tenure to rural land users in Africa and other parts of the world.

The implied idea in both the labour and evolutionary perspectives on the origin of property rights on land is that private property rights are an advanced stage of property rights provided under communal tenure. The perceptions have resulted in debates among scholars and practitioners, on which land tenure type, between communal (collective, customary) and private, will provide tenure security to land users for the development of rural areas of Africa.

CHAPTER 3

DEBATES ON TENURE SECURITY: COMMUNAL VS PRIVATE LAND TENURE

Introduction

In this chapter I highlight the importance of land to rural households as one way to establish reasons for people wanting to have tenure security. I provide an understanding on communal and individual private land tenure in terms of access rights under each tenure regime. I then analyze the competing arguments put forward by proponents of communal and those of individual private land tenure in a bid to explain the land tenure type well placed to provide security of tenure to rural land users. Analysis of the emerging issues indicate that scholars in support of private property rights on land seek for the formalization of customary land rights, while the opposing scholars seek for legal pluralism and flexibility in property rights on land.

Importance of land in rural development

Scholars studying land and development in Africa (FAO, 2002; Migot-Adholla *et al.*, 1994; Cotula, 2004; 2007; Place & Otsuka; IFAD, 2008; 2012; Quan, 2000; Willy, 2008; 2012; Peters, 2009; Bromley, 2009; 1997) argue that since the majority of households depend on land as their main and sometimes only asset from which to draw a livelihood, consequently security of tenure and access rights are of importance to land users. The importance of land in Africa is implied from the high percentage (70%) of the population that lives in rural areas and depends on land to provide for their subsistence and other cash needs (CBS, 2008; World Bank, 2007; 2014; GoK, 2002; 2003; IFAD, 2008; FAO, 2013; Un-Habitat, 2014). The importance of land is further exemplified by the number of global development organizations such as The World Bank, IFAD, FAO, UN Women, World Food Programme, whose development endeavours focus on land and agriculture, as the way through which rural households can get out of poverty.

The Food and Agriculture Organization of the United Nations (FAO, 2002; 2013) recognizes land as critical to the achievement of development goals, and calls for the formulation of a land tenure arrangement to determine who can use land and its resources, for what length of time, and under what conditions. The importance of land in people's well-being is brought out in The State of Food and Agriculture 2013 Report (FAO, 2013) which focuses on food systems for better nutrition. FAO identifies malnutrition in its different forms of under-nutrition, micronutrient deficiencies and overweight and obesity as imposing high economic and social costs on all countries (FAO, 2013:1), and that the way to improve nutrition and reduce the associated economic and social costs starts with a focus on agriculture and its traditional role of producing food and generating incomes. The important role of land in people's livelihoods is emphasized further by FAO (2011b) and UN-Habitat (2014) in relation to expected population growth. FAO notes that with the current global population of seven billion people expected to increase to 9 billion by 2050, the world is in need of more land for the production of food and other related agricultural products (FAO, 2011b:ix). An increase in population and demand for food will result in increased competition among land users for crop production, bio-fuels, and livestock production.

Other than land for agricultural production, more demand for land will come from the growth of urban centers. A UN-Habitat Report (2014) on the State of African Cities 2014 reports that the world will need more land for the expansion of urban centers as populations increase. Even though Africa's population is still below the 50 per cent urban threshold, population growth will bring new challenges related to control of land and access rights (UN-Habitat, 2014). However, growth in urban population does not mean that there will be no rural people still reliant on land to provide for a livelihood. The Un-Habitat Report (2014) clarifies that urbanization is occurring at different rates in different parts of Africa, so variations in rural numbers as urban growth occurs might not change much. For example, Eastern Africa is singled out as the world's least urbanized region, but projections indicate that the region is the fastest urbanizing sub-

region at 5.35 per cent over the 2010-2020 decade (Un-Habitat, 2014:146). Therefore, rural and urban populations will continue to demand more land.

Increases in population imply increased demands for land for residential areas, for urban services and to grow food, and process agricultural products to supply the urban population. For rural land users, especially those living adjacent to urban centers, secure land tenure and access rights will enable land users to supply the needs of the growing urban population. FAO (2011) notes that the world over, the poor have the least access to land, and calls for improved governance of land and water resources as a way to encourage agricultural production as the main source of a livelihood for the poor. Likewise, agriculture has been identified as a vital development tool for achieving the Millennium Development Goal of halving, by 2015, the number of people suffering from extreme poverty and hunger (MDGs, 2005). Current discussions on the post 2015 agenda have raised the need to include tenure security in strategies for poverty alleviation in countries of Africa (World Bank, 2014).

The International Fund for Agriculture and Development (IFAD, 2012; 2008), viewing land tenure as the "rules, norms and institutions that govern access to land" has singled out land as fundamental to the lives of rural people: as a source of food, shelter, income and social identity. IFAD (2008) further calls for the formulation of strategies to secure access to land for rural people as the way to reduce their vulnerability to hunger and poverty. To IFAD, secure access to land is the way to provide rural people, especially the poor, with a basis for investment in better and improved living conditions (IFAD, 2008). The poor, as men and women, are able to participate and benefit from broad-based economic growth when land distribution is equitable, thus enabling them to achieve greater agricultural productivity to accelerate growth. Tenure security will be achieved when policies and legislation recognize the many facets of land rights and usage, when the rural poor, as men and women, are empowered to participate in policy formulation processes (IFAD, 2012). Participation of the poor helps ensure that the

formulated policies accommodate and build on their customary norms, practices, and priority areas to address their needs and rights.

According to IFAD (2012) there are 1.3 billion people struggling to survive on less than $1.25 a day, and the majority (over 70%) live in rural areas of developing countries where they are faced with insecurity of tenure. Within these settings, women are more disadvantaged in that they are found to access land through men on the basis of kin or marriage. IFAD calls for a recognition of land rights of rural people by all, and especially for development agencies to recognize such land rights if their development endeavours are to be effective. Otherwise development projects can further jeopardize land rights of the poor when they introduce projects that further enhance the value of land. The new value of land can increase the potential of rural land users, especially women, to lose land either through the market or to the affluent in society.

The concern over gender equity, access to land, and poverty is further elaborated by the UN Women (2011, 2012). For example, the report on the role of women in rural development, food production and poverty eradication (UN Women, 2012) reveals that within the high figures of people living in poverty or dependent on land to provide for their needs, women are represented more than men. An example is some countries of sub-Saharan Africa where there are more than 120 women aged 20 to 59 living in poor households for every 100 men (UN Women Progress Report, 2011). In relation to agricultural labour and land ownership, up to 79 percent of economically active women in developing countries are said to spend their working hours to produce food through agriculture, yet only 10 to 20 percent of all land holders are women (FAO, 2011b; Doss, 2013).

The focus on gender, especially in relation to roles and benefit sharing arises from literature indicating that women, especially in rural areas, are disadvantaged in many areas: For example, FAO (2011) indicates that whereas 45 percent of the world's population depends on agriculture, forestry, fishing or hunting to provide for a

livelihood, globally women constitute 43 per cent of the agricultural labour force as producers of a large portion of the world's food crops. The most current reports (IFAD & UNEP, 2013; GRAIN, 2014) indicate that small land holders produce 80 percent of the world's consumed food on 25 percent of the land. In all these, women spend 20 per cent more time than men while working on agricultural chores (IFAD, 2012). Women's roles range from that of cultivators of own and others' fields (Doss, 2011), to providing wage labour on farm and off-farm enterprises, while providing families with nurturing responsibilities. The women as farm workers are further faced with constraints in the form of discrimination in access to key productive assets and resources such as credit. Women receive lower wages for their labour and no wages for working on family farms, and are more likely than men to be in seasonal and low paying jobs (FAO, 2013). These challenges limit the capacity of women to make a higher contribution to agricultural production and to take advantage of available opportunities to better their wellbeing. Given that agriculture is the main production activity in rural areas, FAO (2011) envisions that closing the existing gender gap in agriculture is the way to achieve increased agricultural productivity to reduce poverty. Ransom (2011) furthers the discussion on gender and access to land with the suggestion that the way to empower men and women is by facilitating their participation in development activities, including participation in rural institutions where they will have a chance to express their needs and priorities at decision-making forums.

The World Bank (2007; 2014) puts emphasis on agriculture for development by recognizing that three out of every four people in developing countries live in rural areas where they depend on land to provide for their food and other cash needs. A majority of the land users in rural areas make up the 800 million people who live on less than a dollar a day, plus the 2.1 billion people who live on less than two dollars a day (World Bank, 2007:9). The World Bank singles out land tenure security, the development of human resources, and investment in agricultural productivity as the way to alleviate rural poverty, especially in sub-Saharan Africa (2007). To the Bank,

since most of the people who live in poverty depend directly or indirectly on agriculture and other land-based activities to earn a livelihood, agriculture becomes the most practical way out of poverty (2007; 2014). The Bank's focus on land and agricultural development echoes ongoing initiatives by other development agencies, scholars and policy makers who support the argument that land is an important asset in the development of rural areas of Africa.

The identified role of land in rural development is further demonstrated through the large numbers of people relying on land to provide for a livelihood, implying the need for a framework or guidelines on how to relate with one another as they access land. The way land is held and accessed is said to have an influence on the way people relate to one another (FAO, 2002; Lastarria-Cornhiel, 1997) and the extent to which people will provide for their livelihoods (Bruce & Migot-Adhola, 1997; ECA, 2009; Scoones, 1998; Carney, 1999; Ellis, 1998; 2000; IFAD, 2008; World Bank, 2007; Englert & Daley, 2008; FAO, 2003; 2007). The result is the on-going debate on which land tenure type, will help bring about development to land-dependent households, and subsequently alleviate poverty. The issue of land tenure types is best explained through a comprehension of provisions in communal and private land tenure types, and on-going debate on which land tenure type provides tenure security, especially to rural land users. The debate has narrowed down to the appropriateness of tenure security provided by communal and individual private land tenure regimes.

Communal and private property rights on land

Communal land tenure regimes

Communal lands are lands held and accessed on a group or collective basis and guided by customary law. Customary law in the African context is (understood as) a body of written and unwritten rules and social arrangements that regulate people's rights of access to land, withdrawal of resources from the land, the rights to manage resources on the land, and the right to allocate and transfer land (Migot-Adholla & Bruce, 1994). The

rules and arrangements governing the users of such lands find their legitimacy in tradition as observed and practiced over generations (Migot-Adholla & Bruce, 1994; Coldham, 1978). In communal land tenure, a whole community, clan or ethnic group holds and uses land and its resources in common (Migot-Adholla & Bruce, 1994; GoK, 2009). The said group has well defined membership and resource boundaries and exclusive rights to the jointly owned resource upon which they depend to provide for their livelihoods. The existence of membership and boundaries are to help exclude outsiders and in the process secure the rights of group members (Andersen, 2011; Migot-Adholla & Bruce, 1994; Pedersen, 2011).

Among the communities of Africa, the content of customary law is diverse, due to the diversity of the continent in terms of size, ethnicity, social, cultural, economic, environmental and political factors, therefore varies from community to community (Migot-Adholla & Bruce, 1994; Cotula, 2007). Migot-Adholla and Bruce (1994) further argue that despite the variations, customary land tenure arrangements have some commonalities in terms of broad principles, with kinship as the primary organizing factor. People gain access to property rights on land collectively through their membership and status in the social group controlling a particular territory (Migot-Adholla & Bruce, 1994; Okoth-Ogendo, 1991; Coldham, 1978). Individual access and use of land is regulated by customary traditions that vest control in kinship or smaller residential groups through a variety of usufructuary arrangements (Migot-Adhola, 1991; Migot-Adholla & Bruce, 1994).

Under communal land tenure, individuals or households practice collective rights which involve the allocation of grazing rights over particular lands to specific groups of users (Cotula, 2007). In such an arrangement, each tribe, community, or group has its own known area of land with boundaries recognized by neighbours, with whom they have reciprocal relations (Lane, 1996). Within the boundaries are divisions and sub-divisions occupied and accessed by clans, households or families (Coldham, 1978;

Migot-Adholla & Bruce, 1994). In this arrangement, individual households or families have fairly and clearly defined physical and temporal rights of use to specific parcels of land for the construction of residential houses and cultivation of food crops, and such rights can be passed over to succeeding generations (Cotula, 2007; Coldham, 1978; Migot-Adholla & Bruce, 1994). The role of the larger social group is to validate and facilitate the acquisition and safeguarding of property rights to land which are held by individuals and groups within the larger group.

Common to most (African) communal land tenure is that the resources on land are accessed through a system of multiple rights which enable individuals and groups to access a particular resource at similar or different times (Cotula, 2007; Coldham, 1978). For example a household could hold rights of exclusion to the land on which they reside, hold rights of management to pasture lands for grazing livestock, and have rights of access and withdrawal to forest lands for firewood, fruits and other non-timber forest products (Cotula, 2007). Communal regimes with a bundle of rights are said to have evolved in places where the demand on a resource is too great to tolerate open access, so that property rights are created based on groups of people (Schlager & Ostrom, 1992; Cotula, 2007). Subsequently, communal tenure confers authority and related property rights over a particular parcel of land or other resources such as pastures, water, fisheries, or forests to more than one person or group of people (Schlager & Ostrom, 1992; Demsetz, 1967; 1988) who retain exclusive rights during their allowable period of access. The people have authority to use the particular parcel of land or resources on land, but they do not have the right to alienate such lands. The lands are held by a group and passed down to users based on kinship ties.

Exclusivity occurs when different individuals or groups have control over a similar parcel of land for one purpose and at a particular time to the exclusion of the other (Cotula, 2004; 2007). The group with such control may at another time find themselves excluded when the other user takes control of the same land, or whatever resource, for a

different purpose. A good example is situations where pastoralists have access to seasonal pastures on agricultural fields through reciprocal arrangements with crop cultivating communities (McCarthy *et al.*, 1999; Cotula, 2007). In such arrangements, a particular parcel of land will cater for multiple exclusive uses such as for crop farming, and after harvesting the crop, pastoralists come in to graze their livestock, i.e., users come in succession over different seasons (Cotula, 2007).

In the organization of communal access among most communities in Africa, immediate land ownership is private, based on occupation and use, while the larger area of land remains the common property of the group (Migot-Adholla & Bruce, 1994; Coldham, 1978). Runge (1981), Bromley (1989; 1992), and Ostrom (1990) studying communal (and common property) resources have concluded that collective regimes provide a way to privatize the rights to a shared resource without dividing it into pieces, thus, enables many users to access resources on such lands. Subsequently, communal tenure confers authority and related property rights over a particular parcel of land to more than one person or group of people, in much contrast to practices under individual private tenure.

Individual private land

Private land exists in cases or situations where interests on land are registered to an individual or group of people, giving the registered individual or entity rights over such lands (GoK, 2009). In private property regimes, property rules are organized around the idea that various contested resources are assigned to particular entities who take control over the resource including decisions on access, withdrawal, management, exclusion and alienation. Private property rights on land are conferred through a number of mechanisms including survey, demarcation, registration and formalization through title registration (GoK, 2009; GoK, 1968). Title registration is perceived to create tenure security in that a title deed communicates a message to other members of society that such registered lands are the property of the title holder. The proponents of private

property rights on land have a common focus on individualization and formalization as the evidence of ownership. They have institutions with information on titles, titling, boundaries and size of land, and market value of the land, among others. The processes of formalization and title registration involve survey, demarcation, registration of land and titles, and a meaning of ownership in terms of full rights of access, withdrawal, management, exclusion and alienation (Schlager & Ostrom, 1992; Demsetz, 1967).

Security of tenure of private land holders is assumed as defined and allocated by the State, and when individuals enter into contracts so that relations are more of contractual and performed in the market place (Ikdahl, 2011). The result is that the people who hold land as private property are viewed as free and autonomous individuals who operate within a free-market economy (Singer, 1988). Subsequently, others are expected to respect the resource ownership both in the presence and absence of the owner (Gore, 1913; GoK, 1968).

The implied assumption is that the private land owner has control over the land, can rationally invest and trade the land for benefits (Singer, 1988; Beckmann, 2006; Ikdahl, 2011), and has low probability to lose land rights, for example through eviction (Place & Otsuka, 2000). Private rights to land give rights to transfer or sell land, and results in increased improvements in soil and water conservation (Kabubo, 2007) as land holders are assured to transfer or bequeath the improved lands to their kin.

Rights in private property are discussed side by side with economic benefits. The registration of land is viewed as providing tenure security which in turn stimulates more efficient use of land whereby the land owner has an incentive to invest in the long term management of the land. Once land is registered, it helps reduce transaction costs therefore enables the growth of land markets where land is transferred to more dynamic land users (De Soto, 2000). Once land is registered and titled, the land owner can use the title as collateral to get loans from banks. Therefore a title deed helps to improve access to credit which in turn enables land owners to make more

improvements to land, thus making the land more valuable and able to be used to access more credit. The arguments are based on the idea that because private land has boundaries, is recognizable, tradable and has permanency (De Soto, 2000; Demsetz, 1967; Coast, 1960), makes it easier for exploitation for economic benefits.

Scholars in support of private property rights on land (Locke, 1689; Macpherson, 1979; De Soto, 2000; Demsetz, 1967; Hardin, 1968; World Bank, 1975; 2003) seek the formalization of customary land rights. They advocate for the privatization of property rights on land through title registration as the major intervention in poverty reduction, a view opposed to proponents of communal land tenure regimes. The differences have led to debates on which land tenure type or property rights on land offer tenure security to rural land users to support a land-based livelihood.

The debate

Arguments for private property rights on land

> But private property is also enabling. It licenses creativity and open-ended agency, potentially free from the interference of other individuals, the state or another overarching political authority. Private property goes hand in hand with the creation of a legal individual whose rights are inviolable. It sanctions life and liberty for an individual whose agency and creativity are, potentially, open-ended. It makes a person's body and her creations her own. It defines the individual's realm, in which she can build her castle or tear it down – at least theoretically, for those who are in a position to exercise their private property rights (Pedersen, 2010:168)

The proponents of private property rights on land support privatization for it helps define the boundaries of the land held by the owner, a situation said to result in better resource conservation (Coase, 1960; De Soto, 2000; World Bank, 2003; Hardin, 1968). The owner of the resource finds it easier and necessary to promote a responsible and long-term care of the resource base. The proponents view legality, entailed in a land title deed as providing tenure security by reducing uncertainty in regards to ownership (Gelder, 2010). Once tenure insecurity is overcome, the owner of such land will promote investments and economic growth which in turn result in reductions in poverty. To

Platteau (2002), De Soto (2000), and the World Bank (1975; 2003) tenure insecurity reduces incentives to invest, therefore results in lower economic benefits. To the proponents, land should be held on a private tenure basis for the sake of productivity, otherwise when land is held on a communal or collective basis, problems arise due to free riders; those who work less at the expense of those who work more.

The view held by De Soto (2000) is that titled land provides tenure security through the legal system. Economic benefits are accrued when a land owner, having security of tenure is able to rationally manage their land at the best and highest use, allocate resources efficiently based on the operation of the market, and the result will be a thriving market that in turn benefits individual land holders. For De Soto, legality helps convert land into a capital and marketable asset, it protects the land from outside appropriation, and therefore any subsequent transactions on land. Otherwise, land which is not formalized is "dead capital" (De Soto, 2000:210) which cannot be traded in the market where wealth is created. De Soto proposes land formalization as the way to enable anyone holding land informally, especially the poor, to be mortgaged as the way to get out of poverty, thus, he writes about land holders living in poverty:

> If you have lacked development, it is because you lack the rule of law which brings with it the formalization of property. Dead capital is tied up in your land that can only be liberated by formalizing tenure relations (De Soto, 2000:210).

De Soto (2000) and the World Bank (1975; 2003) view the formal recognition of property rights on land as a major intervention in poverty reduction in rural Africa. The reasoning is that the existing poor agricultural yields and rural poverty is a result of holding land on a communal basis. The arguments for private property rights as the way to escape poverty are further supported by evidence of progress made by those holding land as individual private property. The outcome of a study by Haile and Kassa (2004) in the Tigray area of Ethiopia indicates that land holders invested more in conservation activities once they were allocated certificates to land. The certification process involved the recording of plots of land held by households, after which

certificates of land were issued to the land holders. The certificate has been shown to give land users, especially farmers, more confidence in the security of their claim to land. The result is that the land holders have invested more in soil conservation activities through tree planting and inputs to improve soil fertility. Therefore, private property rights are viewed as being fundamental economic institutions that ensure the efficient allocation of resources, and operation of the invisible hand of market mechanisms (North & Thomas, 1973; De Soto, 2000; Demsetz, 1988).

Macpherson (1979) and Hardin (1968) hold similar views that private property rights result in benefits to asset owners. The implied reasoning is that shared resources will result in dissatisfaction, degradation of the resource base, and bring about conflicts among users. Conflicts occur in cases where those accessing shared lands do not share equally in inputs and accrued benefits. The issue of shared resources contributing to degradation and conflicts among resource users was heavily relied on by Hardin (1968) in his thesis of "the tragedy of the commons."

Viewing common property rights of pastoralists' communities from the outside, Hardin interpreted the access of pastoralists' livestock to pastures to be open and free, therefore susceptible to over-use and degradation. To Hardin, when a resource is held in common, each herder will decide to increase their livestock numbers so as to benefit at the individual level. By each herder increasing their herd, the shared pastures will be overused and all the herders will suffer, and there lies the "tragedy of the commons" (Hardin, 1968). The tragedy occurs when each herder decides to increase the number of livestock, for if one herder does not, the other herder will increase their herd and benefit at the individual level. The conclusion reached by Hardin is that the way to avoid the tragedy of the commons is to hold the required resources, land and pastures in this case as private property. The arguments by Hardin (1968) are based on the assumption that pastoralists' lands are open access, rather than communally held lands accessed under the governance of customary institutions.

While the propositions for private land tenure seem to make sense, it is not clear how proponents such as Hardin (1968), De Soto (2000) and the World Bank (1975; 2003) would explain cases where households hold land under private tenure but are still experiencing poverty, which the proponents of communal land tenure attribute to the sub-division and titling of communal lands.

Arguments for collective property rights on land

> Land belongs to a vast family of which many are dead, few are living and countless members are still unborn. (Quote, common to many African communities)

Proponents of collective property rights on land (Migot-Adholla & Bruce, 1994; Bruce & Migot-Adhola, 1993; Nyamu-Musembi, 2006; 2008; Manji, 2006; Lesorogol, 2005; Seno, 2002; Quan, 2004; Englert & Daley, 2008; Hanan & Minten, 2007; Migot-Adholla, 1991) argue that communal or collective property rights on land offer security of tenure to land users, therefore are better suited for land holders in rural areas of Africa. Communal land tenure offers security of tenure for it is based on customary land rights whereby individuals gain access to land through their belonging to a family, household or community. Since individual rights to land are based on kinship, the rights are recognized and enforced with the norms and values of a community (Migot-Adholla & Bruce, 1994; Simbizi, *et al*, 2014). The property rights created on communal lands are based on continued social relations (Menzein & Mwangi, 2008; Lastarria-Cornheil, 1997; Zhuo, 2011) therefore they tend to continue over long periods of time. Due to the long term relationships, the interests of the different land users get recognized and integrated over time. In such a situation, the resultant property rights are based on common understandings that develop over the course of relationships held over long periods of time (Ikdahl, 2011:59). The common understanding subsequently offers long-term security of tenure, for they are dynamic and evolve in response to the needs of people (Jacoby & Minten, 2007; Migot-Adholla, 1991).

The proponents of communal land tenure counter the argument for privatization that registered land is secure because it is legally recognized. The proponents argue that in cases where households have registered title to land, such actions should not be viewed as privatization based on "want," but rather as privatization based on "need", a need to pre-empt takeover of their land by the State or powerful individuals (Nyamu-Musembi, 2006). Cases of registering land to pre-empt takeovers have been found to be common among many smallholders in Africa (Bruce, 1997; Migot-Adholla & Bruce, 1994; Nyamu-Musembi, 2006), and such land registration endeavours are confused with expressions of a felt need for private land tenure. In most cases, they argue that a private title to land is only sought as a protective measure to keep communal land from outside appropriation, a position exemplified further through field research findings.

According to Nyamu-Musembi (2006; 2008), rural land users still find communal land tenure and the related customary land law practical in meeting their subsistence and cash needs from land. The author draws on research findings from Eastern Kenya to illustrate the practical nature of holding land on a communal basis. The study reveals that even in areas where formalization of land has been introduced and affected, customary land tenure practices are still more pronounced in access to land and in everyday land transactions. Nyamu-Musembi further reports that even though formal land titles have been in the study area for the last 30 years, people still use traditional conflict resolution methods to solve land boundary disputes, and only involve government officials to "rubber stamp" the agreed-upon decision (Nyamu-Musembi, 2008:22). The implication is that rural people still find communal land tenure and customary land law to be the most practical to provide security of tenure, and access to land.

Jacoby and Minten (2007) use a case study from Madagascar to voice sentiments similar to those of Nyamu-Musembi, and conclude that having a private title deed to land does not hold much significance on investments in land, productivity of land or value of

land. Rather, a reduction in land tenure security is more of a cost-effective intervention. Jacoby and Minten (2007) and Nyamu-Musembi's (2008) support for communal land tenure echo earlier works of Platteau (1996) who holds the view that formalization of land tenure in Africa through title registration should not be a universal requirement. The reason being that land formalization is only practical in areas where indigenous land tenure systems are absent or weak, as in Asia and Latin America. On a similar line, Toulmin (2009) argues that local institutions are rooted in social, political and cultural specific settings, and calls for context specific tenure security systems, otherwise the use of the "one-size-fits-all" approach of title registration might be too foreign and confusing to some rural communities.

The other occasion when private property rights on land have potential is in places where the return on investment in land is high, such as in urban areas. Other cases are where the use of land as collateral has taken hold, conditions said to be lacking in sub-Saharan Africa (Jacoby & Minten, 2007). In the recent times, Lawry (2013) has suggested that it would be more effective if governments supported communal tenure and customary land law whose structures are already in existence, therefore easier to implement compared to a fresh start to introduce private land tenure systems which has proved expensive to many countries. There are also difficulties to identify and record each right holder before registration and titling can occur. For example, the World Bank (2005) compared the time and cost to register land in different parts of the world, and reports that while it takes an average of 34 days and costs 4.8 percent of the property value to register property in the Organization for Economic Cooperation and Development (OECD) high income countries; it takes 116 days and costs up to 14.4 percent of the property value in sub-Sahara Africa. At the country level, the World Bank figures indicate that it takes 335 days and costs 11 percent of the property value to transfer property in Anglo, while in Kenya it takes 39 days, and costs four percent of the property value to make a transfer.

Nevertheless, the same question, why poverty still reigns in situations of communally owned land, remains relevant. If communal or private property rights on land have not enabled households to overcome poverty, where else could the answer be? In the next chapter, I outline and discuss historical processes and changes to land tenure of the Maasai of Kajiado. The objective is to establish the circumstances under which the Maasai of Kajiado have made decisions and choices on land tenure.

CHAPTER 4
CHANGE AND THE SEARCH FOR TENURE SECURITY BY THE MAASAI PEOPLE

Introduction

This chapter focuses on pastoralists' communities and the practice of pastoralism in a changing ASAL environment. I narrow down the discussions to changes that have taken place to the land tenure of the Maasai of Kajiado and their continued practice of pastoralism. A revisit to climatic conditions in arid and semi-arid lands (ASALs) ascertains the warrant for the practice of pastoralism as a livelihood strategy. To achieve this, I start by presenting features of the traditional land tenure of the Maasai, especially in relation to access, governance, seasonal movements, and size of land accessible. The changes to land tenure are discussed in reference to the three historical periods of colonial, independent Kenya, and the formation and sub-division of group ranches. I conclude the chapter with a discussion of features of household decision-making, including characteristics of unitary and bargaining households, the role of social-cultural institutions, and formal structures and processes.

Pastoralists communities in ASALs of Africa

Pastoralism is a production strategy where people raise herd animals such as cattle, goats, sheep, donkeys and camels to sustain a livelihood, often in arid and semi-arid lands (Campbell, 1979; Galaty, 1992). Pastoralists constitute between 200 million (CTA, 2012) and 268 million (African Union, 2010:9) people in Africa and are found in Africa's arid and semi-arid regions of North Africa, West Africa, South Africa, and Eastern Africa. Pastoralists cover about 40 per cent of Africa's land mass, with significant variations within countries. The pastoralists range from specialized camel keepers among the Somali, Afar, Beja, Rendille and Gabra; to cattle and small stock keepers among the Turkana, Pokot, Maasai and Samburu of Kenya, the Nuer, Dinka and Toposa

of Sudan, and the Dasenech, Mursi and Oromo of Ethiopia, the Karamajong, the Jie and Teso of Uganda, and the Parakuyu and Tatoga of Tanzania (Elliot *et al.,* 1994). The East African region has the largest variety and number of pastoral societies, and they occupy over 70 per cent of the Kenyan land mass (Map 1) and 50 per cent of each of the following countries: Ethiopia, Somalia, Sudan, Tanzania and Uganda (Elliot, *et al.,* 1994; African Union, 2010). The pastoralists depend on livestock to provide for their subsistence needs, are mobile, use communal grazing areas, and recognize customary rules as a source of authority (CTA, 2012; African Union, 2010).

Within Kenya, the Somali, Rendille and Gabra pastoralists are located in the north and northeast parts of the country where they share livestock resources with pastoralists in the southeast of Ethiopia, and the southwest of the Somalia Republic. The Turkana, Pokot and Samburu are located in the North Rift of Kenya from where they interact with neighbouring communities in southwestern Ethiopia, southeastern South Sudan and the northeastern part of Uganda. The Maasai pastoralists form part of the larger Maa-speaking Plains Nilotes found in Southwestern Kenya and Northern Tanzania. The Maasai of Kenya traditionally resided in the districts of Narok, Trans Mara and Kajiado.

Mobility and the practice of pastoralism in ASALs

Pastoralists live in arid and semi-arid lands which share roughly similar environmental and climatic conditions, types of livestock and methods of economic production. The ASALs are characterized by high temperatures with a monthly mean of 30 degrees Celsius, rainfall that is unpredictable, highly variable in space and time and approximating an annual average of 350mm (Niamir, 1987; Nori & Davis, 2007). These climatic conditions limit crop-farming activities so that the people are left with pastoralism as the most viable livelihood activity. The ASALs have for many years favoured livestock production through pastoralism as the predominant livelihood activity (Kenya, Republic of, 2009).

Pastoral production is usually organized within household units consisting of a male livestock-owner, his wife or wives, children and other dependents (Bonfiglioll & Watson, 1992; Rutten, 1992; Galaty, 1992). Pastoral production is aimed at providing a regular supply of food in the form of milk and meat for household members. Pastoralists also trade livestock, hides and skins, and milk for other food products or for cash income to purchase grains, pay school fees and medical bills (Rutten, 1992). Each pastoralist household holds rights to the communally owned pasture lands. The rights pertain to access to pastures and water on a seasonal basis. It is through these access rights that livestock owned by a household access the seasonal pasture and water resources that are spread in time and space across agro-ecological conditions in the ASALs.

The pastoral resource-use pattern is characterized by risk spreading and flexible mechanisms such as communal land ownership, mobility of livestock, large and diverse herd sizes and separation and splitting of livestock (Lane, 1996; Grahn, 2005). Pastoralism thrives on communal land tenure which enables pastoralists to move their livestock over vast lands to access the seasonal and limited water and pasture resources in ASALs (Nori & Davis, 2007). Pastoralists move from place to place with their livestock to get the most out of the opportunity provided by a surfeit of water and other resources in good seasons or where found (Bonfiglioll & Watson, 1992; Swift, 1988), and to allow for regeneration of resources, making mobility a very critical factor in the practice of pastoralism as a livelihood strategy in ASALs (Niamir, 1987; Nori & Davis, 2007). Mobility enables livestock to graze over vast areas, making pastures palatable and productive. Mobility also enables pastoralists to travel, interact and participate in cultural ceremonies, and access a range of markets (Galaty, 1988; Kamara *et al.*, 2004).

The practice of pastoralism in the ASALs of Kajiado

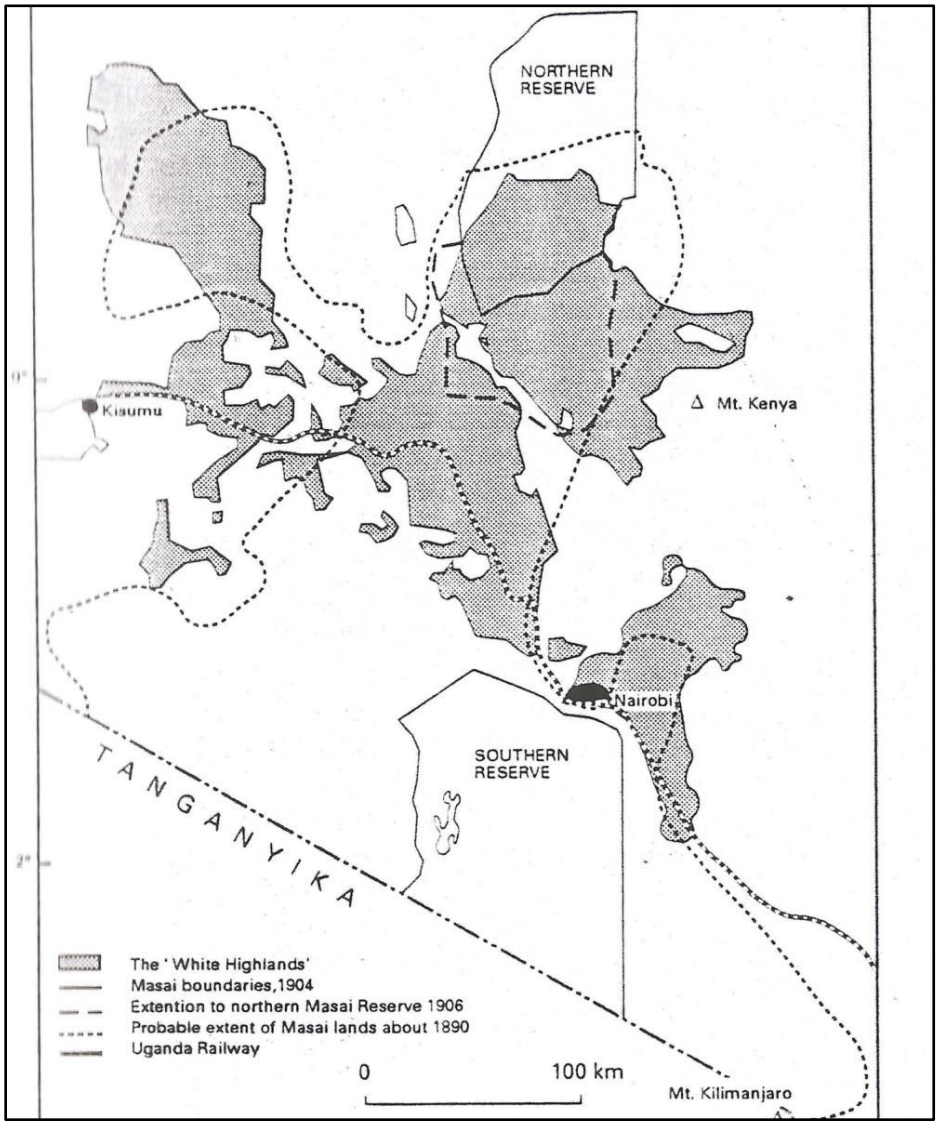
Traditional land tenure of the Maasai

The Maasai of Kenya traditionally reside in the districts of Narok, Trans Mara and Kajiado, located in the south western part of Kenya (Map 1). The Maasai community is made up of five clans (*il-makesen, il-aiser, il-molelian, il-taarrosero, and il-ikumai*), and in the pre-colonial period, each clan occupied a defined territory from where they practiced pastoralism on communal lands (Rutten, 1992; Galaty, 1982). When Europeans arrived in Kenya in 1885 to administer the colony, the Maasai occupied an estimated area of 155,000 km^2 (Grandin, 1982:135) stretching from Mt. Elgon and the Loriyu Plateau in the north to modern day Republic of Tanzania in the south (Map 5).

Before 1885, Maasai households held land and accessed resources on land on a communal basis. Access to pastoralist resources was governed through a multi-level system made up of households, *bomas,* Neighbourhood, Locality, Section and Community (Sketch Map 3). Maasai families lived in individual households within large compounds called *bomas* (*Enkang*) comprising six to 12 households (Jacobs 1984; Serneels *et al*., 2009). The Maasai lived in households made up of a male household head, his wife or wives and unmarried children, and married sons and their wives and children (Dahl, 1976; Galaty, 1982; Bonfiglioll & Watson, 1992; Rutten 1992), making a household the smallest unit of governance where decisions were made on herd management and disposal. Many *bomas* combined to form a Neighbourhood (*Olopolis*), which had a specific territory with an autonomous political system based on age-set[13] associations (Mwangi, 2007b; Rutten, 1992; Finke, 2002). Neighbourhoods combined into a Locality, which controlled wet and dry-season grazing and water resources (Jacobs, 1984; Kituyi, 1990; Grandin, 1982).

[13]The Maasai age-set is a corporate group of males initiated at the same period through circumcision. The groups of males are differentiated by age into boys, warriors, and elders whereby each age-set progress through a system of rank stages as a whole, therefore establishing a status hierarchy to which ideal modes of behavior and authority are related (Mwangi, 2007b).

Map 5: The Maasai territory before and after the creation of Native reserves

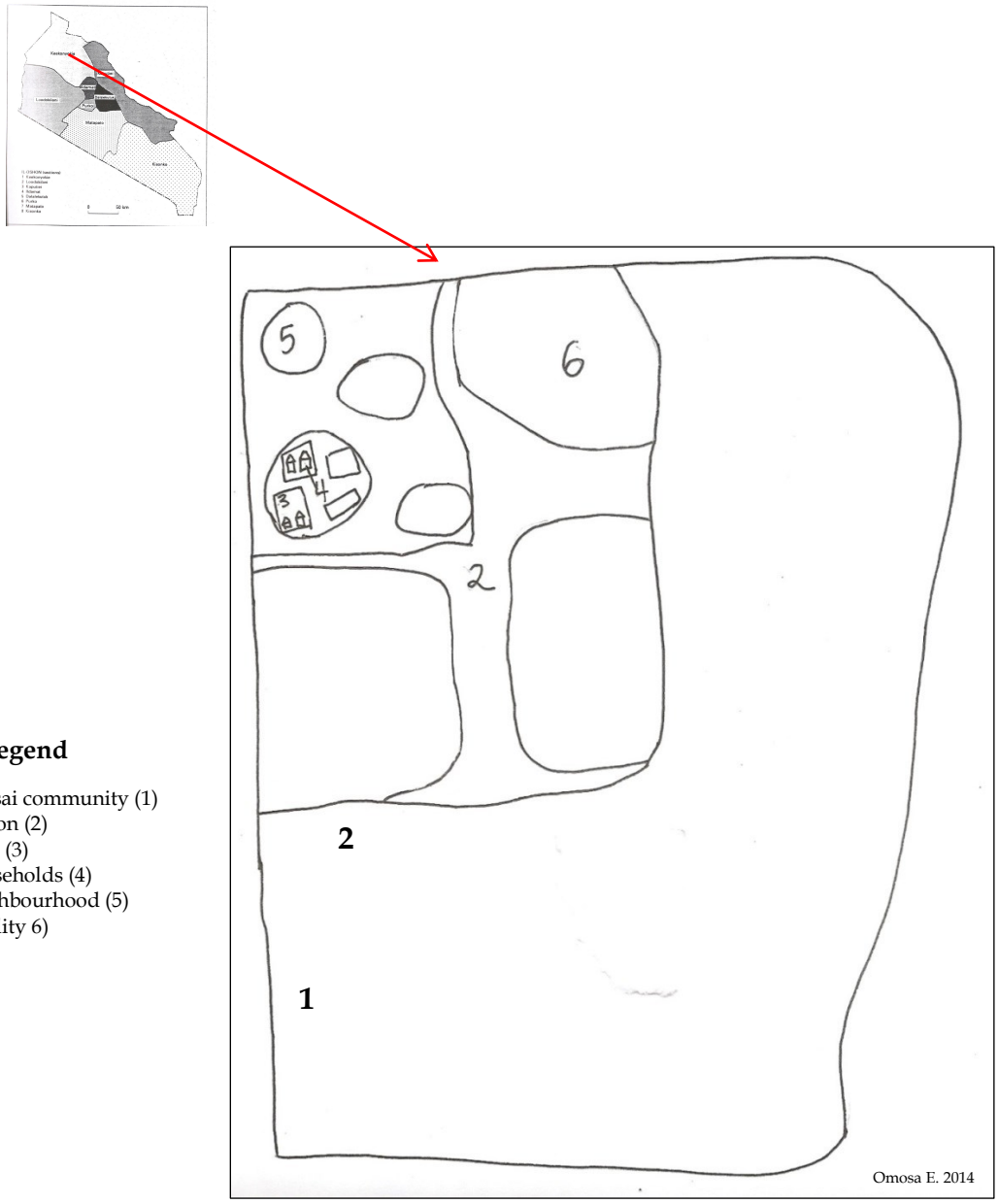


Source: Rutten M. (1992). *Selling Wealth to Buy Poverty. The Process of the Individualization of landownership among pastoralists of Kajiado District, 1890-1990*. Verlag Breitenbach Publishers. Saarbuckeken. P. 176.

Rights to land and other natural resources were secured through common residence in a Locality over long periods of time and by participation in age-set activities. Many Localities formed a Section (*oloshon*), which is the largest grazing unit, with a fixed territory that allowed for resource fluctuations, providing free access to all members to wet and dry season pasturelands. The Maasai Section comprised of well-defined land

for residential and grazing areas, with residential areas located close to permanent water sources (Grandin, 1982) and wet and dry season grazing lands on faraway lands whose distance increased with aridity. At the highest level is the Maasai-society, identified through the shared *Maa* language and cultural practices (Grandin, 1982; Rutten, 1992).

Figure 4: Sketch Map depicting the traditional Maasai land tenure system



Legend

Maasai community (1)
Section (2)
Boma (3)
Households (4)
Neighbourhood (5)
Locality 6)

Seasonal movements to access pastoral resources

Traditionally the Maasai held land and accessed resources on land on a communal basis guided by customary land law. The law put emphasis on collective rights based on flexible, negotiated and reciprocal arrangements aimed at enabling herd mobility (Ole Munei, 1999; Grandin, 1982; Lane, 1996) through the changing seasons of rainy and dry periods. The Maasai movements to access the seasonal pastoral resources related to the realities of their local environment and type of livestock kept. The movements by households were not random, but highly strategic, drawing on local information gathering, historical migratory routes, and analysis of potential risk, all supported by the Maasai governance system of the age-set structure (Lane, 1996; Rutten, 1992).

The Maasai elders made decisions in regards to which land areas were open for settlements and which ones were left open as pasture lands for livestock. Grazing areas were distributed within and outside the ranch, and resources in each parcel of land were to be accessed in sequence. Long rains were received in the months of March to May, and short rains in October to November. The Maasai sub-divided their land into residential (*enkutoto)* and grazing areas (Ole Munei, 1999). The residential areas had permanent settlements and were located close to permanent sources of water in the lowlands. Residential lands were exclusive to particular households though not on a permanent basis as members were at liberty to move their settlement to another Maasai Neighbourhood on a temporary or permanent basis. However, some neighbourhoods discouraged the moving into their *enkutoto* of new households with larger herds of livestock, especially if the move was on a temporary basis (Ole Munei, 1999).

The grazing areas or pasturelands were divided onto four categories: pasture enclosures for calves, sick and aged animals; wet-season pastures; mid-season pastures; and dry-season pastures (*enkaroni)* which were reserved for the later part of the dry season (Grandin, 1986; Galaty, 1982; Bonfiglioll & Watson, 1992). Calf enclosures were areas

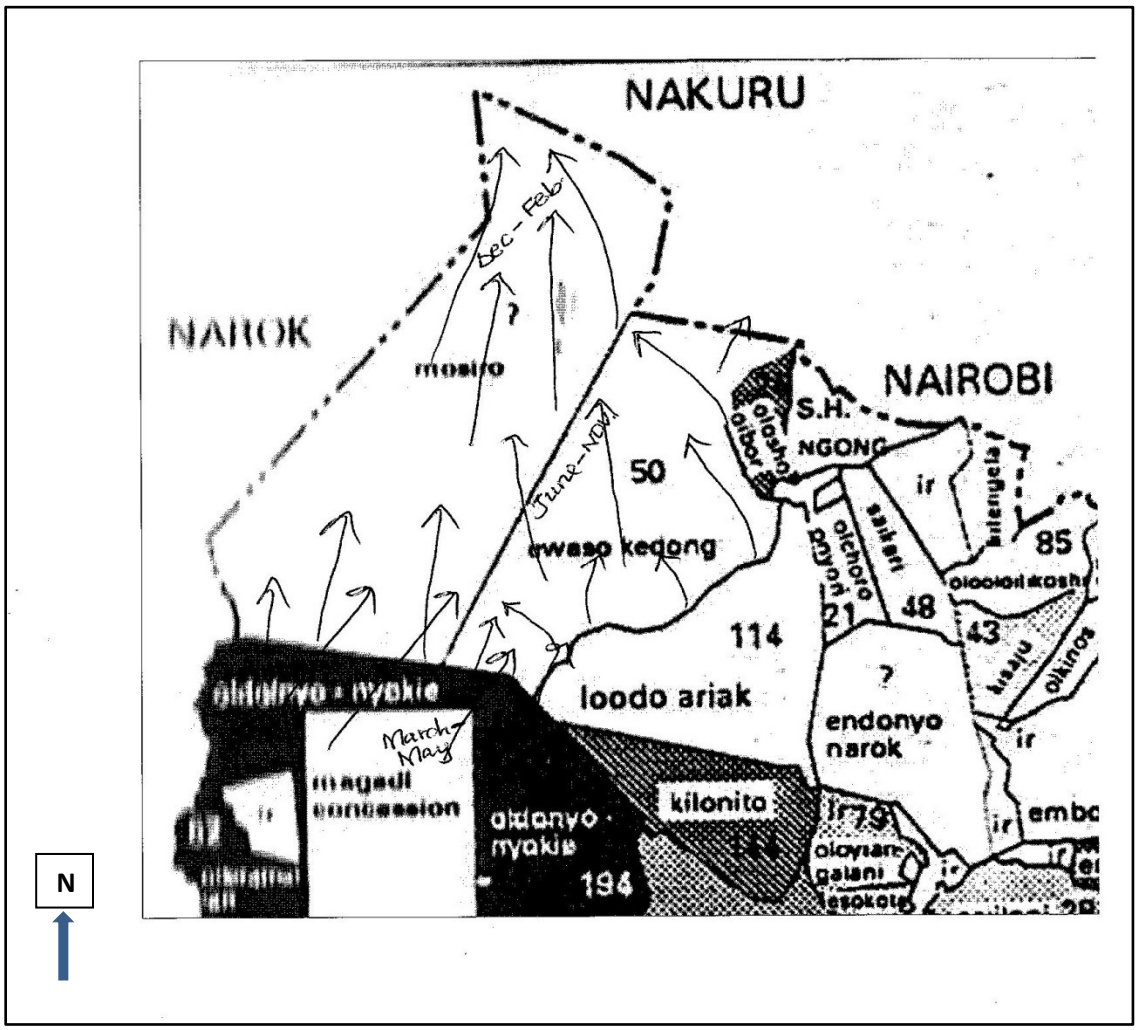
closest to a *boma* reserved for use by calves from homesteads within the particular *boma*. The clearing and fencing of the enclosure was done collectively by members of the *boma* so that the enclosure belonged to members of a particular *boma* with the rules of access enforced by the eldest male in each household. Nearest to *bomas* were large wet-season grazing grounds accessed by lactating cows and sick or aged animals from *bomas* within a particular Neighbourhood. The lactating animals were returned to the *boma* at the end of each day for milking, and the sick ones for monitoring (Grandin, 1982). The wet season grazing areas were open to members from households within a particular Neighbourhood, and to members of other Neighbourhoods with permission from the elders.

Grazing on wet-season pastures was open but diminished with the on-set of the dry-season, at which time herds were split into lactating and non-lactating cows. The non-lactating livestock were moved to mid-season and later on to dry-season grazing areas. Mid-season pastures were located northwards towards the hills (Map 6). Households associated with these mid-season grazing lands made collective decisions on when livestock would enter the area for grazing. The periods of movement varied from a few days to a whole season, determined by the on-set of rains (Grandin, 1982). No permanent settlements were allowed in the mid and dry-season grazing areas. Further away from the permanent residential areas, and more to the hills were dry season grazing areas (*enkaroni*), accessed by livestock from a Maasai Section, but were open to members of other Sections on requests. Livestock were moved to the *enkaroni* areas once pastures in mid-season areas were used up.

When people and livestock moved to the *enkaroni*, households constructed temporary *bomas* to enable them graze their livestock in the *enkaroni* and travel back to the mid-season areas (every two days) to water their livestock (Rutten, 1992; Morton, n.d). In years of good rainfall, the dry-season pastures were rarely used before the next rains when livestock were taken back to the wet-season grazing lands near the permanent settlements. As will be seen in the findings chapter, these arrangements of accessing

different types of pastures in any given season has changed over time resulting in permanent settlements in the mid-season and dry-season grazing areas.

Map 6: Movements made by Maasai pastoralists to access seasonal grazing lands



Source: Map adapted and reshaped from Rutten, M. (1992). *Selling Wealth to Buy Poverty. The Process of the Individualization of landownership among pastoralists of Kajiado District, 1890-1990.* Saarbuckeken.Verlag Breitenbach Publishers. P. 296.

← Arrows depict livestock movements based on months of a given

Depiction of movement and months by Omosa E, 2014

Grazing rights and use were clear and well recognized for *bomas* and Neighbourhoods, and became more flexible with increased distance from the *boma (*Grandin, 1982).

Certain *bomas* were associated with particular grazing areas but did not have exclusive user rights. The Maasai made collective decisions on when livestock would enter an area for grazing. For example, in times of good rainfall, the dry season grazing areas (mainly located by hill tops or slopes) would not be used until the next rains fell. The same trend applied to livestock accessing watering points located in dry season grazing areas (Rutten, 1992; Grandin, 1982). The wet season presented many temporary and permanent watering points that households could access at will, and regulations set in as soon as the dry season started and natural watering points dried up. The regulations guiding the Maasai in access to the seasonal water and pastures were anchored within the Maasai governing structure of the age-set.

The Age-set governance institution of the Maasai

The Maasai were able to access and share pastoral resources on communal lands under the guidance of their customary institutions and governing structure of the age-set (*olporror*) system. An age-set is an organized and recognized group, often composed of male only persons of the same age (Morton, n.d.). In Eastern Africa, age-sets are normally composed of males who are initiated during one particular period of time and pass through different grades and levels as a group. One remains a member of the same age-set through their lifetime (Morton, n.d.; Radcliffe-Brown, 1929; Finke, 2002). The Maasai age-set is a corporate group of males initiated at the same period through circumcision. The groups of males are differentiated by age into boys, warriors, and elders (Mwangi, 2007b) and each age-set progress through a system of rank stages as a whole, therefore establishing a status hierarchy to which ideal modes of behavior and authority are related. To provide mechanisms for the wider mobility of people and livestock on communal lands, (which is essential to pastoral livestock production), the Maasai have linkages at individual and group-wide levels through their age-set system. The system unites people within and across Sections (Morton, n.d.; Finke, 2002; Rutten, 1992). Each of the age-set stage is further sub-divided into junior and senior levels.

Boys

The age-set of boys is sub-divided into early and later boyhood. Early boyhood is comprised of boys from the age of one to seven years. Later boyhood is made up of boys aged eight to 17 years. The boys (in later boyhood) go through an elaborate initiation ceremony of circumcision involving a period of separation whereby the initiates are housed and fed away from their parents' homestead. During this period, the initiates are instructed on the art of warfare and related tactics, after which they are admitted into the level of warriors called *Ol Murrani* or Moran.

Morans

The Maasai *Morans* lived together in *manyattas* (communal quarters), which is a circle of huts located within a forest, away from *bomas*. While at the *Manyatta*, the *Morans*, now aged between 18 and 30 years learn the art of survival, warfare, and cattle raiding. Junior Morans acted as a group, traveling about their communal area where they displayed their costumes, participated in group activities such as dances and games which had military overtones. They acted as suppliers and carriers for the senior Morans, and participated in learning activities in preparation to ascend into senior Moranship. The main responsibility of senior Morans (25 to 30 years) was to defend their group or community (Morton, n.d; Rutten, 1992). The Morans participated in actual fighting and had their own military organization made up of senior commanders, leaders and fighting units (Rutten, 1992). Part of the objective of Moranship was to increase the group's wealth in stock through cattle raids, and in the process they acquired all the privileges and honours that came with bravery. Senior Morans trained junior Morans on proper military conduct, and liaised with their group leaders and elders, especially those well versed in war, to reach certain decisions on warfare. The Morans also searched for new pastures even beyond their community borders, where they took and guarded cattle to graze. The period of senior Moranship lasted for five to seven years after which the members were permitted to go home,

marry and raise a family (Morton, n.d.; Grandin., 1982; Galaty, 1992). The senior Morans graduated to become elders.

Elders

Eldership is made up of junior (30 to 45 years) and senior (45+ years) elders. The junior elders played a number of roles including to bless initiates by opening and closing the circumcision period, sanctioned wars or raids proposed by Morans as the military age-set. The role of senior elders was mainly to make decisions affecting the whole community. The elders prophesized the success or failure of events and advised the military accordingly, approved and presided over the promotion of senior Morans into elders, and presided over ceremonies where junior Morans were promoted to the status of Morans (Morton, n.d.; Finke, 2002). Eldership provided a number of diverse stages through which men and women assumed responsibilities related to the administration of their clan or community. Women were attached to male age-sets by association, especially through marriage, for they do not have their own system. Each age-set moved up through a hierarchy of grades, each lasting approximately 15 years (Morton, n.d.; Finke, 2002; Mwangi, 2005).

Individuals participated in political affairs and acquired political power and influence through membership in an age-set. Consequently, change in status entails changes in influence, prestige, power and authority, with the new initiates holding the least power, and elders wielding most of the power (Finke, 2002; Mwangi, 2005). The cross-cutting nature of the age-set system unifies territorial and clan divisions into one Maasai community. Due to the related nature of Maasai livelihoods, especially on the seasonal movements of livestock to access pastures, each age-set was linked to others at the highest level of the community; a relation demonstrated when each age-set promoted their age-set to the next level on similar lines. Through the age-set governance system, households were able to access resources for livestock which in turn provided for the subsistence and cash needs of individual households.

Livelihoods of the Maasai

Livestock, especially cattle are at the center of Maasai livelihoods, providing basic needs of food, clothing, and shelter, and for ceremonies and rituals such as exchange of gifts, to make peace in times of conflict (Rutten, 1992; Kituyi, 1990; Bonfiglioll & Watson, 1992). Ecological circumstances, personal preferences, available labour and family size, and relations within households and the community determine the composition of livestock per family (Lane, 1996). On average a family of eight to ten people owns 125 to 140 head of cattle, out of which half are milk cows providing for the family's daily subsistence needs of milk as the staple food (Lane, 1996:10). The by-products of livestock are mainly used to fulfil tasks within the *boma* (Bonfiglioll & Watson, 1992). Dung is used as fuel for cooking fires and to plaster houses, urine is used to build houses, and provides medicinal and cleansing qualities. Meat is obtained from the large herds of sheep and goats that families keep, for the Maasai rarely slaughter cattle unless there is a severe famine. The other times when cattle are slaughtered is for rituals such as a warrior seeking strength before a raid, or because an animal is too old or lame to be of other use (Rutten, 1992; Finke, 2002). Hides from slaughtered animals were used to make sleeping mats, sandals, slings, shields, and sheaths for weapons.

By successfully keeping livestock on communal lands, Maasai households were able to provide for their subsistence and cash needs. Consequently, the life of a traditional Maasai revolves around livestock in terms of the need to pasture and care for them, and protect them and move with them in search of pasture, water and salt licks (Rutten, 1992). This central role of cattle was illustrated through the aggressive nature of Maasai relations with their neighbours in their bid to access grazing lands (Rutten, 1992). Therefore, the Maasai relied on livestock products of meat, milk, hides and skins to provide for their subsistence and cash needs, and they relied on communal lands to successfully feed their livestock. However, historically changes in the wider environment have subsequently had an influence on the way the Maasai hold and access land.

Changes to land tenure and size of land accessible to the Maasai

The way the Maasai held and accessed land started to change from the 1880s and continues to date. Noticeable changes to the communal land tenure of the Maasai can be traced back to the British colonial administration in Kenya (1895–1960). When Europeans arrived in Kenya, the Maasai occupied an area of land stretching from Mount Elgon and the Loriyu Plateau in the north to modern day Republic of Tanzania in the south (Map 5) (Grandin, 1982).

Colonial period

Creation of reserves

The diversity of natural resources, good soils and climate for agricultural crop production found in the highlands of Kenya attracted Europeans to the region (Coldham, 1979; Okoth-Ogendo, 1991). The policy of the colonial administration for developing the country focused more on expanding cash crops in areas with high agricultural potential. To provide land for European settlements and for agricultural production, the colonial administration seized control of what they perceived as "empty lands" and applied the English property law of private property rights to govern the lands (Okoth-Ogendo, 1991; Waller, 1976).

During the same period, the ASALs received less attention partly because pastoralism was viewed as a lesser production strategy when compared with crop production as raw materials for industries in Europe. This view on pastoralism borrowed heavily from the then existing literature and theories on pastoralists and pastoralism. The literature depicts pastoralists as "economically irrational and unresponsive to development" (Hendrickson *et al.*, 1985:5) as "keeping excess numbers of animals, valuing cattle for their own sake, and for the prestige they confer, rather than the substance they provide" (Herskovitz, 1926:22). The views were partly a result of lack of extensive literature on pastoralism as the most suited livelihood strategy in ASALs. As noted in the literature on the traditional land tenure and livelihood strategies of the

Maasai, the Maasai successfully planned the practice of pastoralism within the limits of their environment.

The result was that the British administration moved indigenous people who resided on land with high agricultural potential to locations designated as African Reserves, mainly located in ASALs (Map 5). The majority of these lands happened to be seasonal grazing lands of the Maasai (Campbell, 1979; Syagga, 2006; Okoth-Ogendo, 1989), implying that Maasai pastoralists could no longer access the particular lands to pasture their livestock as seasons changed. The Maasai protested the taking over of their land and fought back but were defeated by the British administration and signed the 1904 and 1911 Anglo-Maasai Agreements that reduced the amount of land the Maasai could access. Through the Agreements, the Maasai territory was divided into the northern and southern reserves (Map 5), subsequently reducing the Maasai territory by two thirds (Southall, 2005; Sandford, 1919; Waller, 1976) so that by 1913, the area of land occupied by the Maasai had been reduced by some 40,000 km^2 (Rutten, 1992:185). The other objective of the Land Agreements was to allow people from other tribes of Kenya, especially those who had lost land to European settlers, access to lands in the Maasai region for settlements, subsistence and cash-crop farming (Finke, 2002; Rutten, 1992).

Introduction of land policies

To provide security of tenure to settlers on the agriculturally productive lands, the administration introduced land policies different for communal lands and for lands settled by Europeans. The land policies were in the form of Ordinances, starting with the 1902 Crown Lands Ordinance, to the 1959 Native Land Registration Ordinance (Okoth-Ogendo, 1981; 1991; Syagga, 2006). The 1902 Crown Lands Ordinance provided that empty lands or any land vacated by a native could be sold or rented to Europeans and land had to be developed or else forfeited. The 1915 Crown Land Ordinance repealed the 1902 Ordinance and declared all land as Crown land, including land occupied and reserved for Africans, subsequently making Africans "tenants of the

Crown" (Okoth-Ogendo, 1991). The 1930 Trust Lands Ordinance declared land to be set aside as reserves for the use and benefit of Africans, and control of such lands were entrusted to a trust board. Tribal boundaries were created and administration chiefs appointed through whom the local people were administered.

By the 1950s, many indigenous Kenyans were living on African Reserves where land-use was governed by customary land law. Population growth had resulted in further sub-division of land held by African families for inheritance purposes, making the land parcels too small for agricultural production (Syagga, 2006; Coldham, 1978; 1979). The result was that the families who wanted to grow crops for commercial purposes started to consolidate their land parcels to make larger parcels for mechanized agricultural production. To these farmers, customary land tenure and its practice of sub-division for inheritance purposes was becoming an obstacle to agricultural development (Coldham, 1978). The farmers who consolidated their farms were able to plant plantations of coffee and maize, keep grade cattle and construct permanent houses, made of stone or bricks. As a result of the investments on land, it became necessary to fence individual land holdings so as to protect crops from livestock. Based on the investments that Africans were making on land, the colonial government started a debate on how best to support the farmers (Meek, 1949; Swynnerton, 1955). According to Lord Hailey in Meek (1949), in some of the reserves, households had built enclosures that resembled freehold lands, and a debate ensured on what should be done in such cases:

> But it is not clear whether the existence of rights of this nature is in accord with the views of the Administration as to the most appropriate form of tenure under which lands in the Reserves should be held by members of the native community. It would be embarrassing if a conflict should develop between established native custom and official policy. It could be avoided if the Administration were to clarify its intention in this respect and to institute the machinery necessary to give effect to it (Meek, 1949:xxv).

It did not take long before the Administration clarified the issue. In 1954, the Swynnerton Plan (1955) was formulated to intensify African agriculture through land

consolidation and adjudication programmes. The Plan proposed that African farmers be provided with secure land tenure to encourage them to invest in the development of their farms, thus:

> Special attention can and must be given in the five-year plan to a number of problems and lines of development in order to provide the farmer with – holdings of a size economic for the purpose for which they are required, brought about by consolidation of fragmented holdings or by enclosure of communal lands; the able African must not be debarred from acquiring and farming units in excess of any minimum laid down for the area. (Swynnerton, 1955:8)

Consequently, in 1959, a system of registration of titles was formulated in the form of the 1959 Native Land Registration Ordinance. Part of this ordinance dealt with the process of land adjudication, consolidation and titling, and once implemented meant that registered land ceased to be governed by customary land law (Syagga, 2006). More changes to policy on land were implemented during negotiations for Kenya's independence: the 1960 Lancaster House Constitution Agreement entrenched in the Constitution of Kenya the "willing-seller, willing-buyer" as the future basis of land acquisition and re-distribution (Syagga, 2006), thus, giving Kenyans leeway to acquire land and settle anywhere within the country. The freedom to acquire land and settle anywhere in the country contradicted the earlier practice whereby indigenous people from different ethnic groups resided in identifiable regions of the country from where they pursued a variety of land-based livelihood activities.

Prior to Kenya's independence in 1963, the Maasai were apprehensive that the Anglo-Maasai treaty of 1911 would be revoked to allow non-Maasai to acquire and occupy land of the Maasai. The fear was well-founded in that by 1964, some 8,000 hectares of the best dry-season grazing land around Ngong had been sub-divided into small individual farms and registered as private lands (Campbell, 1979:28). During the same period, large tracts of grazing land were being set aside as individual ranches for some Maasai leaders and government officials, mainly non-Maasai. For example, by 1969 some 16,000 hectares of land used as dry-season grazing areas on the slopes of Mount

Kilimanjaro were subdivided and distributed mainly to non-Maasai people (Hedlund, 1971).

The creation of reserves and allocation of some Maasai land for crop production, and the formulation of different land policies for registered and communal lands, meant that the seasonal movement of the Maasai and their livestock was restricted to smaller land areas. For example, Maasai pastoralists in the southern Reserve were restricted to pastures in the south, unlike before when they freely traversed ASALs from north to south (Map 5) as seasons in weather and related resources changed.

Independent Kenya

Formation of group ranches

At Kenya's independence in 1963, the new administration comprised mainly of African elites continued with the colonial policies of land survey, demarcation and registration of title. The Kenya government also developed strategies for the development of ASALs that had thus far lagged behind in development. The government encouraged pastoralists to make permanent settlements in place of their nomadic lifestyles (Kenya, Republic of, 1968). The idea was that by settling, pastoralists would give up their traditional way of life of migrating, and embrace formal education and a cash economy (Markakis, 1998; Republic of Kenya, 1974). By doing that, they would enter into commercial production by investing in range improvement and development (Markakis, 1998) so as to reduce over-accumulation of livestock (Grandin, 1986; Ole Munei, 1999; Fratkin, 1994). To increase productivity of livestock, the government created group ranches through which livestock keepers could organize for commercial production (Markakis, 1998).

In 1968, the government enacted the Group (Lands) Representative Act (Kenya, Republic of, 1968) to support the initiation of group ranches in the ASALs of southwestern Kenya, mainly covering the then districts of Narok and Kajiado (Map 1). The first group ranches in Kajiado were formed based on the existing eight Maasai

Sections (Map 2). A group ranch is land demarcated and legally allocated to a defined group of persons. All land under the ranch is held in common by all group members, therefore cannot be sold by individuals. Each member or user is entitled to reside in group land with family and dependents (Kenya, Republic of, 1968), with certain rights such as residency being assigned to individual households or families. The Act stipulates that each member of a ranch shared equally in the ownership of the ranch and its resources.

The formation of group ranches involved recording rights and interests in customary lands, subdivision of the land, and allocation of the land to specific groups of customary users. The indigenous Maasai in Kajiado were encouraged to get registered as group ranch members, and once registered in a group ranch, these members would henceforth be excluded from accessing land in other ranches (Grandin, 1982). The Maasai age-sets were used to determine eligibility to register for ranch membership. For example, a senior Moran could only be registered if his father was deceased, and a few widows and unmarried mothers were registered to hold shares of land in trust for their under-age male children (Mwangi, 2003; Grandin, 1982; 1986).

Members of a group ranch elected individuals who formed a ranch management committee to manage the affairs of their ranch. A ranch management committee is made up of elected leaders (chair, treasurer, secretary, assistants and three members) who are held responsible for the coordination and implementation of development projects on the group ranch. The committee controls grazing rights, cultivation and access to water resources (Kenya, Republic of, 1968), among other tasks. Once a ranch was formed, the representatives made an application to the Registrar of group ranches to be incorporated under the Group (Land) Representatives Act (Kenya, Republic of, 1968). Group ranches introduced a formal title deed in the group's name, limited resource use to group members, but left intact most of the traditional common property practices.

The introduction of group ranches led to a reduction in the size of land available to Maasai households, and meant that livestock would have limited access to lands where water and pastures abound at different seasons of a given year (Ole Munei, 1999). For example, the initial eight Sections of the Maasai in Kajiado district had a mean size of 2,432 km^2 but at the end of the group ranch adjudication process, there were a total of 45 group ranches, with comparably smaller land sizes (Table: 2) (Jacobs, 1984). By 1985 there were 51 group ranches with a mean size of 300 km^2, (Grandin, 1986), and hundreds of individually owned ranches.

Table 2: Subdivision of Maasai communal lands into group ranches

Section/Initial Group ranches	Area (km)	Number of smaller group ranches in the sub-division
Kaputiei	2789	15
Keekonyokie	**3270**	**7**
Loodikilani	3641	6
Ildamat	505	2
Dala le Kutuk	741	4
Purko	204	2
Matapato	2583	7
Kisongo	5726	6
Total	19459	45

Source: Adapted from Jacobs, A. (1984b). Summary of group and individual ranches in Kajiado District. Mimeographed Report. National Rangeland Research Station, Kiboko, Kenya. P. 92

The formation of group ranches saw further subdivision into more and smaller ranches over time. For example, Keekonyokie Section initially allocated as the Keekonyokie group ranch (Map 2), was in 1978 sub-divided and formalized into the following smaller ranches: Mosiro, Ewaso Kedong, Oichoro nyori, Olosho Oibor, Ilchoro-Onyori,

Saikeri, and Loodo ariak (Map 3). Based on the traditional Maasai subdivision of land into residential, mid-season and dry season lands, the further sub-division of Keekonyokie into smaller ranches meant that the different ranches were allocated land in areas with pastures previously accessed in the different seasons of a given year. For example, ranches located south of Ewaso Kedong (Map 3) are on former residential and wet-season grazing areas, while ranches further north are located on mid-season and dry-season grazing areas.

Sub-division of group ranches

Group ranching did not last very long in that within a decade of the introduction of group ranches, members of various ranches made formal applications to the government to have their ranches sub-divided into individual private land holdings (Mwangi, 2003; Grandin, 1986; Ole Munei, 1999). Some requests were granted with guidelines for sub-division and registration of title under the Private Lands Act (Republic of Kenya, 1963). The government approved the sub-division of group ranches and issued title deeds on condition that a ranch did not have outstanding loans. The sub-division of group ranches has since taken place in phases: Phase 1 (1974), Phase II (1975-1978) and Phase III (1979 to present) (Grandin, 1986). According to Jacobs, (1984a), Grandin (1982), and Rutten (1992), by the 1980s 29 of the 51 group ranches in Kajiado had passed resolutions to subdivide. The remaining 22 were at various stages of the process leading to sub-division. Ewaso Kedong ranch was sub-divided in 1988 into individual private land holdings.

Currently, households in Ewaso Kedong and in other areas where sub-division of group ranches has occurred are characterized by lands of comparably smaller sizes (Figure 1). The land sizes are even smaller in households that have sub-divided land to individual household members (Figure 2) or sub-divided and sold some land. To date, the vast rangelands of Kajiado have been sub-divided into group and individual land parcels, making it easier for people to fence off and sell portions of their land (Mwangi,

2005; Behnke, 2008). In the case of Keekonyokie, by 1995, all the group ranches of Mosiro, Ewaso Kedong, Oichoro nyori, Ilchoro-Onyori, Saikeri, and Loodo ariak except one (Olosho Oibor) had sub-divided into individual land holdings (Nkedianye *et al.*, 2009). The result is more reductions in the size of land accessible to Maasai households, and since the livelihoods of the Maasai are land-based, changes to the Maasai way of life.

Individual private land holdings and change to the Maasai way of life

Additional studies indicate that land sales in Kajiado picked up mainly in the 1990s. A research finding by BurnSilver (2006) indicates that by the year 2006, 32 group ranches had been sub-divided and 15 were in progress. Out of the 15, seven were in dispute and under court injunctions, and only five group ranches had not started to sub-divide. As a result of the increased sub-division and sale of land, the size of land holdings accessible to households has fallen by between 46 to 73 percent since the 1990s (Homewood *et al.,* 2009:21). The people who have sold the most land are identified as the marginal pastoralists from the poorest households (Homewood *et al.,* 2009:3), and the majority of those buying land in Kajiado have been identified as non-Maasai and are practicing farmers or institutions looking for land for expansion (Map 7). The resultant situation is one whereby 75 percent of those involved in crop cultivation are non-Maasai (Nkedianye *et al.*, 2009:125). Therefore, land sub-division, titling and sales resulted in migration, expansion of crop cultivation, and erection of boundary fences in Kajiado (Nkedianye *et al.*, 2009; Ole Munei, 1999; Herrero *et al.*, 2003). The resultant situation is one of changes to the landscape, to the composition and size of the population, to livelihood strategies, and to people's diets, among others.

Population growth

The subdivision and sale of land to people from outside the Maasai community has changed the composition of the population of Kajiado to encompass people from other ethnic communities of Kenya, giving the district a high population growth rate. The newcomers have given Kajiado one of the highest population growth rates in the

country at 4.6 percent, compared to the national average of 2.9 percent (GoK, 2009; CBS, 2008). For example, between 1989 and 1999, the district's population increased by 57 percent, with a significant portion of the increase attributed to the in-migration of non-Maasai ethnic groups (GoK, 2001; GoK, 2009; Thornton *et al.*, 2006). The result is more settlements and more fences that end up blocking the Maasai traditional livestock migratory routes.

Map 7: Google map indicating a diversity of new land use activities in Ewaso Kedong

Source: https://google.maps

Boserup (1965) and Mwangi (2007) point to the role of population growth in changes to land tenure. The scholars argue that as the population of users of a shared resource grows, scarcity, real and perceived, makes individuals and groups to search for alternative ways of holding land as a way to ensure security of tenure. Research carried out on group ranches in Kajiado point to population related pressures that led to the sub-division of group ranches. For example, Galaty (1994) and Kimani & Pickard (1998)

point out that increases in the population of the Maasai meant an increase in the number of individuals entitled to land-shares in the group ranches. The result was a sense of insecurity of access. The sense of tenure insecurity among the Maasai of Kajiado intensified when individuals from outside the Maasai community were allocated parcels of land by the colonial administration (Hendlum, 1971), by decision-makers in the government of independent Kenya, and by the group ranch management committees (Ole Simel, 1999; Rutten, 1992). The fear of increased scarcity of land motivated the Maasai to press for sub-division of their ranch into individual private land holdings. Private land, formalized through title registration was perceived as the way to provide security of tenure to the Maasai land users (Mwangi, 2003).

The changes in land tenure and in the composition of the population have been followed by changes in livelihood strategies from those based purely on pastoralism and the related products of meat and milk, to include crop cultivation, business enterprises and wage employment (Cochrane *et al.,* 2005; Herrero *et al.,* 2003). The land-owning pastoralists have taken up crop farming, and nearly all residents fence their homesteads and adjacent gardens (Campbell *et al.,* 2003; Nkedianye *et al.,* 2009). The settlement of some Maasai into permanent homesteads from where they practice farming has seen changes to Maasai diets from one dominated by milk and meat, to the inclusion of sugar, tea, maize, beans, rice and potatoes (Homewood *et al.*, 2009; Herrero *et al.*, 2003). There is also increased access to education, literacy and Christianity, and engagement in the monetary economy, with women becoming more involved in income-generating activities such as the making and sale of artifacts at cultural *boma*s (Kipury, 1989; Cochrane *et al.*, 2005; Homewood *et al.,* 2009).

Other studies indicate that the Maasai are diversifying livelihoods with caution. In the traditional Maasai society, the value of education came towards the lower end of their priorities: boys were to take care of livestock, graduate into Morans to pasture livestock and defend the community, marry and work hard to qualify as elders of the

community. Girls were to work within the *boma*, get married and take care of family members. As a result, some households still view education for girls as a non-beneficial investment, for the girls will get married and go on to benefit a different family (Cochrane *et al.,* 2005). Such households do not realize that sons within their household can marry educated girls to benefit their family, while their educated daughters and sisters get married to benefit another family. Some Maasai who have embraced education have done so with some misgivings. Household decisions for children to go to school are deemed long-term and risky investments, for the potential returns will only become evident, years later, if at all (Cochrane *et al.*, 2005). Another deterring factor is the many young people who have acquired an education but have not been able to secure employment. Cochrane *et al.* (2005) further established that some parents are seeing the benefits of education, especially in cases where elders consult their literate children to read and write official documents, including land transactions, and to communicate with outsiders in the English language, all on behalf of their parents.

The Maasai landscape

The landscape in Kajiado has changed from one of mainly vast communal lands held and accessed on a group basis for the practice of pastoralism, to one of mixed land-use that incorporates the cultivation of crops on comparatively smaller parcels of land (Homewood & Thompson, 2002; GoK, 2009; Mwangi, 2007). Furthermore, Nkedianye *et al.*, (2009) and Nori and Davis (2007) indicate that households in areas where survey and titling has not occurred are opting to cultivate and fence portions of group land to indicate ownership in line with practice. The practice in some areas used to be that when households fence off particular parcels of land, other land users respected that area of land as under the control of the particular household fencing it (Boserup, 1970; 2007; Gelder, 2010). In some cases the state has in the past recognized individual claims to ownership of such fenced lands (Little 2000; Waller, 1976; Behnke, 2008). Overall, the cultivation of land encourages fencing, which in turn weakens the pastoral land-use system of pastoralism on open fields.

Adaptation to new environments

Boserup (1970), Migot-Adholla and Bruce (1994), Meek (1949), and Coldham (1978; 1979) studying dynamics and direction of change within customary land tenure, explain that communal tenure and the related African customary land law are not static. The land tenure system has evolved over time in relation to the social, cultural, and climatic realities. For example, pastoralists have over time adapted to changes in land tenure and to changes in climate by decreasing the number of livestock, change in livestock breeds and migratory routes to access water and pastures within the larger ecosystem (African Union, 2010; Cotula, 2007). At other times, the response to changes in climate and related resources are in the form of rearing different livestock species with traits which are drought resistant, and produce more milk in drier weather conditions (African Union, 2010). Based on the reasoning and response of pastoralists to changes in the wider environment, the African Union (2010) concludes that the movements made by households or sections of pastoralists' communities are not random, but highly strategic based on information that is available and used by herders for risk analysis (African Union, 2010).

Pastoralism as a livelihood strategy in ASALs has evolved over time by adapting to changes in climate, land area and markets (African Union, 2010). The result is that over the years, pastoral production has moved from subsistence production and gained importance in its contribution to national economies. For example, pastoralism contributes 10 to 44 percent to the gross domestic product (GDP) of African countries (African Union, 2010). In some countries, such as in Sudan, the pastoral dominated livestock sector contributes 80 per cent of the agricultural GDP. In Ethiopia the leather industry is the second largest source of foreign currency after coffee. Sudan and Somalia are major livestock exporters to the Gulf States, with most of the livestock to these markets being sourced from pastoral areas (African Union, 2010:9). The value of livestock and livestock related activities and products have grown over time to

contribute up to 50 percent of the total value of marketed production and the subsistence production that is consumed by an average pastoralist household (African Union, 2010). However, in other ASALs, partly as a result of changes in demographic trends and reduced access to grazing lands, some pastoralists are becoming more vulnerable to food insecurity and falling into destitution (African Union, 2010).

The changes to land tenure, and the size of land accessible to the Maasai is said to have led to a decline in pastoralism as a livelihood strategy in some areas. According to FAO (2001), pastoralists in Africa and other parts of the world are being driven into more marginal areas as farmlands expand to ASALs previously accessed by pastoralists. Other factors shaping the decline in pastoralism are the collapse of traditional institutions such as the age-set among the Maasai. Diversified diets at the household level and competition for land from other land use activities such as wildlife conservation, eco-tourism and crop production have resulted in a decline in pastoralism as more households settle down to cultivate crops on land (FAO, 2001; African Union, 2010). Therefore, the result of adaptation to change is viewed as a mixture of positive and negative outcomes for different pastoralists.

Other factors shaping the practice of pastoralism are modern veterinary medicine which enables increased productivity from fewer numbers of livestock. Availability of wider markets (local, national and international) for livestock products, and improved breeds and feeds that encourage higher productivity from fewer livestock numbers (FAO, 2001). The adaptation has mainly been in the form of diversifying livelihood strategies to include improved livestock breeds, business in livestock and its products, paying for education of pastoralists' children who subsequently get into waged employment. Through livelihood diversification, more land is set free for livestock, and at other times more inputs are ploughed back, making livestock farming more competitive as a market commodity. The changes in climate and size of land area available to pastoralists have seen some pastoralists settle down to practice agro-pastoralism. Other

households have changed migratory routes and continued to practice pastoralism (Nkedianye *et al.*, 2009; 2004), while others have fenced part of their land and settled down as farmers.

To provide a further understanding on the choices made by Maasai households as changes occurred to land tenure over the years, the next section focuses on features of households as decision-making entities. The features include an understanding of households as decision-making entities. The underlying premise is that households are composed of members who vary based on age, gender, skills and assets (Agarwal, 1997). Over the years, society has formulated rules and regulations to guide its members; and consequently individuals get to learn of the expectations through their socialization processes, through social-cultural and formal institutions, as detailed below.

Features of household decision-making

Decision-making within households in rural Africa involves issues of resource allocation to the needs of individuals and groups of people. Therefore, an understanding of decisions and choices made calls for information on what constitutes a household. Literature on household decision-making classifies households as either unitary or collective bargaining entities. Decision-making within households is further influenced by factors outside of the household such as social norms and practices, gender relations, formal structures and processes of property rights in society.

Unitary

Unitary households are characterized as entities with uniform preferences that pool resources, and have one leader who makes decisions on how assets are shared and how tasks are distributed among household members (Becker, 1981). The head or decision maker of a unitary household easily gets the cooperation of other members due to the nature of interdependence among household members. Most unitary households are found within subsistence economies whereby other income alternatives, especially

those outside the home are few (Pareena, n.d.). In such a situation, the objective of decisions and choices made are for survival. Interdependence is high as members of subsistence households have to work together for survival. The compelling pressure to survive helps to rally household members around the decisions of the household head. The cooperation is rooted in the common objective for the household head to provide for their basic needs. When viewed from outside, such a household will be termed as being united in their decision-making endeavours (McElroy & Horney, 1981).

Collective bargaining

However, there is a growing body of literature, especially in the social sciences, that disagrees with the unitary nature of households, especially in decision-making, (Folbre, 1997; Browning, 2006; Chiappori, 1997; Antwi-Nsiah, 1993; Lilja, 1996; Lawrence, 2007). The common idea held is that households cannot be united in decision-making for they are made up of individuals who are differentiated by factors such as age, gender, education, and asset ownership (Chiappori, 1997). In such households, the nature of decision-making becomes complex, involving both material and ideological factors as they interact with existing social structures and institutions (Agarwal, 1997; Carney *et al.*, 1999), factors that Agarwal points out as not adequately documented and understood, especially as they relate to household decision-making on choice.

The diversity in household membership means that households are not homogenous units, but rather, composed of members with varying preferences, views, needs and interests. In such a household, bargaining helps to reconcile the differences in preferences. The nature of variations within households prompted Sen (1990) to refer to such households as a site for cooperation and conflict: decision-making takes a cooperative nature when household members work together, pool resources and allocate them jointly (Sen, 1990) and takes a conflicting nature when individuals within a household make independent but interrelated consumption and production decisions (Sen, 1990; Folbre, 1997). To Sen (1990), even though household members have

conflicting preferences, the nature of human societies of living and working together for survival demands that the conflicting parties find a way to cooperate. The implication is that during decision-making, existing differences will come into play, leaving household members with the option to give in and move along, or bargain and negotiate to reach a compromise (Sen, 1990).

An example of when household decision-making takes a bargaining or negotiating nature is in situations whereby members within a household trade individual assets and positions based on their present or future needs (Manser, 1980; McElroy & Horney, 1981; Folbre, 1997). Bargaining is said to occur in situations where households have moved away from a subsistence economy and diversified their livelihood strategies and activities by embracing new economic opportunities (McElroy & Horney, 1981). In such households, the economic and social power of the household head may be challenged by the powers of individual household members (Chiappori, 1997; Antwi-Nsiah, 1993; Lilja, 1996; Sen, 2001). What is emerging is that over time, household decision-making evolves from that of unitary to bargaining. The changes occur as new and specific economic activities are introduced leading to a different allocation of assets among household members. The new allocation system is characterized by decreased differences in bargaining power between the household head and members, and among the household members. The pace of change into a bargaining household will also depend on existing social norms and customs within the household and society, and the availability of specific government policies, markets for household assets, and gender relations. In the following section, I identify and discuss some of the social-cultural factors with a potential to influence decisions and choices made at the household level among rural households in Africa. Literature indicates that most of the behaviour and actions exhibited by adults are acquired through a lifelong process of socialization and practice within specific social-cultural and formal institutions (Gardner, 2003; Kaufman, 2003).

Social-cultural institutions

Social norms and practices

Ordinarily, human beings are brought up within social groups whereby they relate with one another based on how they have been socialized (Gardner, 2003; Ashforth, 1989; Kaufman, 2003; Hogg, 1995; Outwaite, 2006; Erickson, 1968; Fitzgerald *et al.,* 2006). Socialization takes place within established family and community structures and institutions, which to an extent have an influence on individual and group relations, and in choice making. Consequently, individuals view themselves as members of a particular group and their behavior tends towards upholding attributes of their group's identity (Gardner, 2003)[14]. Group identity is upheld by protecting the beliefs and values that enable individuals create a sense of self (Gardner, 2003; Ashforth, 1989). Human beings are by nature social beings, so that the fear to lose one's identity ends up influencing how individuals or groups interact at particular settings, including during decision making. By belonging to a group, individual members develop ideals of their group and use the same to contrast with those of the *other* as a way to retain and maintain their group identity (Kaufman, 2003). Individuals are said to develop a group identity which is dynamic and evolving in relation to one's relationship with the external environment, therefore able to establish, maintain and protect a sense of self-meaning, for example as men or women, adapt to different circumstances and relate with other social groups (Northrup, 1989).

Once individuals view themselves as members of a particular group, their behavior will tend towards upholding attributes of their (group's) identity that will in turn enable them to belong into the particular groups (Gardner, 2003; Ashforth, 1989). Individuals protect their identify or that of their group through the development of ways to cut out information and perspectives that contradict features of their core values and beliefs,

[14] The concept of identity encompasses unique beliefs, values and characteristics acquired through socialization and interaction within society so that identity defines who an individual or group is. In doing so, identity has features of a psychological sense of *self,* and how it relates to the world, therefore is core to one's well-being (Hoare 1994; Erikson 1968; Fitzgerald, *et al*., 2006; Gardner 2003).

while retaining in features that support and enhance them (Gardner, 2003; Kaufman, 2003). Features of one's identity are revealed during individual or group interactions within diverse social, economic, cultural, and political spaces (McCarthy & Zald, 1977). In the process of interactions, if arising challenges between members happen to be central to the other's sense of self, chances are that the individual or group will be opposed and respond in ways aimed at protecting individual or group identity (Kaufman, 2003). Therefore, the socialization of individuals and groups of people into particular identities has to start at an earlier age for the expected identities and social cohesion, to be maintained. For example, within the traditional Maasai patriarchal community, children are socialized from a young age into their expected roles as male or female members of the Maasai community. The traditional Maasai society is based on distinct age and gender-based relations. For continuity of society, children are socialized into future roles of girls and boys, men and women, mothers and fathers, household head, manager of the assets of a household, warrior to protect the community, and provider of food and care giver to other members of the household, among other roles. The implication is that during decision-making processes, individual members of a household are likely to make certain choices as per the social expectations of being a child, male or female members of a Maasai household or community.

Gendered social organization

The concept of gender is commonly understood as socially constructed relations between men and women, depicted by a society's gender-specific roles and responsibilities, and identities of men and women in relation to one another (FAO, 1997; Kevana, 2012). Individual household members in most African communities get socialized along the lines of their gender of being male or female, so that adult household members emerge with a specific identity. The identities are further conditioned by household structures and processes (FAO, 1997; Bravo-Baumann, 2000). Therefore the definition of gender roles varies with society, culture, class and age during different periods in history (FAO, 1997). In the majority of societies, gender is a

central organizing principle which governs the processes of production, reproduction, distribution and consumption (FAO, 1997). The result is that gender relations affect family wellbeing, planning, decisions, choices, and production, among many other aspects of life (Bravo-Baumann, 2000; Kevana, 2012). Gender being a social construct on relations between men and women (FAO, 1997), the socialization into gender spheres helps enhance the meanings of male as well as female identity (FAO, 1997). For example, the Maasai community is traditionally patriarchal in nature whereby men are treated as more superior to women (Kandiyoti, 1988; Walby, 1990; Kipury, 1989).

Patriarchy

Patriarchy, like gender is an ideological social construct which considers men as superior to women, therefore patriarchy is a system of social structure and practice in which men dominate, oppress and exploit women (Walby, 1990). In patriarchal arrangements, first born male children are socialized into a future position of household head, provider, manager and decision-maker on behalf of other household members. On the other hand, female children are socialized into roles of reproduction, production, nurturers, caretakers, and sometimes submission to the male members, including the household head (Cohen, 1927; Bhasin, 1993).The construction of male and female roles within society is established at a younger age through socialization which starts at the family level, leading Kuhn (2013) to point out the family as the principal site of the operation of patriarchal relations, especially relations between men and women as pertains to property relations. Subsequently, patriarchy is viewed as a system which oppresses women through its social, economic and political institutions.

Among the Maasai, the age-set system, mainly composed of male members of the community would be considered as one of the cultural institutions perpetuating the patriarchy. Resulting from a patriarchal society is that men have greater power in both the private and public spheres (Cohen 1927). To sustain the male identity as power holders, decision-makers, owners of assets of a household, etc., men have created

boundaries and obstacles that make it harder for women to move out of their socially ascribed identity as producers and reproducers, nurtures and users of assets managed by men (Cohen, 1927; Kuhn, 2013).

Just like socialization and gender, the concept of patriarchy plays a role in shaping household members into a particular identity, as women and men with particular roles, obligations and responsibilities. Within a patriarchal society, men have power over women (Kuhn, 2003). Men are able to achieve a particular identity and control over women by imposing stereotypes that pertain to masculinity and femininity, thus strengthen the unequal power relations between men and women in society (Bourdieu, 2001; Heywood, 2003). Similar practices persist within society through the socialization process whereby the hierarchal system, with men as head of the family and decision-maker on major assets, is created, certified and reinforced (Bhasin, 1993:10). Children within such a patriarchal society, live, observe and internalize the values they are given and practices they observe, and they in turn reproduce the same through their children, and over generations (Bhasin, 1993). In some cases, women may also perpetuate patriarchal relations by their submission or agreement with certain power arrangements. These relations perpetuated through the family and society's socialization and identity formation practices come into play during decision-making. Members of a household would easily take decisions and positions based on their upbringing and to satisfy societal expectations, which Zhou (2005) expounds on when he says that during decision-making, decisions will be influenced by on-going social relations both within and outside of an institution or household. By use of internal relations, the external patterns of property rights are bound to evolve to mirror the internal practices while in other situations, internal relations will evolve to mirror external practices. To Zhuo (2011), it is through an understanding of these relationships that we understand and explain the role and operation of property rights in the empirical world. The behaviour and relations during decision-making maybe enhanced

or challenged by institutions, policies and processes external to the family and community.

Formal structures and processes

An understanding of the nature of institutions and processes external to the household is of benefit in comprehending influential factors in the choice to hold land as private property. In majority of cases, social systems (institutions, organization, relationships) develop to manage resources and resolve conflicts that arise in the use of scarce resources (Alchian & Demsetz, 1973). The techniques, customs or rules vary depending on the nature of society - capitalistic (free-market) or socialist (relational) economic system. Capitalist societies tend to rely more on markets and private property rights (Alchian & Demsetz, 1973; De Soto, 2000), compared to socialist societies that rely more on relations among people when making decisions (Meinzen & Mwangi, 2008; Zhuo, 2005; 2011).

According to Singer (1988), people who hold land as private property operate within a capitalist or free-market economy where they are viewed as free and autonomous individuals. In such an economy, property rights are defined and allocated by the state (Singer, 1988) and are recognized when individuals enter into contracts so that relations are more of contractual and short-term in the market place (Ikdahl, 2011). In the free-market model, rights are fully articulated at specific decision points, i.e., when the state allocates and defines property rights, and when individuals enter into contracts. On the other hand, in the social relational approach, property rights created on land tend to continue over long periods of time, sometimes culminating in intimate relations. Due to the long term relationships, the interests of the different land users get recognized and integrated over time. In such a situation, the resultant property rights are based on common understandings that develop over the course of relationships held over long periods of time (Ikdahl, 2011:59).

Ikdahl (2010; 2011) further discusses situations when formal contracts can over-ride existing intimate social relations. The author uses an example of a husband and wife who is already in an intimate relationship to explain that under the free-market model, the two will be treated as autonomous individuals based on which one of them is part of the contract. If only the husband is part of the contract, the wife will not be recognized, even in cases where as a member of the household she has an interest in the said property (Ikdahl, 2010). Such relations with autonomous individuals contrast with treatment under the social relations approach whereby interests of other family members will be considered and integrated into the analysis. The integration of the interests of other family members is based on the recognition that property relations are created in long term family relations through contributions over time, through non-monetary means, or in the private sphere (Ikdahl, 2011).

These social relations and expectations can also be used to explain why in some situations, especially within the Maasai households, it is deemed alright if not all household members are registered as owners of a particular property. The implied reasoning is that existing social relations give such members automatic rights to the property. The rights would transcend contracts to include family members and members of the larger community, especially in cases where people have shared resources such as water and pastures over long periods of time. A good example is social relations created where resources are accessed on a communal basis. Proximity and long term sharing of resources help create a bond among members of the said community, i.e., social and intimate relations. An example is the practice of land rights in Kenya. According to the Registered Lands Act (1963; 2012) and the National Land Policy (GoK, 2009) the name of one household member can be entered into a title deed, but legally all the other household members, made up of traditionally recognized kin are automatically incorporated into the land contract, even though they are not present at signing of a contract, or title deed in this case. This mix of practices from the social relational and free-market approaches was illustrated during the sub-division of group

ranches and the registration of title to individual private land holdings. During the formation of group ranches, only traditionally recognized heads of households, a majority of whom were elderly men, were registered as shareholders after which members of their household accessed resources on the ranch under provisions of the head of their household.

During the sub-division of group ranches and allocation of individual private land parcels, land was allocated to household heads on behalf of the rest of the household members. The related legal practice is that such a title holder to household land cannot alienate such household land without consulting with members of the household, especially wives and adult children. The implication is that the holding of a legal contract in the form of a title deed to household land is not limited to autonomous individuals, rather, the individuals are deemed to hold the titled land on behalf of the entire household, which equals to relational as practiced on communal lands.

The preceding chapters have focused on the importance of land to rural livelihoods, the nature of arid and semi-arid lands, changes in land tenure since 1885, and the different ways through which the Maasai pastoralists have responded to the changes. I have also provided an illustration of influential features in household decision-making. In the next chapter I outline and discuss in detail the research strategy I used to collect and analyze information from interviewees in Ewaso Kedong.

CHAPTER 5
RESEARCH STUDY STRATEGY

Introduction

This chapter describes the research strategy I used to explore, analyze and present a detailed description of influential factors in the decision of Maasai households to hold land as individual private holdings, and implications of their choice on the future practice of pastoralism and social relations. In this chapter I describe my research paradigm, research methodology, and study design. The design and methodology section is further sub-divided into the following sub-sections: the study area and population, selection of the study area, study sample, recruitment of interviewees, data collection sources, methods and instruments, data analysis and interpretation techniques and procedures, and ethical considerations.

Research paradigm guiding the study

A study to identify influential factors in choice of private land tenure by pastoralists' households raises a number of questions that require detailed information from household members. The questions relate to the basis on which Maasai households, situated in ASALs where the most suited livelihood activity is pastoralism on communal lands, have chosen to sub-divided land into individual private land holdings. The other question relates to the implications of their choice of private land tenure on the future practice of pastoralism and on social relations. Drawing from literature on land tenure, and from my experience of working in the field with land dependent communities, I have more insights on how people in rural areas interpret reality as they gamble with the ever changing environment of land-based economies. These insights include my understanding that rural people are open to new ideas as they strive to make the best out of their situation.

In my quest for information on choice of land tenure, I acknowledge that even though individuals and whole communities are repositories of vast knowledge gained over long periods of time, they require specific questions to enable them to interpret the information and activities within their environment. In the process of asking questions to enable participants to interpret their reality, I as the researcher and they as the researched are interactively linked (Guba & Lincoln, 1994), reflecting, interpreting and creating knowledge on a particular issue as the interview proceeds. Subsequently, my view of the research participant is that of a constructivist, with the perspective that each member of society has a unique interpretation of "truths" of their lived reality. The unique interpretations come about due to socialization processes and on-going interactions among individuals and groups within existing social structures (Fitzgerald *et al.*, 2006). The interactions result in commonalities that work up to produce patterns in the larger society. Therefore, individual or household decisions are neither made on the basis of individual experiences *per se*, nor determined by existing structures, but instead influenced by the interplay of both, in other words, the nexus of agency and structure as discussed by Giddens (2006) in his structuration theory.

Giddens (2006) puts forward a middle ground in the debate on whether individuals shape structures or structures shape individuals into particular ways of doing things (choice and action). To Giddens (2006), even though individuals are influenced by the social context they live, the context does not fully define us. Instead, each of us possesses and creates our own individuality. Individual activities shape the social world around us, and at the same time our activities are shaped by the social world. I therefore concluded that the best way to interact with the research participants to generate detailed information about how people interpret their situation is through the use of a qualitative research design.

Research design and procedures

A qualitative research design is defined as a consistent, systematic and comprehensive inquiry into ways of thinking about and investigating the why and how of a particular topic by making, analyzing and interpreting data (Shank, 2002; Bowen, 2005; Lund Research, 2010). A qualitative research allows for the inclusion of data that are comprehensive and can be applied in context (Creswell *et al.*, 2007; Richards & Morse, 2007). The research design also allows for the formulation of research questions and procedures for collecting, analyzing and reporting findings. As a result of using a qualitative research design, I was able to generate data that provides depth and detail in the form of insights into the Maasai value system, culture, governance, interactions, attitudes and motivations. Therefore a qualitative research helps to create an experience that is easily understood (Bowen, 2005).

Research methodology

A qualitative research can be pursued through a variety of research methods, including ethnography, phenomenology, case study, or grounded theory (Richards & Morse, 2007). The study I pursued required generating detailed descriptions from adult household members. Such a study is best achieved by using a case study methodology, which involves an intensive and in-depth empirical study of a specific event or group of people within their natural context (Yin, 1984; Meyer, 2001). The use of a case study enables a researcher to explore a specific case using multiple sources of information such as documents and reports, observations, interviews, direct participation, and archival records, among others, to provide insights into a particular issue (Creswell *et al.*, 2007:45). The resulting document will contain data in the form of quotations, descriptions and excerpts from documents. When all the collected information is systematically analyzed, it produces a thick description answering a research question that asks why and how questions about events (Creswell *et al.*, 2007). The thick description provides a basis from which one can develop a holistic view of the subject

under study within its total environment (Leornard-Barton, 1990; Meyer, 2001; Yin, 2003).

The use of a case study methodology to study the land tenure of the Maasai of Ewaso Kedong enabled me obtain data from a variety of sources, including analysis of secondary documents, observation and face-to-face interviews. According to Yin (2003) and Meyer (2001), implementation of a case study calls for fulfillment of a number of steps so as to provide the required information: a detailed understanding of the study area and population by providing reasons for selection of the study area; provide procedures for selecting the study sample and recruitment of interviewees; data collection sources, methods and instruments, data analysis and interpretation techniques and procedures; and ethical considerations. The remaining sections of this chapter provide details on how I went about implementing the above-mentioned steps of a case study methodology in my research study.

Study area and population

The study was carried out in Ewaso Kedong area of Keekonyokie Location of Kajiado district (Map 3). Kajiado district is located in the south western part of Kenya (Map 1). The district is bordered by the Republic of Tanzania to the south and southwest, and the Kenyan districts of Machakos to the east, Taita Taveta to the south east, Kiambu to the north, Nairobi to the north east, and Narok to the west. The district covers a total land area of 15,546.6 km^2, and has an estimated population of 510,139, out of which 57 percent are of Maasai ethnicity (Kenya, Republic of, 2009). Kajiado district is classified as ASALs in that it receives an annual rainfall ranging between 500 mm and 1250 mm, and temperatures ranging between a minimum of 22^o C and a maximum of 34^o C (Kenya, Republic of, 2009). The ASALs of Kajiado have for many years favoured livestock production through pastoralism practiced on communally held lands.

Natural conditions and economy

Kajiado district has a bi-modal rainfall pattern whereby the short rains fall between the months of October and December, and the long rains between March and May. Rainfall is influenced by altitude so that areas around the Ngong hills receive up to 1250 mm per annum, while low areas in Magadi receive up to 500 mm per annum (Kenya, Republic of, 2009). Temperatures in the district range from a maximum of 34° C around Lake Magadi, to a mean of 22° C around the slopes of Ngong Hills. Map 8 indicates the resultant vegetation and seasonal rivers in the study area.

Map 8: Google map indicating ASAL features in the study area

Source: https://maps.google.com

Economic activities in the district are influenced by agro-climatic zones (AEZ). About 92 per cent of the district is classified as arid and semi-arid, and eight per cent as conducive for agricultural crop production (Kenya, Republic of, 2009). Livestock keeping is the main livelihood activity as food crop growing is limited to a few areas. In recent years horticultural production has intensified through small scale irrigation schemes and use of boreholes by individual farmers (Kenya, Republic of, 2009). Land

sub-division and persistent droughts have resulted in livestock reductions, with the worst recent droughts being that of 2003-2007 which led to the loss of over 70 percent of the livestock population in the district (Kenya, Republic of, 2009:16). Households in the district supplement livestock as a source of a livelihood with trade in cultural-tourism, wage employment, and trade in livestock, hides and skins, beads, and ornaments.

The majority (90%) of Maasai households derive a livelihood from the livestock sector and crop cultivation, while two percent of the population are in wage employment, and four percent each are in rural and urban self-employment (Kenya, Republic of, 2009). There are 785 active women groups in the district, 53 youth groups and 255 community based projects. By 2008, there were eight individual ranches with an average of 300 hectares, and ten group ranches with average hectares of 40,000 (Kenya, Republic of, 2009). In relation to employment per sector, 48 percent of males and 42 percent of women are involved in agriculture, livestock has attracted 98 percent of men and two percent of women, and trading has 18 percent men and 26 percent women (Kenya, Republic of, 2009:34). Semi nomadic pastoralism is the traditional livelihood activity of the Maasai. Pastoralism as a livelihood activity is complimented by the cultivation of crops, business enterprises and wage employment.

Population and settlement patterns

Kajiado district has an estimated population of 510,139 out of which 57 percent are of Maasai ethnicity (Kenya, Republic of, 2009). By 2008 there were a total of 80,904 households in the district, and the household size was five people, and up to 40 per cent of farmers cultivating crops had a title deed to their land (Kenya, Republic of, 2009:20). The Maasai traditionally resided on communal lands from where they practiced pastoralism to provide for their subsistence and cash needs. Some of the communal lands have since been sub-divided into group ranches and individual private land holdings. Land sub-division and sells are taking place all over the district, more so in areas with relatively high crop cultivation potential. The areas include the foot slopes of

Namanga hills, Magadi division, Nguruman, and Ngong, where people from farming communities in other parts of the country are purchasing land and establishing homes.

Physical infrastructure and human resource development

The majority of Kajiado district is served by roads of earth or gravel. There are four tarmacked roads, namely; Namanga-Athi River, Nsinya-Kiserian, Magadi-Mbagathi, and Kiserian-Ngong-Karen roads totaling about 288km (Kenya, Republic of, 2009:17). By 2008 the district had 624 pre-primary schools, 263 primary schools (up from 100 in 1986, 31 secondary schools up from 16 in 1986, (Dietz *et al*., 1986) and three tertiary institutions (Kenya, Republic of, 2009:17). There are two district hospitals, three nursing homes, 11 health centers, 51 dispensaries (up from 22 in 1986), and 27 private clinics. By the year 2000, there were 96,621 households, with an average household size of 4.2 people (Rep of Kenya, 2005). By the year 2009, there were 173, 464 households in the district, with a population density of 31.38 people per km^2 (Kenya County Fact Sheets, 2011:10). Available figures indicate that by 2008 more than half (52%) of the population of Kajiado lived below the World Bank poverty line of less than a dollar a day (Kenya, Republic of, 2009). The situation has improved over time as the most current information (Kenya County Fact Sheets, 2011) indicates that 11.6 per cent of the population lives in poverty, 44.9 per cent of 15 to 18 year olds are attending school, and 55.4 per cent of 10 to 14 year olds can read and write.

The size and area (15,546.6 km2) covered by Kajiado district, the total population (510,139) of the district, and limitations in time and funds available for the research, necessitated my use of sampling in the research process. Sampling is the process of identifying from a large population a smaller group, which not only shares the populations' characteristics but is also more manageable to study (Richards & Morse, 2007; Bordens & Abbot, 2007). Sampling enabled me to choose a smaller research area from within the district where I could accomplish a detailed study. I chose Ewaso Kedong area.

Selection of the study area

The study was carried out in Ewaso Kedong area, purposely selected for being one of the areas where individual private land holdings have increased dramatically in recent years. Ewaso Kedong is situated in the north west of Kajiado district (Map 3), and covers a land area of 53,136 hectares (Kenya, Republic of, 2009).

Ewaso Kedong is of interest to research in that as a traditionally mid and dry-season grazing area, the households now settled there are assumed to have diverse information on not only what reasons made them to choose private land holdings, but also how they relate with other land users, especially those wanting to access resources on the traditional mid-season pastures. Ewaso Kedong is among six of the seven group ranches of Keekonyokie Section that have sub-divided into individual private land holdings. The other reason I chose to study Ewaso Kedong is that the area neighbours Olosho Oibor, whose land is still held as a group ranch. The Ewaso Kedong ranch was sub-divided in 1988 and title deeds issued by 1990. The area became of interest as an ideal case to study the households who have opted to hold land on individual private tenure.

Selection of the study sample and recruitment of interviewees

Study sample

Since the study draws on a qualitative research design, and no complete list of the study population exists, it was most appropriate to use the non-probability sampling technique of purposive sampling. The choice of purposive sampling is in line with literature (Devers & Frankel, 2006) indicating that the majority of qualitative researchers use purposive sampling. Purposive sampling is the process of identifying a smaller group from a large population and targets a particular group based on that populations' characteristics (Richards & Morse, 2007; Bordens & Abbot, 2007). Purposive sampling relies on a research question, study objectives and the researcher's judgment to select units to study based on an identified criteria. The goal of purposive sampling is to focus

on particular characteristics of a population that are of interest so as to answer the research question (Lund Research, 2010). I therefore selected households and individuals to be interviewed based on the objective of getting adult interviewees of Maasai ethnicity from households on individual private land holdings.

My journey in the selection of the study sample and recruitment of study participants started at the Kajiado District Lands Office where I talked with personnel working on development issues in the district. I held discussions with the Kajiado District Development Officer to obtain information about ongoing development activities in the district. I also received information and names of local community and clan elders to contact as my entry point into the community.

Recruitment of interviewees

I liaised with several community elders at the initial stages of my study from December of 2008. I started by holding informal discussions with each of the leaders. The aim was to get a better understanding of development dynamics in Ewaso Kedong. The discussions focused on the leaders' perspectives in relation to settlement patterns and community relations in my study area and within the larger Maasai community. The leaders noted that even though Maasai settlements are currently more dispersed and smaller in size compared to the traditional set-up, the community members still live within *bomas*. The leaders suggested that for me to obtain varied opinions on the issues under study, I needed their guidance to select households and individuals to be interviewed. They suggested households and names of individuals I could visit, and directions on how to get to the homesteads. Information provided was in the form of names of the nearest shopping center or other landmarks such as a water tank, church, or school.

During this process, I discovered that most elderly Maasai people (over 60 years) have reliable knowledge and information on the location of Maasai households. The majority of households on my initial list were headed by elderly men. I took it upon myself to

talk to other members of households, though not as part of the interview. The objective was to ask for suggestions of households headed by women or younger adult men. It was easy to visit households on private land tenure as they are concentrated within one continuous area in Ewaso Kedong (Figure 1) having been carved out of the previous Ewaso Kedong group ranch. The procedure I followed was to contact individuals from households located nearest to major roads and move inwards towards the interior. In that order, I was able to manoeuver my way in the villages.

I made a list of the heads of households and details on how to locate each household. In cases where the directions were not clear, I visited the nearest local shopping center and asked for further directions to my selected destination. Over time, the exercise became easier. Sometimes I would meet a person at a shopping center who knew where the interviewee I was looking for lives, and they offered to show me the homestead if I would give them a ride, which I willingly did. On many occasions I found the female participants at home, whereas most men were found by the roadside or at nearby shops operated by fellow men. I actually never found any of the male interviewees within their *boma*. The practice of men being out of the *boma* most of the time is part of a traditional practice attributed to men's search for information. By walking along the road or visiting shopping centers, men receive important information and discuss events within and outside of their community.

Once I arrived at a particular homestead, I introduced myself and explained my wish to schedule an appointment for an interview. Of course, the next question involved what I was studying, to which I provided a summary of the objective of my study (Appendix A). Once we agreed on a day and time, I thanked the individual and left. The road was not without bumps. On some occasions I established that the households I had been referred to reside on a group ranch and not private lands. This mostly happened at border points of private lands and group ranches. Two potential participants on private land politely declined to make an appointment for interviews but provided names of

other households I could visit. One young woman, younger than 30 years old, at first declined, saying that she could not speak to the study issues as that should be done by her husband. The woman gave me her husband's cell phone number, but I never got to interview either of them. On another occasion, a young adult male told me he would be away to the nearby urban center where he is employed and suggested I interview his wife, she agreed and was interviewed.

Once I completed a scheduled interview, I sometimes received suggestions from the interviewee on other households I could visit for interviews. The procedure that worked for me was to visit the suggested households at the end of an interview day to inform them of my study and schedule an appointment. Evenings were better, a time when most members of a household have returned from the fields to the homestead.

Maximizing on variation

I maximized on variation in my study sample and subjects by capturing a wide range of perspectives relating to my study objectives. I searched for variations in perspectives of my study participants in terms of conditions that were viewed as being typical: for example, male heads of households practising pastoralism to provide for a livelihood, compared to more atypical female household heads. By purposively selecting my study sample, I was able to capture a wide range of perspectives on the factors (from typical to extremes) deemed to have an influence on household decisions on choice of private land tenure. This helped me understand my study subjects from different perspectives, and hence gain greater insights into household decision-making. The advantage of purposive sampling is that it provides a way to choose respondents to cover the range of research issues of interest (Lund Research, 2010). I minimized bias in my study by describing the population from which I drew the sample, and selected my interviewees on the basis of a specific criteria of being an adult residing on private land, and being indigenous Maasai.

Data collection sources, methods and instruments

In this section I explain the instruments and data gathering approaches I used to conduct the study. The objective was to gather data to enable me identify and describe factors that are influential in the decisions of households to hold land as individual private property.

Data collection sources

My study relied on a case study methodology. My primary data collection method was in-depth, open-ended interviews conducted through use of an interview guide. I made observations and wrote field notes mainly on my way to a homestead and during the interview process. The objective of making observations was to orient myself more with the setting, surroundings, and on the non-verbal messages of interviewees. To enrich the interview data, I wrote descriptive field notes without attributing meaning (Table 3). Observations were mainly on the interviewee's non-verbal expressions while they provided responses, observations on livestock within the homestead, and type of crops grown on land, type of residential houses and physical arrangements of structures, boundary fences, and water sources, among other observations. I also made observations on interactions among members of individual households, including how physical boundaries were defined.

Table 3: A sample outline of how I organized my field notes

Event	Observation date	Direct observation notes	Descriptive notes	My personal comments	My personal questions on what I observe to follow up later on

Interview instrument and procedures

My primary data collection method was in-depth, semi-structured interviews, which consisted of using predetermined open-ended questions. The interview questions were arranged in a reasonably logical order starting from general to specific (LeCompte & Schensul, 1999; Richards & Morse, 2007), i.e., least sensitive to the most sensitive. The interview guide focused on a wide range of topics in relation to my study questions and objectives. This was one way to leave the responses to the discretion of the interviewee. The interview guide was administered to an adult man or woman residing within a household. Adults were identified as those who have attained the legal age of 18 years. I supplemented the research questions with planned or unplanned probes to enhance the interview. Using an interview guide helped to provide structure while maintaining a relatively high degree of flexibility. I used the interview guide to conduct interviews with individual participants using the Swahili language (Kenya's national and official language) as the medium of communication. Each interview was digitally recorded.

Interview procedures

On arriving at a household or homestead, I followed the traditional Maasai way of greeting people and introducing myself based on their age and gender. The greetings involve shaking hands of men and women who appear to be of my age group. I offered my head by bowing to be touched by people who appeared to be elderly, i.e., the age-group of my parents or grandparents (Plate 1), and I touched heads of children, which symbolizes giving a blessing to young people (Plate 2). A sign of welcome and consent to participate in the interview is when the host invited me to sit either inside the house or they brought a chair to the outside, mostly under a tree. One way of knowing if someone is not willing to participate is if they talk with you and not offer you a seat, a sign of not being welcome.

Plate 1: The researcher receives greetings from an elderly Maasai woman

Plate 2: The researcher greeting a Maasai child

Once done with greetings and related small talk, I informed the participant of my visit and study objectives. This being a verbal-oriented community, consent was implied by their agreement to participate in the study and when they welcomed me to their home. There were no refusals at this stage, for the individuals had scheduled appointments

based on earlier visitations. Before commencing the interview, I informed the interviewee that I would record the interview proceedings to avoid spending too much time "with paper and pen," and a sure way to avoid misquoting them. Many marveled at the mini-size and colour of my digital recorder (Plate 3). I still wrote field notes such as noting down follow-up questions, observations made of the participant, family members, homestead and farms, among others (Plate 4). Once we were settled down, I proceeded with the interview using an interview guide (Appendix B) and recording the interview proceedings.

Plate 3: Digital recorder used to record interviews during the study

Plate 4: Interviewer taking field notes, seated next to interviewee

I ended up interviewing two or three participants per day, and each interview lasted between one and half to two hours. The very long interviews were cases where the participant provided elaborative stories with their responses to the interview questions. During the interviews that were held within a *boma*, a family member prepared tea, which I gladly accepted. Declining such an offer would be considered rude, and could potentially influence the remainder of the interview. On completion of each interview, I again thanked the interviewee. When leaving the homestead, the interviewee always walked me to my field car (Plate 5), at which point I showed more gratitude by presenting either loaves of bread or sugar, all based on my judgment on the level of need of each family. The presentation of a food item is part of a traditional practice among many Kenyan communities, whereby a visitor from outside one's locality carries some items deemed necessary for the family being visited. At the end of each interview, before the next interview, I sat in my field vehicle from where I saved a backup copy of the interview recordings into my laptop and protected it with a password. At the end of each interview day, I listened to the digital recordings to make sure that the recordings occurred, made quick notes of emerging themes and patterns and established further issues for consideration at future interviews.

Plate 5: Vehicle used by researcher to travel to the field for interviews

By the end of all my scheduled interview sessions, the total number of interviewees had changed, for the qualitative research I pursued emphasized in-depth investigation, with the emphasis being on quality rather than quantity (Denzin & Lincoln, 1994; Richards & Morse, 2007). In my initial plan, I set out to get a sample of 30 households, but ended up with 18 in-depth interviews which are appropriate for the qualitative research I pursued, and provides the information I set out to gather on influential factors in household choice to hold land as private property, and implications of the tenure choice to the future practice of pastoralism and to social relations.

Number of interviewees

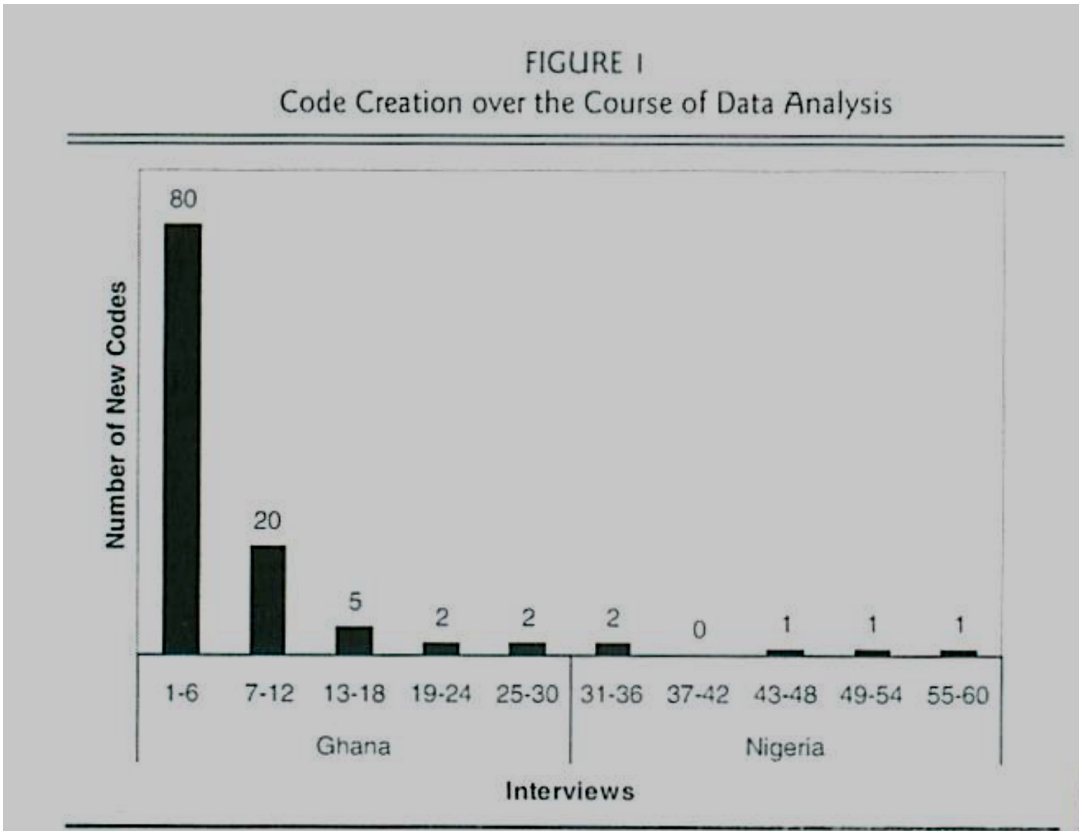
One of the rules for a qualitative research is to collect data until saturation occurs, a stage best determined by the researcher who will evaluate the adequacy and comprehensiveness of the results (Morse, 1995) and declare saturation, i.e., the point at which no new information is forthcoming in the data, or when new information in data collection and analysis produces little or no change to the codebook (Guest *et al*., 2006), a situation summed up by Morse (1995:148) as the discretion of adequate qualitative data:

> The quantity of data in a category is not theoretically important to the process of saturation. Richness of data is derived from detailed description, not the number of times something is stated, i.e., frequency counts. (Morse, 1995:148)

When does a researcher stop interviewing? According to Morse (1995; 2000), the point of saturation is mostly determined by the sample, so that a tight, restrictive and narrow sample with a more clearly delineated domain will achieve saturation faster. A further clarification on saturation and sample size is provided by Guest *et al*., (2006), through the use of results from a qualitative study carried out in West Africa. The authors systematically documented the degree of data saturation over the course of thematic analysis. The study findings established that saturation occurred within the first twelve interviews, with some basic elements for themes being present as early as six interviews

(Table 4) when codes were created or definition changes made. The findings indicate that 80 out of a total of 109 codes were identified within the first six transcripts, and an additional 20 codes in the next six transcripts. The researchers concluded that "the full range of thematic discovery occurred within the first twelve interviews."

Table 4: Indicating code creation over the course of data analysis



Source: Guest, G., Bunce, A., & Johnson, L. (2006). How many interviews are enough? An Experiement with Data Saturation and Variability. *Field Methods* 18 (1) 59-82. P.67

Based on the study findings, a conclusion is reached that saturation has more to do with when a researcher has collected enough data to build a convincing argument or theory. The number of interviewees to provide enough data will be based on the judgement and experience of a researcher, the quality of information collected in relation to the uses to which the information will be put, the research method and the purposeful sampling strategy used (Sandelowski, 1995). A related criterion is presented by Morse

(1995), that saturation is achieved faster when a study is homogenous therefore cohesive culturally and in the characteristics which address the research question. Homogeneity of the population and research objectives are of importance, to the extent that when a population is homogenous, six to eight cases are good enough and a sample and 12 to 20 cases when one is looking for maximum variation to disconfirm evidence (Kuzel, 1992:41). Therefore sample size in qualitative research is relative, all based on the intended end product, but the bottom-line is the deep understanding enabled by information from whatever number of interviewees.

More confidence on the number of interviewees to reach saturation is gained once a researcher takes into consideration the scope of the study with the understanding that a broader scope of the research questions will take longer to reach saturation. A researcher will also consider the quality of data collected, for quality data requires fewer interviewees compared to data of poor quality (Morse, 2000). The other process through which to reach saturation is by choosing particular people as good sources of information that will assist advancing towards an analytic goal, and not because one wants to generalize to other persons (Sandelowski, 1995:180). Thus, Morse (1995; 2000) urges researchers to consider the scope of the study, the nature of the topic, the amount of useful information obtained from each interviewee, and the qualitative method and study design used, to reach decisions on number of interviewees.

Therefore, my use of 18 interviewees is in line with the above criteria on when saturation may be deemed to have been reached in this particular qualitative research. My study population being limited to indigenous adult Maasai on private land holdings in Ewaso Kedong is considered homogenous and culturally cohesive enough, therefore contributed to the early reach of saturation. The data collected is deemed of good quantity and quality as the interviewees answered all the questions with detailed information. The minimum amount of recording was one hour, and some interviewees spoke for more than two hours (Table 5). The many hours of recording partly explain the reason it took me many months to transcribe the recordings. At the end of the

transcription stage, I had a total of 150,506 words (376 pages) of text. All my interviews were conducted in the Swahili language, which I had to translate into English while transcribing.

Table 5: Quantity of interview recordings

Participant	**Time**	**Size of recording in kb**	**Number of transcribed words**
Kenayu	2:00	101,355	10221
Amos	2:26	148,353	13700
Anne	1:02	86,193	6400
Liz	2:04	102,063	8777
Eunice	57:12	75,368	6875
Guyoo	1:05	78,121	5027
Maatayo	1:38	117,701	7497
MaJuma	2:55	191,448	16850
MzeeMaa	1:44	122,463	4517
Mboe	1:34	202,974	8541
Naresio	1:26	107,532	8164
Noah	1:12	95,961	6606
Pulei	1:08	95369	7508
Raphael	1:47	142,782	9387
Saloiti	1:53	146,166	5695
Ole Romo	1:26	107,732	5401
Lerionka	1:14	96,738	8780
OleJuma	2:15	103,650	10560
			150,506 = 376.3 pages

Information in the interview transcripts was complimented by the photos I took while in the field, observations I made, and the field notes I wrote. The other advantage is that I personally interviewed all the participants, making it easier and quicker to improve information gathering over time, identify emerging themes and patterns, and identify issues to seek further clarification. My participation in all the interviews made it easier for me to tell when I was reaching saturation. Based on this experience, I add a new finding that researcher participation in the interviewing process enables one to know

when they are reaching saturation, especially when compared with researchers who use interviewers and only get to engage with the data at the analysis stage.

The research process involved conducting interviews during the day and spending time in the evenings listening to the recordings to establish if the information was meeting my study objectives. Before stopping to conduct more interviews I started to notice patterns and themes emerge which made sense in relation to my study question and objectives. I was able to tell that the interviewee responses were becoming similar (saturation). For example, the reasons given by participants for choosing to hold land on private basis focused on the need to secure land from outside appropriation and be able to bequeath land to family members, make decisions on activities to implement on land, limit the number of livestock on land, and engage in business on land, among others. Once I completed interviews, I moved on to the next stage of data analysis and interpretation.

Data analysis and interpretation techniques and procedures

Data analysis is the process of bringing order to data, and organizing data into patterns, categories and basic descriptive units (LeCompte & Schensul, 1999; Richards & Morse, 2007). Data analysis involves transforming interview transcriptions, descriptions of field notes, and collected documents into a story for both the research subjects and outsiders (Richards & Morse, 2007). The objective is to enable the researcher to discover patterns and themes in the data and link them with other patterns and themes, resulting in a description of what happened in the study. Data interpretation involves attaching meaning and significance to the analysis, explaining descriptive patterns, and looking for relationships and linkages among descriptive dimensions (Richards & Morse, 2007).

Data analysis

After the field research, I traveled back to Canada and proceeded with data analysis. I transcribed the recorded interviews from Swahili to English and verified each transcript for accuracy and completeness. I analyzed the data with the aid of Nvivo qualitative data analysis computer software. The analytical steps I followed involved generation of a codebook and definition of each code, coding for descriptive labels while writing memos and making reflective notes, sorting for patterns, and generating themes in relation to the study objectives. After coding, I did a content analysis and described the findings based on the research question and objectives, including information on the demographic characteristics of the Maasai households.

Data analysis took place at many levels: At the individual interview scripts, I generated codes and allocated names close to the concept they describe. The purpose of codes was to enable me to group similar ideas as I noticed them in my data. At this stage I had preliminary results from which I identified patterns by looking for related categories. I constantly compared each code assigned to all other codes so as to identify similarities, differences, and general patterns. Through the process of analysis, I was able to bring order to the piles of data, discover patterns and themes in the data and link them with other patterns and themes. I then assembled the various components into a full-fledged case study that I fine-tuned in the interpretation stage by revisiting the research objectives and questions.

Data interpretation techniques and procedures

The final stage of analysis involved interpreting the findings from the analyzed data. Interpretation involves attaching meaning to emerging patterns and themes, and identifying relationships and linkages among identified categories, all aimed at answering the research question (Richards & Morse, 2007). The process involves reviewing research questions, relating the findings to the theory that informed the case study or to other theories that are also more relevant upon reflecting on my findings.

Interpretation of data occurs when a researcher tells readers what that story means. The process involves making the results meaningful to outsiders (LeCompte & Schensul, 1999). Data interpretation attaches meaning and importance to the identified patterns, themes and connections and explains why they have come to exist and their implications for future actions. To achieve this, I constructed a narrative that explains each of the themes, and identified relationships and assigned meanings to produce a thick description of information on influential factors in household decision to hold land on individual private land tenure, and implications of their choice of tenure on the future practice of pastoralism and on social relations.

Ethical Considerations

Before I embarked on the field research, I submitted an application for ethics review. I made a submission through my faculty, for ethics approval from the University of Alberta Human and Animal Research Ethics Office (HERO). I provided clarifications (on-line) for a few issues that were raised, after which the application was approved (Appendix C). On arrival in Kenya, I submitted an application for a research permit which was granted (Appendix D). In Kenya, the law requires that any person (citizen or non-citizen) planning to carry out social or scientific research must apply to the relevant authorities for a research permit.

One particular ethical consideration was to make the research goals clear to the study participants. I gained informed consent from individual interviewees before the interview, and offered to send the results of the research study to any interviewee who expressed interest. I took utmost care so as not to harm or exploit the interviewees by observing the culturally acceptable ways of greeting, consent, dressing and showing my appreciation. Ethical standards for the above-mentioned issues were met when I informed the interviewees about my study objectives. I informed each interviewee that I was a university student and would use the research findings as part of the requirements to complete my doctoral study program. To proceed with the interview, I

received consent using the most socially acceptable way, which involved the host giving me an appointment date and time for the interview, welcoming me to his or her home, and agreeing to participate, and offering me food. I informed individual interviewees of the estimated time the interview would take and that they were to answer questions in their own words.

On issues of confidentiality, I made it clear and promised to take all the necessary steps to protect the privacy of the interviewees during the interview, the recordings, and in written materials from the interviews. Additionally, the names of interviewees have been removed from the transcriptions and dissertation and replaced with nicknames. Only I, as the researcher, know the names and corresponding nicknames, and I stored all the digital information in a safe place. I made it clear to the participants that the study would not accrue any direct benefits to them as interviewees, and that their perspectives on influential factors in household choice of individual private land tenure would contribute to the development of a report which could benefit the community and development agencies working in the community. I also informed the interviewees that there were no foreseeable risks, as I would keep all the information confidential. I endeavoured to remind them that they could withdraw from the interview before, during or after. To successfully withdraw from the interview after the recording, they would be required to communicate with me within one month of the interview, informing me of their decision to withdraw, and once that was done, I would not use their responses in the analysis of research findings. I arranged for a literate and knowledgeable local contact person from the community through whom the interviewees could contact me. To date no one has asked to withdraw their interview.

In the next chapter I present and discuss findings from the research study. I start by setting the scene with detailed information on the nature of Maasai households.

CHAPTER 6

THE NATURE OF MAASAI HOUSEHOLDS

I start this chapter by providing detailed information on the nature of the Maasai household in terms of physical structures and composition of households, assets within households, their source, management, and social economic activities that household members are involved in. The objective is to present a detailed picture of my study participants, and the context within which they have chosen to hold land as individual private property.

Demographic information of Maasai households

The study was carried out among the indigenous Keekonyokie Maasai of Ewaso Kedong. Individuals were found to live within households mainly composed of a male head, his wife or wives, unmarried children, married sons and their wives and children, and sometimes a widowed mother. Some households have relatives such as in-laws from a wife's home and employees, mainly livestock herders residing within the *boma*. The interviewees ranged in age from 23 to over 90 years (Table 6). Some interviewees provided their exact age, while others, especially the elderly provided estimates which are all plausible based on observations made on their physical appearance and by listening to their stories in relation to historical events. The variation in age gave me a chance to collect views from a variety of participants such as those who have lived through the three land tenure types of communal, group ranches and individual private holdings; and those below the age of 30 who have mainly lived on individual private land holdings. The views from the different generations enrich the information towards answering my research question.

Table 6: Summary of demographic characteristics of interviewees

Participant	Age	Gender	Status within household	Livelihood activities
Amos	23	M	Single, lives in the boys' quarters within parents' *boma.*	University final year student. Family keeps livestock, cultivates food crops, and engages in business in livestock and beadwork.
Lerionka	24	M	Not married, owns private land given when their father sub-divided land to sons.	Cultivates food crops, no livestock. Trained as a driver and employed as farm manager on two nearby farms belonging to buyers from outside the community.
Eunice	25	F	Married, mother of three young children, lives with husband in *boma* of father in-law.	Housewife. Household keeps livestock, cultivates food crops, and engages in business of livestock, milk and livestock manure.
Anne	28	F	Married with five young children. Lives in compound with husband and mother-in-law. Father-in-law and two adult children live overseas.	Keeps livestock and cultivates crops on land. Husband employed in nearby urban area.
Noah	30	M	Married to one wife, has young children. Lives in own *boma* and has a title deed to his land.	Keeps a few livestock and cultivates food crops.
Kenayu	40	M	Married with one wife and children. Homesteads near mother's house.	Keeps livestock and cultivates crops on land. Involved in livestock business.
Pulei	50	M	Married to one wife and has children. Lives in one *boma* with mother.	Keeps livestock, cultivates food crops. Engages in livestock business, operates a motor-bike taxi business. Wife operates a shop business.
Maatayo	50	M	Married with one wife and has children.	Owns land, keeps livestock, cultivates crops and engages in livestock business.

OleJuma	>60	M	Married with one wife and has adult and young children. Lives in *boma* with wife, children, daughter-in-law, and grandchildren.	Keeps many livestock and cultivates land near the *boma*. Bought more land outside Kajiado district where he keeps more livestock.
Naresio	>60	F	Recently widowed. Lives in *boma* with adult and minor children and grandchildren.	Keep livestock and cultivates crops. Adult daughters in formal employment.
Raphael	60s	M	Married and has adult and minor children.	Keeps livestock and cultivates crops on land. Works as the assistant to the local chief.
Liz	>65	F	Married as first wife of three. Lives in own *boma* with her children and daughter-in-law.	Keeps some milk cows and goats. Cultivates food crops. Operates a shop and engages in business of goats and milk. Son is employed in Nairobi.
Saloiti	>70	M	Married with three wives, has adult children and grandchildren. Holds title to household land.	Keeps many livestock. Wives have cultivated food crops on land near the *boma*.
OleRomo	>70	M	Married with three wives, adult children and grandchildren. Has sub-divided land to sons.	Keeps many livestock and has engaged services of a herder. Wives cultivate crops on land.
Guyoo	>70	M	Married with three wives, has many adult and minor children.	Holds title to household land. Keeps livestock and grows crops on land. Engages in livestock business.
Mzee Mboe	> 75	M	Household head, married with three wives, has many adult children, daughters-in-laws, grandchildren and great grandchildren.	Owns numerous livestock. The household cultivates food crops on land, and adult sons in waged employment.
MaJuma	>90	F	Widow. Lives in a modern house near son's *boma*. Mother of four adult children, grandchildren and great grandchildren.	Keeps goats and some cows.
*Mzee*Maa	>90	M	Married and lives in *boma* with his wives. Have children and grandchildren. He dwells in a Maasai traditional hut.	Keeps livestock. Family members cultivate crops on land.

The structure of the Maasai household

The number and size of residential units within a Maasai *boma* were found to vary with the age of parents and type of title on land. In cases where a title to all land is held in the name of one household member, housing units tend to be many and close together, compared to situations where adult sons hold individual titles to parcels of land, different from that of their father.

One title to household land

The nature of the land title held at the household level was found to have an influence on the physical appearance and number of residential units within a *boma.* A household whose land title is held in the name of the eldest male tends to be larger in size and has many individuals therein. Based on observations made and listening to narrations from interviewees, some households are comprised of up to 30 members, made up of parents, adult children, daughters-in-laws, grandchildren and great grand-children. Such a homestead has many residential structures for the different household members. The units are made up of houses for parents, adult sons and their wives and children, sleeping quarters for circumcised boys, quarters for unmarried girls, the family kitchen, and shelters for calves and goats. The residential units on such land are grouped together, forming one large *boma,* under the management of the household head. The Maasai being a patriarchy, *Mzee* remains the main decision-maker especially on matters of land and livestock, summed up by *Mzee*Maa as:

> Family leadership is still the preserve of *Mzee*. My sons are still under my guidance, I have subdivided the livestock and given them the authority to use or even sell if they so wish, but the land is still under my name, the sons only use it. (*Mzee*Maa)

The other factor determining the size of a *boma* is the age and gender of children within a household. Households with many adult sons who are married will have many residential units compared to households with fewer sons. The same applies to households with many circumcised boys, calling for many sleeping quarters for the boys. The same goes for the number of girls; if many are of adult age and not married,

there will be sleeping quarters for girls. The number of housing units also increases with the number of wives in a household. Households where the head has more than one wife will have many residential units. Each of the wives is allocated a parcel of land within the *boma* for her residential units where she will reside with her children. The residential units are located within the larger *boma* of the head of the household.

In some of the households, individual family units prepare and eat meals from one kitchen, while in others families prepare separate meals. The study findings indicate that meals are mostly shared in cases where the household does not have many adult or married sons. In such a household, the meals are cooked from *Mama*'s kitchen and either eaten by the family from one place, or distributed to the different housing units of *Mzee* and to the boys' quarters. In cases where *Mzee* has many wives who have married sons, the practice is that the daughters-in-laws cook from the kitchen of their mother-in-law and either eat from *Mama*'s house or from individual family residential units. In such a situation, *Mama* is viewed as the head of her household, meaning her children, daughters-in-laws and grandchildren, while *Mzee* is considered as head of the *boma*.

The Maasai traditional practice is that upon marriage, daughters move out of their father's *boma* to live with their husband at his father's *boma*, while sons stay on and are allocated a parcel of land to construct a house within their father's *boma*. The land allocated to a son is usually to the front of his mother's house. Therefore it is easy for anyone knowledgeable about the Maasai and their traditional residential practices to arrive at a *boma* and rightly identify housing units that belong to grandfathers, fathers, sons, and grandsons, and other members of a household.

Many title holders to household land

On the other hand, households that have registered title to land in the names of individual members of the household, i.e., *Mzee* and adult sons, were found to have smaller compounds or *boma*s with relatively fewer residential units. The number of residential units varies with the age of the title holder: in cases where adult sons of for

example 40 years and less hold title to land, their residences are mainly composed of one main house for the parents and young children, a kitchen, quarters for circumcised boys and a shed for calves and goats.

The members of such a household cook and eat meals together. An observation was made that even with individual titles, household members still construct a *boma* on private land but closest to their sibling or parents *boma*, leaving more land without houses to the front of their *boma*. Observed from far, the closeness of such houses would make one assume that such a household is still on one title-land, yet in reality each is on individual private land holdings.

Roles and responsibilities of household members

Mzee; the provider, protector, head of household

Individuals within households were found to play a variety of roles as grandparents, parents, children, grandchildren, or in-laws. The roles and responsibilities within Maasai households were found to be further differentiated by age and gender. In the Maasai cultural practice, part of which has persisted to date, elderly men, commonly referred to as *Mzee,* play the role of supervisor, manager, teach respect to their sons, search for wealth outside the home, make major decisions on livestock and land use, engage in livestock business and are held as the overall head of their household. *Mzee* fulfills these tasks by ensuring that livestock are fed and in good health so as to provide milk, meat, manure, hides and skins, as required by other members of the household. To meet expectations of other household members and sometimes of society, *Mzee* has to make a number of decisions, especially in relation to livestock, sometimes with little or no consultation with other members of his household, exemplified by words of the following interviewees:

> In relation to who is the head of the family, it is the men; they are the ones in charge of everything. Like now they are the ones who go out to look for wealth. *Mzee* is the one who does most of the work, grazing livestock. My authority starts at the top to the

> extent that even if my son is married, I am still in charge of his *boma* until the time when I give him his wealth and ask him to go govern himself. (*Mzee*Maa)
>
> I only give her the information but I don't consult her to make any decisions because that is our culture. (Maatayo)
>
> For me I don't discuss with them, I will check out some of the livestock and sell after which she will see that I have bought land. She will ask why I am selling cows or goats and that is when I will say "it is to purchase land" … *Mzee* knows what is best for the household, all the time. I don't ask, I just sell my wealth. That is how our culture is. The head of the household does not ask for the contribution of others in many areas, he makes that decision alone. (Mboe)

The choices made by *Mzee* are based on the reasoning that, at the end of day, the well-being of his household is a reflection of his capability in leadership. The decisions he makes are viewed by others as an expression of his management skills and eventually translate into his position in society, including his consideration for eldership positions in the community. Therefore, *Mzee* will put in extra effort to ensure that his household has enough and well-fed livestock by identifying pastures where livestock are to be fed. *Mzee* also makes sure that the behavior of members of his household are in line with expectations of society. Once the needs of household members are met, *Mzee* will be viewed and respected as the owner and head of his household, as illustrated by MaJuma, an elderly women, and by Amos, a young university educated man:

> The best decisions are the ones where individuals make decisions for their *boma*. When one has children, they have to sit them down and talk with them. You tell them of things that make you happy and those that don't, so that when they meet with others, they already know what they were told not to do even if they see others doing it …. [Long pause] young people cannot educate one another, only bad things. So it starts from home. If you talk with them at home, when they get together with the other young people, they will remember what *Mzee* told them while at home on what is good and what is not. (MaJuma)
>
> So, if you try to understand the system, it is a very good management system, It is very good and that is why you don't see us complaining even for those who have gone to school, they still lie low, respect our *Mzee* even though he is not educated, because you have to understand that he has a management system that has enabled him to take care of you from the time you were young to where you are now; you know the management, it is very nice. (Amos)

The positions of manager and provider held by *Mzee* imply that all the people within his *boma* are under his authority, so that the behavior of individual household members, including wives and adult sons becomes a reflection of *Mzee*'s leadership.

Men within the Maasai community also have the responsibility of protecting members of their household and those of the larger community by fighting off any intruders such as thieves and wildlife. Over time the rest of the household members have come to rely on *Mzee* or adult men in general as decision-makers, providers and protectors. The eldest male continues to provide guidance to the rest of the household members, thus, the persistence of the Maasai patriarchy over generations.

Mama; takes care of the boma, prepares food, teaches manners to children

The roles and responsibilities of wives, commonly referred to as *Mama*[15] are concentrated within the *boma* as care givers, provider of food for the family, milk cows and goats and cultivate food crops on household land. They teach children respect, communicate family decisions to children, pasture goats, sheep and sometimes cows, gather and sell milk and livestock manure, clean newly born calves and kids, make and sell beadwork, cultivate food crops on land, and follow *Mzee*'s directives, among others, thus, summarized as:

> My work at home involves taking care of the children, and sometimes to take care of livestock when my husband is not at home. I wash clothes, gather firewood, cook for the children, sweep the house, and gather the manure. (Eunice)

> *Mama* mainly makes decisions on issues to do with children, an area where she makes a lot of decisions, even if she consults with me, she is the one to tell the children so that we maintain one source of command and guidance. (Mboe)

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[15] *Mama* is a Swahili term of respect commonly used by husbands, children and daughters-in-law in reference to married women who have children. It is easier to tell which *Mama* one is referring to from the topic of discussion. Sometimes participants refer to *Mama* so and so (name of child or husband) to differentiate to whom they are referring, especially in situations where more than one such woman is present.

Mama makes sure that there is enough food and shelter for all the household members, which she does by milking cows, engaging in business enterprises, purchasing foods from the market or by cultivating food crops on family land. In the traditional Maasai society, women were in charge of constructing residential houses, which in the modern society they do by supervising construction workers. The roles and responsibilities of women are further differentiated by age. For example the first wife within a polygamous household is considered to be more senior and respected by others, and consulted by the younger wives and daughters-in-laws on decisions to do with managing affairs of the *boma*:

> The main work that I do is making beads, which I take to Nairobi to sell. When I am not working on beadwork, I cultivate land or gather the livestock organic manure, as you found me doing, and such things. (Anne)

> My wife, she takes care of these goats, makes beadwork, works on the land, and I have opened a small shop for her here, in that house, that blue one. I opened a shop for her there so that she can take care of the goats while selling there, make her beads, and do other work. … I cultivate the *shamba* [cultivated land] together with her. (Kenayu)

Over time, the role of women has diversified beyond the *boma* to include income generating activities such as the making and selling of beadwork, food crops, livestock, milk and livestock manure. Through the roles of reproduction and nurturing, women have acquired vast knowledge on the roles, responsibilities and obligations of both male and female family members of a Maasai household.

Children; will one day grow into Maasai men and women

The roles and responsibilities of Maasai children (boys and girls) are concentrated both within and outside of the *boma*, based on age and gender. The expectations of children include showing respect to elders, attending school, attending to livestock, cleaning the compound, cooking and attending to younger siblings. As a result of these responsibilities, children are socialized into roles of their gender so that they develop related expertise as members of the Maasai patriarchal household and society. Older

boys work within the *boma* on tasks such as clearing fences, taking livestock to the fields to graze, defending livestock and the community from outside attack and making sure that all livestock are back to the *boma* at end of day, as Amos put it, individual children learn their roles and implement them:

> When the livestock are brought back and maybe one is lost, I as a responsible son, I go and check on mine [livestock] and identify if one is missing. If one is missing, I will report. All the others are supposed to check theirs [livestock] and report; that way it will assist us to know if one is missing, and that is how we get to know the livestock. (Amos)

Girls of all ages are found within a *boma* working alongside their mothers, mothers-in-laws or grandmothers on tasks such as food preparation, fetching water and sweeping the inside and outside of houses. Children acquire more roles and responsibilities as they advance in age to include care for aged parents:

> Now I don't do much work, my children take care of me. My older son takes care of everything; when I am sick he has to take me to hospital. All that I do is inform him of what I would like done, for example if I need a fence, I tell him and he gets people to come put up one. If I am feeling unwell, I inform him and he will find a way to take me to hospital. If I need money so that I can go visit my daughter, I will call my son, show him which cow to sell and bring me money so that I can travel to visit my daughter. If my son is not nearby, I will call one of my grandchildren to go bring me the money. (MaJuma)

To fulfill the different roles and obligations, members of households require access to a variety of resources. For example, women need access to food crops, milk and meat to successfully fulfil their role of nurtures and providers of food to members of their household. On the other hand, men as household heads need to have a certain number of livestock of good quality to provide milk, meat, hides and skins, as required by members of their household. The members of households were found to rely on household assets that are owned and managed by different members within a household. The study participants were asked for information on assets within their household, how the assets were acquired, and who, among the various household members owns the assets. The objective of gathering this type of information is to

provide a better understanding of decisions and choices made by household members in relation to the assets they own, access or control.

Assets: source, ownership and control

Through the research study, I established that there are a variety of assets found within Maasai households. The assets are in the form of land, livestock, food crops, cash income, skilled individuals, and business inventory such as beadwork, livestock manure, food crops and milk (Plates 6 and 7).

Plate 6: Business items, beadwork

Plate 7: Business items, livestock

The participants identified sources of the various assets as inheritance, gifts, purchase, bequeaths, business and wage employment.

Inheritance and bequeaths

The Maasai male children and adult men obtain assets such as land and livestock through inheritance as per the Maasai patriarchal practice of "fathers to sons", while the female children receive their livestock at birth as per the Maasai cultural practice. The traditional practice is that every Maasai child, whether boy or girl used to be given a cow at birth:

> That cow keeps on multiplying so that by the time when she gets married, she is given her cows. She takes her animals along with her from her father's *boma*. … Boys also have theirs. When they grow, they take them as their livestock and you can add them others. (Raphael)

The livestock given to children at birth were a form of insurance in that the animal and its offspring were left to multiply throughout the child's life until the child attained the age of adulthood when they were given their livestock to start a new life. Boys were given their herd when they married, and girls were given their animals to take with them to their husband's homestead. Being given the livestock at adulthood was an indirect way of telling young people that they were now old enough to take up responsibility as illustrated by Lerionka and OleRomo:

> And being told that you have now become *Mzee* and you are not going to depend on me, lead your own life. With that he was told, "here is your land, your cows, your goats and your sheep, lead your own life." (Lerionka)

> I am the first born and I get more livestock. My younger brothers were given less than what I received; they cannot get the same as mine. I am the first born and first born sons are treated differently. *Mzee* loves the first born differently, more so if they are obedient, you get a lot of wealth. (OleRomo)

Though each individual child owns some livestock within the larger stock of the household, one cannot sell or gift such livestock. The animals stay within the larger stock under the management of the household head until the time of the children's

marriage, when they are given their stock whose number would have multiplied over the years, from the single animal to many. When girls get married, they are given their stock to take with them to their husband's home whereby the animals become part of the husband's stock under the management of the household head.

The impression given is that most of the larger assets such as land and livestock are owned by *Mzee*. However, further analysis reveals that the assets are owned by different household members, but managed by the household head. Within the larger stock of a household are individual animals that belong to each child, to wives, to daughters-in-laws, and to the head of the household. The determination of asset ownership and control can be confusing to outsiders as sometimes *Mzee* being the manager is viewed and expresses himself as the owner of all assets in his household. Yet discussions with other household members or even the same *Mzee* will reveal that *Mzee* is managing the assets on behalf of other members of the household, including women and children.

One interpretation of the practice whereby all livestock are kept together and under the management of the household head is to ensure availability of enough assets within the *boma* to provide for the needs of the various household members. For example, traditionally, Maasai women and girls were able to access livestock products of milk and meat to provide meals to children, men and women. Having livestock together meant that individuals with less livestock were able to access similar foods as those with many livestock. Otherwise individual owners of different assets such as livestock might dispose them off, thus exposing other household members to hunger and destitution. A good example is the cultural practice whereby each Maasai child is given livestock at birth; however daughters can only have their livestock when they get married and take the livestock to the *boma* of their husband where the animals become part of the larger herd in the *boma*. Though the wife knows her specific assets, she lets them be part of the larger herd to benefit all members of the household. By having all

the livestock together as one herd, all household members, especially women and girls benefited when livestock are pastured together as part of the larger stock, otherwise it would be too much work if each individual member was to take individual animals to grazing fields and watering points.

The practice of allocating livestock to children, both male and female children at birth, is unique to the Maasai community. The majority of Kenyan communities are patriarchal in descent and residence and they tend to be strict in observing inheritance practices of "fathers to sons." It is surprising to me that even though the Maasai are a patriarchal society, expected to bequeath assets only to male members of the household, in practice, the Maasai bequeath livestock and land to their sons, daughters and daughters-in-laws, as revealed when Lerionka and Naresio say:

> When his son married, the father gave his son some land, he also gave land to his daughter-in-law with a title deed, and the son also has his title to land … The wife was given ten acres of land with her title, so that is her land. And for the daughters of that home, when they get married, their father gives them a piece of land, so for daughters who have been married, they own land at their home. (Lerionka)

> … but their father said that each child born to us will get some livestock, so there is no child here who does not have livestock of their own. Even this land, before *Mzee* died he had said that his daughters are not married and before they get married, each must get a piece of land. So each daughter will be given a piece of land from where they can lead their lives. It is okay if they still decide to get married, they will still be able to have their piece of land and decide on what to do with the land, and they can sell if they want to. (Naresio)

Such actions that deviate from the ordinary practices in a patriarchy complicate issues when an outsider tries to comprehend the ownership of assets within a household, without grasping the hidden cultural practices in relation to asset ownership, use and control. However, many practices of the Maasai are changing. For example, some participants reported that the practice of giving livestock to children at birth has declined over the years. The households that have stopped giving livestock to children at birth attribute the change to a reduction in livestock numbers. The other explanation is that such livestock have been converted into payments for the education of children.

Parents have embraced education to the extent that they sell livestock to pay school fees for their children, as Liz does to pay university fees for her daughter:

> So I have to know that when she leaves for school, I will give her Ksh. 20,000 and then after maybe one month, I will give her more money. So I have to calculate it in terms of what type of goats will bring in money, then sell [a select one], so that I don't have to sell many goats at one go. For example, I will look at my goats and pick the ones that will fetch more money at the market and those are the ones I sell. I will select the goats with many kilos of meat and be like, "this will bring me Ksh 7000 each, and so let me sell four of them to get the required money." I have to do my research before selling. (Liz)

Education has become expensive, but parents still find ways to meet the involved costs so that their children can attend school. Going to school has become a way of life for children from many Maasai households. Another reason why Maasai households have embraced education is because land holdings have become smaller. A reduction in land sizes has led parents to strategize for the future of their children. They have identified education as one way to provide more opportunities to their children to gain entry into wage employment or business enterprises. The role of education has become more evident in cases where the Maasai have witnessed people from other ethnic communities who possess higher education, get appointed to prestigious job positions in government, and they want the same for their own:

> They had no educated child to enlighten them on what was taking place, so that is what has changed them. The way you see government ministers are being selected -- we are not getting any [ministerial posts] from our place, because they are not educated, so those are some of the things that are making the Maasai change and agree to educate their children. (Liz)

The Maasai are traditionally a very close-knit society, partly developed from the physical set-up of *bomas* with one head, and close relationships developed as they shared pastures on communal lands. The close relations have continued, indicated by the gifting of assets among member of households and the community.

Gifting

Gifting among the Maasai is an old cultural practice. In the traditional society, individuals gave gifts mainly in the form of livestock to family members, to friends, clan-mates, and to members of their age-set (brotherhood). In the traditional Maasai society, individuals related with one another through the social-cultural set-up of the age-set. For example, clan-mates tend to have strong mutual aid obligations to one another so that they come to the rescue of one another in times of need. Individuals belonging to one clan would provide care for members of another by herding one's livestock when one was unable to do that. The importance of one's clan is further recognized in cases where a family requires assistance such as funds for school fees or medical care. They first resort to members of their clan for assistance before moving out to the rest of the community:

> …maybe we are planning to raise fees for me, maybe as a family, at such a time we call almost the whole clan, we come together and discuss how to organize the whole thing, maybe we will agree that we need to form a committee that will spearhead the particular activity. (Amos)

The spirit of gifting one another is further demonstrated during times of need such as after drought when many livestock die or when households lose livestock to theft or disease. Those with more livestock give "gift animals" as a start-up stock. To date the Maasai still gift livestock to one another as family members, clan-mates, age-mates, friends and in-laws, especially those from his mother's side, wife's kin, and married daughters. There are also stock associates, whereby relationships are established among age and clan-mates through the exchange of animals. Such relationships lead to a lifelong commitment of friendships and assistance, as summed up by Mboe when he says:

> Sometimes I go and purchase more livestock. At other times I can go to my friends and get gifts, and at other times I can be given some livestock by my in-laws, and such ways. The Maasai assist one another so that at other times they get free things. A Maasai has a lot of friends and friendship of the Maasai does not get finished. (Mboe)

At other times, children receive assets through gifting from parents and relatives. The gifts play different roles to the giver and the recipient. Most gifts to children are in kind and take the form of livestock, cash money or purchase of items such as shoes, with little to no expectation of immediate reciprocation. The gifting is done either on request or out of the free will of an adult:

> He can tell me something like "Daddy, when this cow calves, may I have the calf?" I would say take it and that cow will be cared for unless the cow dies. … he cannot sell without permission from his father, or before I subdivide the livestock or land and he gets his. But once he is grown and old enough, and he constructs his residence and can take care of himself, it is okay for him to take what belongs to him. (Pulei)

> The other children will receive portions of their land from their *Mama*, the one that I would have given her. I cannot sub-divide land and leave myself out. The underage children will stay close to their mother and inherit their piece of land from her. The younger children receive land from either the mother or father based on how close they are to the parents, so that children closer to the mother will receive from her, children closer to the father will receive from him, and a child closer to both parents can receive land from both parents. At other times, the old man gives part of his land to a grandchild. (OleJuma)

Further discussions revealed that gifting by parents to children, or from husband to wife is some sort of long term investment whose returns the giver hopes to reap at a later stage, such as in old age or if they are incapacitated. The gifting is reciprocated in the form of care. Therefore bequeaths and gifting play an important role in the life of individuals within the Maasai community, shielding individuals from poverty and destitution. A good example is when fathers give land or livestock to daughters who have children out of wedlock.

In the traditional Maasai society there were no incidents of girls having children out of wedlock. The society was organized in such a way that boys of age resided in *Manyattas* from where they were engaged in male-only tasks which included grazing livestock and defending the community from outside attacks. Once the men became of marriage age, their parents chose for them a household from where to marry. Society made it the responsibility of young men and women to get married at the "right age" by using

marriage as one of the criteria through which individuals could acquire assets or ascend to leadership positions within the community. However, over time the Maasai society is changing so that now Maasai boys can choose their brides, and sometimes Maasai boys and girls have children out of wedlock. In cases where the girls do not marry and lack a stable source of income such as wage employment, parents give them assets in the form of livestock or land as a way to shield them from poverty and destitution:

> But some of the girls refused to go to school. Others completed primary school and got children without getting married. … I must do that [give them assets] because they are my children. That is mine so there is no way in which I cannot give them land. (OleRomo)

The decision to give assets is based on the love of a parent to a child, i.e., a parent would not want to see their child struggle through life without assets to rely on. Gifting and bequeathing of assets to household members can further be explained as a means through which relationships between household members, households and clans are sustained. For example, when friends or a husband give gifts of livestock to wives, daughters or daughters-in-laws, the gifts become the personal property of the recipient, be it from husband to wife or fathers to children:

> …there are some animals that *Mzee* gives to *Mama*, and tells her these are your livestock, and they become *Mama*'s. And there are times when friends too sometimes give gifts and if they specify that the gift belongs to *Mama*, that will be hers and she knows that belongs to her and *Mzee* will not touch it even if they are those ones that he gave her. If he does, there are rules to punish him. The entire time *Mama* knows that this is my cow and the other one does not belong to me, that way, livestock for *Mama* belong to *Mama*, and there are those cows for *Mzee*. (Lerionka)

Gifting is also a sign of welcome to new members into a household, especially newborns and daughters-in-laws. The cultural practice is that on arrival of a bride at her husband's home, her mother-in-law would give her a cow as a gift. Such actions give hope and help build a sense of belonging to incoming members. The gifting of livestock enables Maasai individuals to gather support which in turn helps cement their social relationships. In the end, gifting makes individuals work harder to acquire more

livestock, to be able to gift more people, therefore expand and strengthen their social relations and networks.

Wage employment, business enterprises and local associations

In the recent times, Maasai boys and girls are obtaining a formal education after which they gain access into formal employment or engage in business enterprises:

> Yes, I am employed here and they pay well in that per month this one pays me Ksh.5000, the other one pays me Ksh. 8000. What I plan to do is have my land fallow for now, while I continue working here until maybe April next year, and once I earn more money I will save all the money and use it to start a business. (Lerionka)

Analysis of business enterprises that the Maasai are involved in reveals a gender trend. Men are more inclined towards businesses in assets such as land and large livestock (bulls and cows), while women engage in businesses involving smaller livestock made up of goats, and livestock products of milk and manure, food crops, and making and selling beadwork. Artifacts of the Maasai are very popular with people from other Kenyan communities and tourists alike. The artwork is used as ornaments and dressing accessories (Plate 8):

> Yes, women have their own money for they do beadwork which they sell and get money. … Just buying your own things, beautifying your house, like now these seats, it is *Mama* [mother-in-law] who has bought for herself, so you beautify your house. (Eunice)

> *Mama*, *Mama* is the one with a lot of work in that she does sewing work which they take to Nairobi to sell; they go to town every Tuesday. On the other days she purchases beads and sews them into artwork. Even now the *boma* she has gone to -- it is for stitching work [beadwork], she goes and meets with other *Mama*s. They do the beadwork and sometimes those who don't have many items can give to those who have more to take to the market, and at times when all of them have many items, then they all go to the market in Nairobi to sell…that is the type of business I see them involved in and it has brought progress. (Lerionka)

In such instances, benefits accrued are considered as belonging to the woman, she can make decisions on the management of such assets without having to consult with the head of the household.

Plate 8: Interviewee and researcher adorned in Maasai ornaments

It can further be assumed that due to interaction with the outside world, Maasai women know how much their business items sell for in different markets, and can set the price accordingly. For example, the city of Nairobi has more and diverse people in need of artifacts of the Maasai, and as a result the women's products will fetch a higher price. To access the more profitable but faraway markets, the women market their products as a group. They do this by putting their items together so that only a few of them have to travel to market the products. In such a case, household members use existing social trust to market individual items on a group basis. Maasai women have formed or joined local associations either to sell their business items or to pool resources to implement development projects of choice. The projects include construction of water tanks (Plate 9) and pit latrines at individual homes, purchase of cows or goats, or cash money to individuals, as detailed below by Pulei, whose wife has benefitted from being a member of a women's group:

> They can construct for me a water tank, or construct a toilet. When it was our turn I decided that they [the women's group] first construct a toilet for my mother. They also use a tractor to cultivate land. To have a tractor plough your land, you must have Ksh. 2000 or 1500 so that the project brings a tractor. Instead of you paying Ksh. 4000, you pay 1500 and they plough your land. It is for the community of women. … So there are many *bomas* where the women there belong to associations. They make contributions and give to individuals every so often. At one meeting the women can bring her [recipient] up to a total of Ksh. 20,000 in that each of the women can contribute Ksh. 1000, 1000, 1000 and if there are twenty women, it means that the money will add up to 20,000. The money is yours but is kept and used to do particular activities, [such as buy a] a water tank, [or] even if one wants a bull, a cow for milk. They [the women's group] will purchase it for you. It is not a must that you get the money in the form of cash money, no, you are given options, like would you like a goat, a cow or money, whatever a member chooses. (Pulei)

Plate 9: Water tank constructed by a local women's group

Pulei, a middle-aged male participant provides details on benefits of membership in a women's group: The pooling of resources enables households to acquire assets that would have not been feasible at the individual household level. Findings from the study indicate that members of local associations rarely possess written documents of association; they are able to engage in comparatively large investments due to the social capital that each member brings and strives to retain. Most rural households depend on

assistance from relatives or neighbours in times of need such as taking care of needy family members, childcare, tending to livestock and marketing products. When a household member is in need of money for school fees or to pay hospital bills, the community will come together and raise funds to meet the need. Therefore, no one would want to break the rules of their local association as that would have repercussions to their comfort as a member of the larger community, subsequently impacting on their capability to manage risks and uncertainties of life. An observation I made from my discussions with Pulei and other interviewees is that men still get involved decision-making on activities of women groups. For example, even though it is the wife of Pulei who is a member of the women's group, when it came to choosing how their household would benefit from the women's group, Pulei is the one who chose the construction of a toilet for his mother as the of priority. One explanation could be that as the traditional head of his household, Pulei and other male household heads have to be consulted, even in cases involving development activities of women groups. The study findings reveal an increase in asset ownership among women and younger adult males. Women are involved in business enterprises of livestock or beadwork, food crops, household items, and formal employment.

In all these scenarios of household composition, physical set-up of *bomas*, roles and responsibilities of household members, and asset sources and control; are clear rules of interaction that guide members of the Maasai household and community. The study established that interactions and communication within and outside a Maasai household, *boma* and community are based on age and gender.

Interactions among household and community members

The Maasai are a patriarchy whereby residence, kinship and descent are determined on the male line. Social-cultural practices are centered on age and gender whereby the eldest male holds the position of manager and decision-maker on behalf of the other members of the household. Consequently, individual household members are

socialized into age and gender-specific roles and responsibilities, which they have internalized over time to the extent that by adulthood, individuals have a good idea of their duties and responsibilities, which Amos sums up as being "automatic":

> Looking at Maasai families, there aren't things like "come we make decisions." When people get married, each individual is aware of their responsibilities so that whenever they are in the family, whether I talk with you or not, you will know what your duties and responsibilities are. These are my duties and those are yours ... so what I would like to say is that responsibilities, duties and privileges tend to be automatic, though we are changing, they are still automatic in that I know this is what I am supposed to do, this is what my mother is supposed to do, this is what my sister is supposed to do, this is for my father. It is almost automatic. I know them through long term observation. (Amos)

The traditionally identified duties and responsibilities relegated women mainly to the *boma* and men to the outside of the *boma* and beyond. For example, men were to take messages from women of their household to public meetings, and bring feedback to the women left behind in the *boma*. The practice has been part of the Maasai cultural practices, evidenced by the acceptance of status quo by MaJuma, an elderly female participant, content with the idea that that men can participate at public meetings while women stay home:

> No, women were not allowed into public meetings. When men went out to meetings, they told the wife to stay home and care for the wealth and home. If the woman had a message she wanted discussed, she would tell her *Mzee* to take it there and when the man comes back he will brief her. There was no need for women to go for *barazas* [public meetings] because they could not make a contribution. It is men who were to talk at a public *baraza*. It is men who made decisions. If a woman went to the meeting, she would not talk, she would only sit and listen. They got to know of what transpired at meetings from their husbands or sons. The men would always come back and inform us of what transpired at the meeting. That is how it was. (MaJuma)

Despite being relegated to the *boma*, the study established that the Maasai women are very informed on many aspects of the outside world. Maasai women have over time become a rich depository of information about the way of life of the Maasai people, including that of boys and men. Considering that it is women who nurture and teach manners to children, my female participants explained that the Maasai community is recently emerging out of a strong patriarchal set-up whereby women were relegated to

the *boma*, while men were to communicate to the outside world on behalf of other household members. My sense is that a majority of the Maasai women still find it uncomfortable to discuss issues of their household with outsiders. They prefer that their husbands and other adult male members of their household or community communicate with the outside world, albeit this is in a process of change in relation to events occurring both at the household and society as a whole. So, if the Maasai still value and pursue the sense of community, and good social relations as practiced in the traditional society, one wonders why they have opted to hold land as private property, a land tenure type based on short term contractual relations, limited to only those individuals in a contract. In the next chapter, I present findings from the field study on the factors that Maasai households have taken into consideration when choosing to hold land as individual private property.

CHAPTER 7

CHOICE OF PRIVATE LAND TENURE, SOCIAL RELATIONS, AND THE PRACTICE OF PASTORALISM

Introduction

Mzee Mboe is a happy man, and sometimes a sad man. *Mzee* Mboe is happy in that he can now manage his land the way he deems best for himself and for members of his household. *Mzee* Mboe has planted trees not only as boundary markers for his land, but for soil conservation as well. To achieve this, he travelled far, to a nationally acclaimed research institution to learn about the tree species best suited for the soil types and climatic conditions of Ewaso Kedong. The seedlings are given at cost, and he had to pay to participate in two local workshops with a focus on tree planting and management. Once *Mzee* Mboe planted the 500 plus seedlings, he realized that the seedlings needed more than he had been taught at the training workshops: how will he deal with livestock from his household and those of neighbours that have in the past freely accessed pastures on his land? He now has to find a way to let members of his household know that the seedlings need to be given time to grow into trees. Whoever accesses pastures on his land needs to take extra care to ensure that livestock do not feed or trample on the seedlings. The members of his household are not happy as the new rule makes livestock herding a very tedious, time consuming and risky task, and his sons have voiced their concerns to *Mzee*. How does *Mzee* Mboe expect his three sons in charge of herding livestock from his *boma* to follow each of the over 300 herd of livestock in order to protect the tree seedlings?

The people from nearby households who occasionally pasture livestock on *Mzee* Mboe's open fields (because they too have not fenced their land), have too voiced their concern and made it clear that they find it hard to graze livestock on Mboe's farm and will avoid bringing livestock there, altogether. Women in *Mzee* Mboe's household and those from

other neighbouring households would like to know if they will be able to harvest some of the trees for firewood. Maybe they have heard *Mzee* Mboe discuss with his colleagues on how he will selectively sell timber from mature trees for a profit. *Mzee* Mboe is aware that most of the newcomers who have purchased land from the Maasai are in need of fencing poles, he therefore has a ready market when his trees mature, but at what price is *Mzee* Mboe benefiting from his individual private land? Are Mboe's sons going to avoid the tight rules of grazing livestock by asking for a separation of their livestock from those of their father? If yes, they too will need to find a way to graze their livestock on their individual land holdings as their wives seem more interested in the cultivation of food crops and making of beadwork, than livestock.

One of the daughters-in-law of *Mzee* Mboe has planted maize and potatoes on a section of the land. She too has made it clear to those in charge of herding that livestock should not be left to wander into her field of crops. The rule will work for livestock from outside their household, but what about the livestock from her household? She has once or twice heard her husband give advice that if she plants food crops, she will either fence in the crops or herd their livestock to make sure that they do not wander into farms with cultivated food crops. The advice sounds like a lot of work, and she is already thinking of putting more time and resources into her beadwork items that she sells at the market. By selling more beadwork items, she will earn an income and use it to purchase food items for family meals, a way to avoid getting into constant arguments with her husband about livestock and food crops in the field. But she continues to worry about the reaction of her husband once he realizes that she is no longer interested in livestock, but on business items.

Mzee Mboe is equally concerned by the fact that his age-mates seem to have stopped grazing their livestock on his land, and one of his sons has decided to sell his share of livestock and concentrate on raising a few bulls for the available beef market in many major towns. Does that mean that the choice to hold land on private tenure, though

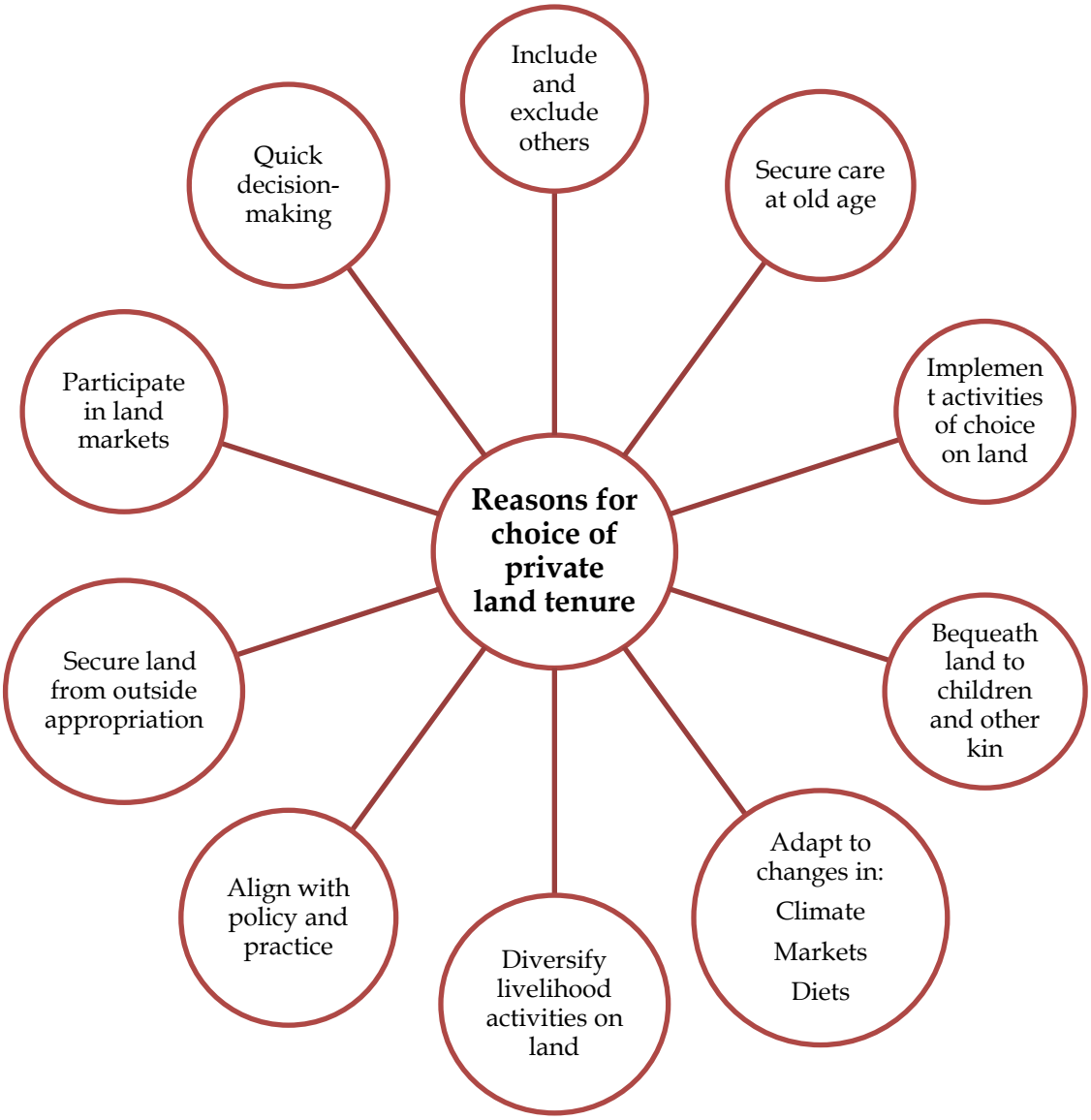
fulfilling at the individual level, is interfering with the way *Mzee* Mboe relates with members of his household, with his neighbours and friends? Sometimes *Mzee* Mboe wonders about the reasons that made him support the sub-division of their group ranch, while at other times he reassures himself that getting his private parcel of land was the right thing to do. Private land has enabled members of his household to implement activities of choice on land, such as construct brick houses, plant trees and cultivate crops, reduce the number of livestock, and introduce new improved livestock breeds and feeds, all to their benefit.

Reasons for choice of private land tenure

While the indigenous Maasai households raise livestock and have retained the title of pastoralists, they are no longer leading the lifestyle of their ancestors, especially when it comes to how they hold and access land. The study participants were asked for information on factors they took into consideration when they chose to hold land as individual private property. Findings from the field study indicate that the choice of private land tenure was influenced by opportunities that the land tenure type offers to households as they work towards achieving desired livelihood strategies. Other households chose private land holdings to be in line with government policy on land, while others chose private tenure as the way through which they could easily adapt to changes in the wider environment. The changes include the increased frequency and intensity of drought, availability of a thriving market for land and food crops, as summarized below (Diagram 1).

The preference for individual private land tenure is demonstrated by the fact that even though the sub-division of group ranches and formalization of individual land holdings through titling is an expensive and lengthy process, the people of Ewaso Kedong have done it. The subdivision process requires group ranch committees to make an application to the Ministry of Lands expressing their desire to sub-divide their ranch land into individual land holdings.

Diagram 1: Summary of the reasons that made Maasai households want individual private land



The procedures to acquire individual land parcels involve many stages:

> Upon a written application to the Registrar signed by a majority of the group representatives pursuant to a resolution passed by a sixty percent majority of the group present in person or by proxy at a special general meeting convened for that purpose and of which due notice has been given, or upon an order to that effect given under the hand of the Registrar, the affairs of the group shall be wound up in such manner as the Registrar may approve, or in default of approval in such manner as the High Court may direct, and thereupon the debts and liabilities of the Group shall be discharged and the assets of the Group remaining thereafter, if any, shall be distributed accordingly and the incorporated group representatives shall stand dissolved (Kenya, Republic of, 2012; 1970, Cap 284).

On acceptance of an application, the group ranch committee has to make further applications to have a government land planner and surveyors come to guide them through the land sub-division process. Once land has been surveyed and demarcated, individual households have to apply to the Ministry of Lands, and pay a fee to have the land formalized through title registration.

Include and exclude others

A title deed to land is an official government document given to land holders as an indication that they have gone through all the required land formalization processes that confer certain rights on land to the title holder (Kenya, Republic of, 1963). Once a land owner has fulfilled all the procedures and acquired a title deed, they are deemed to have security of tenure on such lands. Formalized land is considered private property which gives powers to the title holder to decide on who can and who cannot access resources on their private land. Therefore, by spending time and financial resources to have group ranches sub-divided implies that Maasai households see advantages and benefits of individual private land holdings. Households on private land have constructed brick houses and planted trees, further expressed by Kenayu and Saloiti as:

> For sure, it was better in the olden times. However, the current reality is that there is no time to make improvements if you don't have a title to your land. Without a title, you cannot initiate development activities, you cannot build a permanent house like this one

> [points towards his house], you cannot implement other development activities like planting trees like the ones I have planted at my home. If you do not have a title deed, any time you can be told that this is no longer your land. (Kenayu)
>
> Land is now held as private and with that, one can for example construct permanent houses, grow crops, and conserve natural resources on the land. If that is my land and I would like to use it in a particular way, I do that. I am able to develop if I have my own land. (Saloiti)

The construction of brick houses is new to some Maasai. In the past, Maasai families have lived in small temporary houses constructed by women using mud and reeds. The structures were temporary as they could be pulled down every time a household migrated with livestock and constructed new structures at their new destination. However, now that Maasai households are settled on private lands, with little chance to move, the sense of security that they will be on the land for as long as they want has enabled them construct permanent houses. The sense of security of tenure has at the same time given freedom to title holders to include and exclude others from their lands. Now, whoever wants to access resources on such lands will need permission of the title holders who have the discretion to allow or deny access, summed up by Mboe and Raphael as:

> No, things have changed. Now to use any of my land, one must come to me and ask for permission from me and from my neighbours because he will not be grazing only on my land, especially if such a person comes from far. They have to come and borrow that from me, for me to give them permission to graze on my land. They can only use my land if they ask or they lease or hire land or the pastures from me. This is unlike long time ago when there was no selling of pastures. (Raphael)
>
> So long as you ask them first because the land belongs to them now. If you require something from within their fence, you will need to get permission. One cannot take their livestock there just because the land belongs to a Mkisii. No, I will have to ask first before I can take my livestock there. (Mboe)

Further findings from the study reveal that among the Maasai title holders, inclusion and exclusion of others from one's private land is limited to grazing of livestock or the cultivation of crops. Otherwise community members are not expected to obtain permission to walk through or harvest non-timber forest products from private lands.

The study participants reported that some community members still share resources on private lands, especially if one asks for permission from the land owner. Most of the Maasai households have not fenced all their land (Plate 10) so that all that one requires is to inform the landowner before entry to graze their livestock. Fully fenced lands are synonymous with people from outside the Maasai community who have purchased land from the Maasai. The land buyers fence off their land and have a private road from their property to the main road (Plate 11). By fencing, such land holders end up excluding all non-residents from accessing any resources on their lands, an act which seems to be acceptable to the indigenous Maasai:

> You cannot graze your animals without permission. Those ones, especially for Kikuyus and Kambas, they have to sell you the pastures, not a must that they give you … because now the land belongs to them. (Pulei)

Plate 10: Unfenced land belonging to a Maasai household

Plate 11: Fenced in land, belongs to a land buyer

The other reason for need for permission is that a land owner could have other uses for the resources on their land, a use not made known to everyone now that land is private whereby the land owner is not obliged to share details of their plans with other members of the community. For example, some landowners make grazing burdocks for use during different seasons of a given year, and such landowners would not like outsiders to graze livestock on their reserved land, summed up by Mboe when he says:

> No, that is now personal land and one has to make individual decisions. … I have a title to my land, I cultivate part of the land, the other part I graze livestock, I grow trees and nowadays all plants have become food unlike in the past. Some trees are used for charcoal making and others are sold. This is unlike before when people used to stay without food for up to two days, nowadays people eat almost everything. Long time we only ate meat and milk, and sometimes we went far to get vegetables and flour. (Mboe)

However, further discussions helped me establish that access to pastures on private land is allowed in situations where resources such as water or pastures exceed what the land title holder requires. The implication is that exclusions, especially by the indigenous Maasai are more likely to be put into effect when resources are scarce. In such situations, land owners have devised ways of communicating to the rest of the

community the conditions under which resources on private land maybe shared. The messages are implied from whether one has fenced their land or not:

> If one fences off pasture land, the message they are sending out is that no one should bring in their livestock, and in such a case, such a person should not graze their livestock on the pastures of those who have not fenced off pasture lands … If I cultivate all my land, will I be allowed to graze on other people's land? No, they will refuse because I have used up all my land, I have not assisted any other person, and I am growing food for myself. (Mboe)

A landowner who erects a fence sends a message to the rest of the community members that they do not want other people to graze their livestock on his land. The community operates on a reciprocity system so that if you have fenced or cultivated crops on all your land, then you cannot graze your livestock on other people's land. On the other hand, not putting up a fence is an indication that other members of the community may graze livestock on your land (Plates 12 and 13). Further discussions revealed that Maasai households that have fenced their land still allow access if others seek permission to enter into such land.

Plate 12: Open fields made up of unfenced private lands

Plate 13: Open fields

What I observed during the field study is that not many Maasai households have fenced all their land (Plates 10, 12, 13). Fences made of barbed wire, stones, timber or live fences are limited to *bomas* and to croplands. The implication is that fencing is to safeguard people from outside danger and to protect food crops from destruction by livestock or wildlife. I also observed that most of the people who have fenced off all their land are those from outside the Maasai community who have purchased land (Plate 11). The newcomers fence off their land because of perceived dangers from wild animals or thieves. Other reasons for fencing land is that purchasing land implies that the landowner has enough financial resources to afford fencing, or their land size is small, therefore affordable to fence. The case of Maasai households fencing only part of their land, mainly homesteads and land with crops is interpreted to mean that fencing is partly to safeguard people and crops in, or that Maasai households own very large parcels of land, so that fencing all the land would require prohibitive resources.

Implement long-term development activities on land

By safeguarding land through title registration and fences, land title holders are able to implement long term development activities on land. The interviewees talked of development activities on land to mean improvements in terms of construction of permanent houses, plant trees to conserve soil, keep a manageable number of quality livestock, cultivate different types of food and cash crops, and construct rental houses, among other projects. The Maasai have opted for these activities partly because of changes in climate, characterized by more frequent droughts. Therefore the new activities on land are aimed at cushioning Maasai livelihoods from threats of unpredictable changes in weather conditions, as explained by Maatayo:

> The reasons are that the livestock we had have gone due to changes in climate, secondly, the wild animals eat up all the pastures and we are not capable of changing that, so what the Maasai have seen now is that one can sell a piece of land, and for those who have a vision [they] will construct houses for rent, others sell like five acres and use the money to educate their children up to university, so, problems prompt people to want private land so that they can define their own development. (Maatayo)

The implementation of long term development activities on land to some extent provides some sense of security of tenure on land. For example, constructing a permanent house and planting trees are considered long-term activities, sending a message to others that the owner of such land has no plan to move to another place. Naresio and Noah elaborate on the role of permanent structures on land as providing prove to outsiders that such land belongs to someone, therefore not available to be appropriated:

> I prefer the current situation whereby each person has their own parcel of land. Now everyone knows which place belongs to them, so that even if a person migrates, they do that knowing that they have their own land. This is unlike before when the Maasai were people used to migrate from one place to another; no one had a particular piece of land to return to. (Naresio)

> ...that is why individuals go to their *Mzee* and ask for their piece of land and once given, you fence it, if you can afford, and that is the only way one can develop themselves. (Noah)

Therefore the Maasai now equate tenure security to the development of long term access to land. The land title holders feel comfortable to implement projects, even those whose benefits take long to realize, e.g., tree planting. They implement the activities because they or their inheritors are sure to benefit from the outcome in the long term. Once a land owner has implemented long term development activities such as planting trees on land, put up terraces for soil conservation, constructed brick houses, they would prefer to bequeath the land to their children or to other relatives. A title deed to such lands enables the landowner to transfer the land to whomever they deem fit to continue to safeguard and benefit from the developed activities on such land.

Bequeath land to children and secure care at old age

Just like in other societies where parents leave assets to children and to other family members, the Maasai prefer to have individual private land parcels which they will reside on and pass onto their children. The Maasai bequeath land to family members. Given that land is critical to the feeding of livestock and the cultivation of crops, children will strive to behave in expected ways so as to be inheritors of land from their parents or other relatives. The Maasai land title holders were found to bequeath land directly to each adult son, and to their wife to hold the land in trust for underage children, thus:

> The people wanted individual land so that each person could have their own land and stay on their land with members of their household so that the children can inherit from their parents. …we divide land only among family members so that if we have land of 800 acres and our father has two wives, then he will subdivide the land between the two wives after which each wife will give to their children based on their own criteria. (Saloiti)

The other observation I made is that unlike in the Maasai traditional practice where assets were automatically passed from "fathers to sons", the practice has changed so that now some fathers bequeath assets based on the management skills of their sons. In the past, bequeathing was a given so that male and female children automatically received a share of their livestock upon marriage. Adult sons were shown a place to

construct a homestead after going through a cultural ceremony. However, things have changed so that some Maasai parents have learned that one way to prosper is to give assets to family members who will manage such assets productively, i.e., not squander the assets. In cases where adult sons have not demonstrated better management skills, they continue to access and use land and other assets under the management of their father:

> It is not compulsory, maybe you are married but your manners are still not good. *Mzee* will not give you assets like land and livestock because you might finish them by selling and go and squander the money if you are not a good person. But if you are responsible, *Mzee* starts by giving you goats and sheep and watches you, so that after two to three years, he can give you cows if he sees that you are a responsible person. My livestock belong to me by mark only, so that the day when I marry and *Mzee* sees that I am responsible, he will give me those ones with my mark, and now I will have authority and power over the livestock. (Amos)

Other heads of households bequeath assets in stages by starting with assets of less value and then progress to those of more value. The bequeathing of assets in stages, by starting with small assets, and progressing to larger one as the recipient demonstrates their management skills is a risk taking strategy so that in case of loses, there will be minimal loss of assets. The change in the way of bequeathing assets to kin in turn makes children within a household to work harder, sharpen their management skills with the aim of receiving more assets and of greater value from their parents and other relatives. In the process, younger members of a household will strive to build their human resource by gaining an education or becoming skilled in the management of livestock. The result will be diversification at the level of the household, with members skilled in different fields, therefore have access to a variety of assets and opportunities.

Therefore in cases where *Mzee* is found not to have subdivided major assets such as land and livestock, the reason could be that adult sons have not demonstrated their management prowess. In other cases, it is to manage risks brought about by changes in weather conditions by availing more land to all household members to use based on the changing seasons. For example, a household with 200 herds of livestock on a 300 acre

farm will pasture the animals on different sides of the farm as seasons change. The livestock might have a bitter survival chance compared to a household with 20 herds of livestock on a 30 acre farm.

The other advantage of private land is that parents give out assets and leave some for themselves to gift to a member of the household showing interest in the welfare of such parents. Parents expect to be cared for at old age by children and by other family members. To be assured of such care, a father or mother will allocate land equally to family members and leave some for themselves to use later on to gift to any family member showing interest in taking care of the parents at old age, summed up by Guyoo and OleJuma as:

> I have two wives and what I have done is to bring surveyors who divided the land into two, for example into two pieces of 100 acres each, and I too have my piece of land. Then I check around and see who among my wives loves me most, the one who takes good care of me is the one who will take my share of wealth. (Guyoo)
>
> The land which is in my name, I will share with my eldest son, and any piece I will be left with, I will keep and give to whichever child that will provide me with the best care when I am very old. The younger children receive land from either the mother or father based on how close they are to the parents. A child closer to both parents can receive land from both parents. Whatever child that is not close to the parents, will miss out and that means they go out to look for their own land. At other times, the old man gives part of his land to a grandchild. (OleJuma)

By bequeathing land and other assets to members of a household, a land owner is assured of care at old age, which is critical in a society where older people have not had a chance to be in waged employment to earn social security. The message being advanced is that land is an important asset to livelihoods of the Maasai, to the extent that family members use land to secure old age care from younger family members. Before, when land was held and accessed on a communal basis, parents and other elderly people bequeathed or gifted livestock to children and kin. Now with changes in land tenure, parents are bequeathing land to children, implying that the value of Maasai assets is changing from livestock to land. Parents can only bequeath private titled land,

implying that more households will seek to have a title registered to their land. A title to land also protects the land from outside appropriation.

Safeguard land from outside appropriation

The study participants explained that they prefer private land tenure for it provides for title registration which in turn provides security of tenure to the land title holder. The Maasai of Ewaso Kendong and the larger Kajiado district opted to sub-divide their group ranches partly due to negative experiences in the past when they lost part of their land to people from within and outside the Maasai community. During the same period, the Maasai witnessed that the people who were given part of Maasai land, registered title to safeguard such lands from takeovers from other people. Henceforth, an impression was created among the indigenous communities that security of tenure means holding land as private property, registering title to such lands, and fencing and cultivating crops on land. For example, some of the people in Ewaso Kedong opted to sub-divide their group ranch after they heard that the Kenya Wildlife Service (KWS) had a plan to carve out part of their land for use by wildlife. By sub-dividing and registering title to land, the people of Ewaso Kedong hoped that KWS would find it hard to appropriate individual private land, compared to group land, an idea exemplified by the words of Maatayo and OleJuma:

> Earlier on KWS had an interest in the land and was planning to take all the land to make it a conservation area. … and what happened is that when the group ranch owners got to know of the KWS plan, they held community meetings where they decided to subdivide the land so that each person gets their own parcel. That way it would be hard for KWS to take the land as that would mean that they have to approach each of the title holders for them to get the land. (Maatayo)

> The government does not inform us because we refused to collaborate with KWS. … but when they came and wanted us to give some land for something they call a corridor, that a road for animals from Kitengela to Ngong so that the wild animals will travel to go drink water, so they wanted to create a corridor by removing all the fences so that the land is free. So the only time the government people came was to inform us about giving our land so that the wild animals can pass through. … But we all refused, all the people around here refused the idea of the corridor. "Now I have a title to my land" what can they do to me? (OleJuma)

Many participants voiced similar sentiments of preferring private land for the tenure security it accords them. Registered and titled land cannot be taken away even by the educated or rich members of society who have knowledge of how the land's office operates. To the study participants, even those Kenyans who had managed to carve out part of Maasai land when it belonged to group ranches will now find it hard to appropriate individual private land. Individual land owners have good knowledge of their boundaries and have a right to question any stranger on their land. Therefore, the Maasai are slowly adapting to the ways of private land holdings, and in the process are adapting to changes in the wider environment of private property, land markets and diversification of livelihoods.

Adapt to changes in the wider environment

The Maasai live in a changing environment whereby their land tenure has changed from communal and group ranches, to individual private land holdings. Other changes are in terms of weather conditions. The Maasai traditionally build their livelihood portfolio around livestock and its products of meat, milk, manure, hides and skins. Results from my study indicate that changes have occurred so that the Maasai have diversified livelihood strategies from pastoralism to include the cultivation of crops and keeping of improved livestock breeds, engagement in business enterprises, wage employment, education of children, and participation in local associations. For example, as droughts increase in frequency and intensity, households find the need to limit the number of livestock on land to what the land can support. The objective is to diversify livelihood strategies so as to avoid being vulnerable to changes brought by change in weather conditions or the reduced size of land accessible to them.

Frequent droughts in Kajiado encourage or force households to make certain choices as a way to overcome the negative effects of drought. For example, a decision to sell or purchase livestock is easier to reach at the household level, compared to at the higher level of community. Land owners, for example, made quick decisions after assessing the

availability of pastures on private land. The Maasai now find it easier to make such decisions at the household level, i.e., the process involves discussions and negotiations with fewer people, therefore easier to make decisions and choices in a quicker manner. Some of the decisions involve a household purchasing more livestock when there is rain and pastures, and sell the mature livestock for a profit as drought sets in. In areas where droughts have become more frequent, households have decided to reduce the number of livestock to what they can feed from their land throughout the year. In other cases, households have changed livestock breeds to improved ones, and resorted to the use of improved feeds such as napier grass.

Individual private land implies that the land owner does not need to consult with the wider community before implementing certain activities on that land. For example, households on private land have reduced the number of livestock on their land and introduced improved livestock breeds which they sell at a profit, a state which Noah attributes to privatization of land that in turn enables a land holder to invest wisely on such lands:

> The reason being that if one wants to keep cows for milk, they cannot if they all live together as some of the members could be capable of purchasing like 200 goats, another might afford 100, and in such a situation, one cannot say that I will subdivide this land and keep grass for cows on this side, without having to consult with many people at the community level. So you see that is one of the problems. (Noah)

Households were found to regulate or lower the number of livestock on their individual farms. On private land, one can exclude others and regulate the livestock breeds and numbers based on their desired goals. For example, one can decide to raise bulls to supply the available profitable meat market in many urban areas of Kenya, summed up by Lerionka in relation to activities of his brother-in-law:

> Those [livestock] are all for meat. He has kept them there and he can decide that today I will go and sell 10 of them for slaughter. Last week, he sold 10 bulls that were slaughtered and the meat was transported to be sold in town. Those are his and he is the one who decides on what to do with the money. They [Maasai men] will change, if you

> compare the way they were in the past and now, you will discover that they have changed a lot. (Lerionka)

Private land owners are increasingly involved in business enterprises which involve land to the extent that many have sold land for profit. The land owners with information and knowledge on the value of land, and the thriving land market in the country, have reaped good returns from land sales, illustrated when OleJuma says:

> Aayaa, I don't know of any person that has not sold any of their land. I don't know of such a person, I cannot tell who such a person is who has not sold part of their land. I don't know of any. Some sell and buy more land; others sell and purchase plots and construct rental houses. Many have sold and bought land. Even in some areas where we go to buy, the sellers have also bought such lands. … Even though you have no need for such land, you give them money, because tomorrow or later like next year, the price for such land will go up. You sell and make your money and purchase land at another place. The value of land is always going up. Like here, prices have been going up so that now only a few people can afford to purchase land here. Prices have shot up; it is expensive like teeth, {laughs} yes, it is true. The price has gone up, people are now selling land for Ksh. 500,000 but with good bargaining you can purchase for Ksh. 350,000 per acre, and the price will go up once the on-going road construction is completed. (OleJuma)

Some land owners have diversified ways to benefit from business in land, i.e., there are cases where a household sells its smaller land parcels near an urban center at a higher price and uses the proceeds to purchase bigger land parcels cheaply in rural areas located in the interior of Maasai land:

> By the time the Maasai were subdividing land, the Kikuyus and Kisii already had the information that the Maasai were subdividing their land. What they did was to come and stay nearby and persuade, sweet talk them to sell some land because they knew that the Maasai had a need for money. (Mboe)

> We as household members normally sit down and discuss and agree that we will sell a certain piece of land. Once we have an agreement, we can find someone to purchase the land from us at a higher price. Then we can identify some land somewhere else in the interior being sold cheaply and purchase [the land] using part of the returns. That way, we recover by getting more land and extra money. (OleJuma)

Business in land is an indication that the Maasai have gained knowledge on the value of land, especially near urban centers. The ability to purchase and sell land requires the

availability of a thriving land market and titled land. To satisfy the needs of the land market, more and more Maasai households are formalizing their land through title registration so that they can participate in the land market.

Diets and food tastes of the Maasai are changing and the easiest way to fulfil the new food needs is by cultivating the required foods. Households are able to cultivate crops now that they can fence off part of their private land for that purpose. It was surprising to hear that Maasai children no longer consider milk as a main meal, yet that is what their parents and grandparents survived on, a change emphasized when Raphael says:

> Nowadays even if you give milk to children, they never get satisfied, you give milk to a child and they keep on telling you they are not satisfied, until they eat *ugali* [cake cooked with water and maize flour, eaten with a vegetable or a sauce of beef stew]. That is what is called development. Education, education, school is what has made them know that. When children go to school, they learn about other new things and start seeing foods like blood as being bad. Things have changed a lot. (Raphael)

One reason for change in diets is that by going to school, Maasai children have had a chance to learn more about other food types, and they have eaten and liked the new diets and tastes. In their search for more of the new foods, their parents have discovered that it is cheaper to cultivate the required food crops than to purchase them. To satisfy the new food tastes while meeting their nutritional requirements, Maasai households have diversified activities on land to include the cultivation of a diversity of crops and keeping of improved livestock breeds:

> Things have changed in that now anyone who does not cultivate land is considered to be backwards. I have cultivated crops on land, I keep livestock and educate my children from land. (OleRomo)

> There are many changes that have taken place. In the past people did not think much about cultivating land, no they only focused on livestock, but now you will see that someone can cultivate land and get food, one can benefit from livestock and from land. You harvest maize, you harvest beans, so things have changed, they [the Maasai] are no longer like in the past. (Naresio)

The cultivation of food crops is widespread to the extent that some Maasai consider anyone who has not cultivated any crops on land as being backward. More and more Maasai households are cultivating food crops after witnessing land buyers grow food crops successfully through rain-fed agriculture or irrigation. Households have chosen to practice mixed farming which involves the keeping livestock and cultivation of a variety of crops on their land. By doing so, households ensure access to diverse sources of food and income, subsequently reducing risks associated with food uncertainties:

> There are times when all the goats can give birth at the same time. Which one will be slaughtered? Before private land, when there was drought, all that people depended on was milk and goats for food. Sometimes there could be no he-goats to be slaughtered, then one had a choice to make between slaughtering a she-goat and leaving its kid without a mother or slaughtering the goat to save one's children. Now people have a choice in food crops from the farm. A wife can now go out and cultivate potatoes. Long-time ago people had no time to cultivate land. People were always on the move and had no time to stop long enough for crops to mature, for they were always on the move. (OleJuma)

The changes in diet were found to be more pronounced among the younger generation, compared to the older ones of 60 years and over. Individuals of the older generation were found to still prefer the Maasai traditional diet of milk and meat. The diversification of diets among the young is partly attributed to attending school where they interact with students from other communities and get to learn of nutrition, new foods and diets.

The study findings presented and discussed above reveal that the Maasai sought to have individual private land holdings as a way to fulfil a desired livelihood outcome, and be able to adapt to changes in the wider environment of policy and changes in climate. However, considering that the Maasai are traditionally pastoralists who exploit the ASALs of Kajiado through livestock keeping, I sought to establish the future of livestock keeping through pastoralism now that the vast ASALs have been subdivided into individual and smaller in size fenced parcels of land.

The future of pastoralism on individual private land holdings

The Maasai are traditionally pastoralists who rely on livestock to provide for their subsistence and other cash needs. Even though the Maasai have diversified livelihood strategies to include wage employment, the cultivation of crops, and business enterprises, they still value livestock and its products of milk, meat, hides and skins. Pastoralism, a livelihood strategy in ASALs thrives on frequent mobility of people and livestock to access water and pastures which are seasonal in nature and spread over vast areas of land.

Considering that the land accessible to the Maasai has reduced over time from a large territory (Map 5) to the current individual private land holdings (Figure 2), I sought to understand if and how Maasai households will continue to practice pastoralism on their individual private land holdings. What are the chances that Mboe, his brothers, their sons and grandchildren will continue raising livestock through the practice of pastoralism? Will livestock owners be able to access pastures on private lands, when private land owners are at liberty to exclude other land users as they please? Did the individual private land owners consider the land limitations that come with individual private land holdings? To get a clearer picture on the future of pastoralism, interviewees were asked where they see the practice of pastoralism in the future, i.e., next 5, 10 or more years. Some participants are of the opinion that livestock keeping through pastoralism is on a decline, while others see livestock among the Maasai as there to stay, summed up when Pulei talks of a 50:50 chance:

> It can be said to be 50/50 because there are others who don't have livestock but they have progressed through the cultivation of crops on land. (Pulei)

Pastoralism on a decline

Participants who see pastoralism as being on a decline attribute their position to the following reasons: recent droughts that have increased in frequency and intensity, reduced labour as more and more children attend school, young men getting into

waged employment, and the reduction in the size of land accessible to pastoralists, among others factors.

Increased number and frequency of drought

Pastoralism is a livelihood strategy of raising livestock in ASALs. In the traditional practice of pastoralism, weather patterns were predictable to the extent that pastoralists had clear plans on when to move from one land use area to another, i.e., wet season, mid-season and dry season grazing areas (Map 6). Consistency enabled livestock owners make long term plans on when to migrate with their livestock and to which direction and destination. Interviewees indicated that even though Ewaso Kedong is an ASAL, weather patterns have become more unpredictable since the 1980s, forcing livestock keepers to migrate to faraway places in search of water and pastures, which, as Mboe and OleJuma put it, is time consuming and risky:

> Yes, during these times we have had drought like for three years, things have become bad. I have had to move to many and faraway places, I have moved around to places like Muranga, to Ukambani to take care of livestock, even to Meru, we have taken livestock that far. … They will migrate with the livestock, like now there are no cows and goats at home, no, they have all been taken out to pastures in faraway places near Ukambani. (Mboe)

> During the just-ended drought, there were many livestock that died along the road. And since our people don't know much or are not used to storing their money in banks, they store their riches in livestock, and such money will be taken away from them by drought. (OleJuma)

To access pastures, livestock owners are forced to migrate to faraway places, beyond their local boundaries, to neighbouring districts such as Machakos and Muranga districts. Some of the destinations are located more than 100 kilometres away from Ewaso Kedong. The current unpredictable weather patterns and the long distances that livestock have to cover, mean that many livestock can die from hunger or fatigue. To avoid more loses, people are forced to sell livestock at a loss; otherwise they risk the animals dying:

> I depend on livestock to provide for everything, taking the animals to the slaughter house and I purchase them from the rural areas, and in the last five years we have not had enough rains to sustain a business and provide for the needs of our home. When business picks up, drought comes and that makes us to sell and we go at a loss in that we are forced to sell, and that is how it has been in the last five years. (Maatayo)

> The livestock numbers will be reduced because of drought that kills a lot of cows. So it will be better for people to keep a few animals, few but good ones that will survive on the limited land. The numbers of livestock are already low from the drought. At times when there is hunger, we sell the animals or we slaughter them. It would be bad to stay with the animals and then drought comes and clears all of them; we don't feel nice about drought. There is no *msaada* [assistance] when drought comes, livestock die. (Saloiti)

Under such situations of unpredictable droughts and death of livestock, some households have abandoned migration as an option to feeding livestock. In the process, they have reduced livestock numbers to what they can pasture on their land throughout the year, while others have altogether abandoned pastoralism and resorted to crop cultivation or business enterprises as a way to provide for the needs of their households.

Reduction in size of land accessible to pastoralists

The reduction in the practice of pastoralism due to drought has further been enhanced by the sub-division of land, land sales and putting up of fences around private lands. Some households have sold more than 90 per cent of their land and are currently left with less than 10 acres of land, to which Kenayu wonders where such a household will graze livestock:

> Currently, for example if I tell you, you see that *shamba* [he points to some land] the one with some maize, that *shamba* used to be like 500 acres, but as of now, the most the owner has is 30 acres. It is a result of selling land. If people continue to sell land that way, where will they get land to graze more livestock? (Kenayu)

Ewaso Kedong being an ASAL, the most number of animals one can keep on 30 acres of land is two, including land for residences and for the cultivation of crops. The result is that households are forced to reduce the number of livestock to what can be supported by pastures on individual lands. The emerging picture is one of reduced livestock

numbers in the community in general. For example, many Maasai households that up to two decades ago owned 1000 heads of livestock, now own no more than 100 heads. The reduction is attributed to lack of pastures whose result is that households have opted to experiment with reduced numbers of livestock on their private lands, i.e.,

> The land is small. What happens is that one is forced to keep only a certain number of livestock because one cannot keep too many livestock on such land, a number that would clear all the pastures available within a short period of time, like after two months. The result is that one ends up starting with three or four cows to see if they can survive on available pastures until the rains come. (Noah)

> For example, I have kept only five cows which I don't want to sell, because I need the milk. I cannot sell [them] to pay school fees for children, I will have more problems, so we see that now we have become poorer in that with the land subdivision, there is no place where one can graze livestock like 100 or 200 of them, yet one needs more livestock. Like now I have 150 goats, next month I have nowhere to graze them and that will force me to move them in search of grazing or sell them for any price. (Liz)

The study further established that even for households with a good amount of land such as 100 to 300 acres, they cannot keep many livestock if they have cultivated food crops on part of the land. The reasons being that the remaining land will not be large enough, and they will need huge amounts of financial resources to fence in food crops. As a result, households are sometimes forced to make choices between livestock keeping and the cultivation of food crops.

The objective of pastoralism is to provide for the subsistence and cash needs of households. As more and more Maasai households realize that they can no longer provide for their needs from pastoralism, some households have shifted strategy by taking their children to school. The hope is that once children acquire an education and relevant skills, they will seek wage employment, subsequently easing dependence on land. As more Maasai households embrace education, labour for livestock has become scarce. Availability of labour has become more critical as increases in droughts and reduced land sizes demand that livestock keepers migrate to faraway lands to access water and pastures.

Lack of labour to herd livestock

Herding of livestock as seasons and weather conditions change requires human labour to migrate with livestock. In the traditional Maasai society, young men of between the ages of 15 to 30 migrated with livestock as seasons changed from rainy to dry. The distances covered to find livestock resources varied: Lactating cows were moved to a distance from where they could to be brought back home at the end of day for milking. The rest of the herd, especially bulls, were walked far, sometimes to more than 100 kilometers away. Such migrations lasted up to three months so that livestock were returned after the rains set in and there were good pastures. The separation of livestock to be moved into different pasturelands requires the availability of many herders: those to pasture livestock in nearby areas and return the livestock to the *boma* in the evening, and strong adult men to migrate with livestock to faraway places as the dry season sets in. With the increase in droughts, especially since the 1980s, livestock owners need to travel long distances in search of water and pastures. In the current times, not many households have the capacity to migrate with livestock because more and more Maasai children are going to school, others are in business enterprises, and waged employment, therefore they lack time to tend to livestock. The situation of limited labour is illustrated by Liz, Noah and Eunice who say that nowadays more schools have been constructed in Maasai land and many families have sent their children to school. Subsequently, parents are forced to use hired labour:

> No, currently I have no children around here to do that [herd livestock]. It is hired men, workers. These are workers who can be old people or young men to herd livestock. (Liz)

> Like in the past 10 years, if you went to the places we still call *Maasaini*, [refers to the interior areas of Maasai land where not much change has occurred to the way of life] you would find young children of like ten years [like this one, he points to one of his daughters], this one is only 7 years you would find them still taking care of livestock out in the field, children of up to 15 years herding livestock. Such children would grow up to the age of getting an ID [18 years] and they have not gone to school. But things are changing so that if you go there, you will find schools have been constructed in those areas of *Maasaini*, so even them, all those children are now going to school, they too are getting an education. (Noah)

> Ooh no, now as they get an education, they will progress well. Once the Maasai receive an education, they will develop in different ways, for example for those who will be employed, they will not have time to take care of livestock. (Eunice)

For other households, children who have gained an education end up acquiring new and different values and no longer want to participate in the herding of livestock. Their reluctance or disinterest comes as a shock to the older generation, to which Guyoo and OleJuma did not hesitate to voice their displeasure when they say:

> There will be livestock but they will be fewer in that children of these days don't want livestock. No, all that they want is to keep their hands in pockets, and such are many, even mine, who keep on waiting for the day when I will die so that they can sell land and purchase a car like this one [points to my field car]. (Guyoo)

> Pastoralism is on a downward trend in that the young people, boys, don't want that work. Young people will not be willing to go grazing. If we are to keep animals, they [animal numbers] will be less compared to a long time ago because of the reduction in land size. We have also seen that having many animals brings stress as one has to worry about what they will feed on. Other people will be seeing that you have many animals, but for you, it is stressful so we prefer to have what one can comfortably take care of. That is why people now prefer to keep a lower number that they can comfortably provide for. (OleJuma)

The existing limitations in terms of water, pastures, and labour imply that the practice of pastoralism as a livelihood strategy is on a decline. However, further discussions with interviewees revealed that the decline in the practice of pastoralism does not mean that the Maasai will move away from livestock keeping. The study participants made a clear differentiation between a reduction in the practice of pastoralism, and livestock keeping. Their argument being that the reduction in the practice of pastoralism is not synonymous with livestock keeping. To some, the Maasai households will adapt to the current challenges of drought, labour and pastures so as to continue with livestock keeping. For example, some Maasai now keep few livestock of improved breeds that supply them with the amount of milk and meat that they need.

Livestock keeping will adapt and continue

Other study participants, having realized the challenges facing pastoralism, are of the opinion that livestock keeping among the Maasai will continue but in a different form such as zero grazing that Kenayu plans to venture into:

> No, you don't even have to give so many years, the most you can give is 20 years only. They will not have the number of livestock that they have now, like I have told you that I would like to get into zero grazing. I plan to fence an area where I will put cows for zero grazing because I would like to avoid this life of migrating. (Kenayu)

Some of the participants felt that livestock keeping will continue because people have no alternative ways to provide for a living. Due to increased droughts, rain fed crop cultivation is not possible hence many households will continue to rely on livestock. As Guyoo explains, crop cultivation is no alternative as it requires water which has become more scarce and unpredictable. To which Raphael adds that many households have reduced the number of livestock by changing to few improved breeds:

> Not many changes in that as you already know, here we plant crops, rain disappears and all the crops die and I can say that this is the sixth year. We plant, rain disappears. What we can say is that all we depend on is eating only cows, there are no other foods. They [livestock] sometimes increase when there are pastures, we eat some livestock and the drought also eats some, so we share in the eating, but we thank God in that the drought does not finish all, and I too cannot finish all the livestock. (Guyoo)

> We will still be keeping livestock because we cannot stop there, we will commercialize, so there will be change, there must be some change. (Maatayo)

> Livestock numbers will reduce, but they will not get finished. I will not stay without livestock, but they will reduce. There will not be many in the way we have been keeping. Because people have now seen the benefits of cows, they have changed into keeping cows for milk so that they can sell milk. Cows will not get finished [people will not stop keeping cows], they will only reduce. Not that we don't like many cows, no, it is the land that has become small, like me I used to have 200 acres, but now I have only 70 because I have sold land and there are many who have done the same. If animals are many, there will be problems in that there will be no place where they will graze. But I cannot stay without cows, and goats. (Raphael)

To continue with livestock keeping, some households have resorted to the use of improved livestock breeds and zero grazing. The other reason is that the Maasai,

especially the older generation are so used to livestock and their products such as meat and milk that it will be hard to live without livestock.

To keep few numbers of livestock and continue to reap benefits of livestock products as before, the Maasai are making changes to the breeds of livestock by acquiring breeds of higher quality. They have changed livestock feeds from pure pasturing to use of improved feeding methods such as the use of napier grass. They also use veterinary services, and stay on the lookout for better markets from where they get a higher price for their livestock and livestock products:

> I would like to have one cow that will provide me with biogas, with manure when I require it, provide me with milk and when I sell I can get money. (Amos)

If land tenure has changed from group to individual levels and the Maasai have diversified livelihoods from pastoralism to other livelihood strategies, participants were asked for information on any changes they have noticed to the way individuals relate with one another at the household and community levels.

Social relations on individual private land holdings

Are the wives of *Mzee* Mboe, as providers of food to other household members going to continue to regard their husband as the head of the household, the manager of livestock and land, or will they change and start relating to him as a fellow land owner with a title deed just like them? Will the fear to lose access to household land push the wives of Mboe into starting a business enterprise of beadwork as a way to have a secure source of income, away from land? Does having a title deed to private land imply that a household is self-sufficient, no longer answerable to other members of the community? Will a disconnection of the household from the communal set-up imply that Mboe's wives could become helpless, whenever they encounter problems that they previously contacted traditional elders for assistance? Are the traditionally respected Maasai clan elders going to feel no longer respected, as more and more community members consult and make decisions at the level of household? Are Mboe's sons expected to

assist in locating and returning a community member's livestock whenever a theft occurs, as done before by the *Morans*.

Findings from the study reveal that even though Maasai households on private land are able to implement activities of choice to their benefit, being on private land is not "all bliss." There have been breakdowns in social relationships and trust among community members, increased land sales rendering some land users without access to land, and more conflicts among community members. Privatization of land is also said to have created physical and psychological barriers among people and resulted in a reduction in pastures and livestock numbers (Diagram 2).

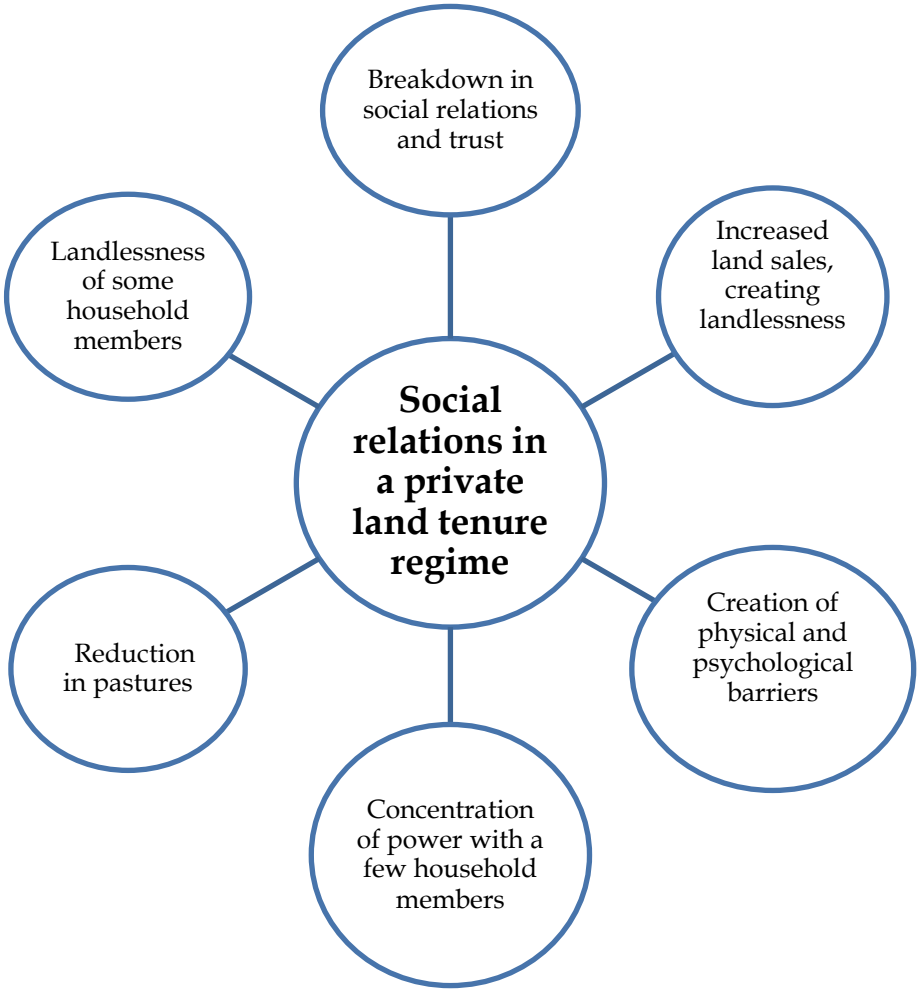
Breakdown in social relations and trust

The study findings reveal that privatization of land has brought about a breakdown in some social relations and trust within households and between the Maasai and non-Maasai neighbours. Land sales have enabled people from outside the Maasai community to purchase land in Ewaso Kedong and some of the newcomers fail to observe expected social practices. An example is the over-harvesting of firewood from the land of the Maasai by newcomers to the area. Newcomers who are not well versed in the Maasai cultural practices such as that of accessing pastures on another's land only if you have not fenced in all your land, continue to access resources on Maasai land, yet they have fenced all their land, to the annoyance of many indigenous Maasai. As Mboe and Guyoo explain, the people employed by land buyers continue to treat the unfenced lands as "open-fields" whose resources can be accessed by anyone. Yet, though unfenced, those are all individual private lands:

> And when others come, they don't come alone, they bring workers and some of these workers don't understand much in terms of what is going on or about proper relationships. They come here with that notion of the land they are taking care of is private land. They don't know much of what is going on in terms of people relations they are supposed to maintain or on how to relate with neighbours. (Mboe)
>
> There is a problem here in that sometimes we sell land to them and what they do is ask their workers to come and cut down our fences and trees for firewood because they

don't buy them charcoal to use. They come and cut down our trees for firewood without asking you as the owner. (Guyoo)

Diagram 2: Summary of potential effects of privatizing land on social relations



A breakdown in social relations is witnessed mainly in cases where land owners have fenced off their land for residential or crop cultivation, but their employees assume that they have free access to all unfenced land. At other times, fences on private land end up blocking traditional footpaths, or seasonal migratory routes for livestock, forcing livestock owners to walk longer routes than before. To Raphael, fences have changed the social relations for the worse:

> Things have changed for the worse, life has become tough. Long-time ago land was available freely to all. Long time ago you could take short cuts, unlike now when one is forced to go around, like from here one has to follow the pipeline [public land] to go to the other side, you cannot go through the land of another, no. Those without cows have no problems; those with challenges are those with livestock. Those without livestock will not be getting into problems of where to get pastures or where to walk. (Raphael)

Such changes where people and livestock have to cover long distances as a result of fences blocking short parts, within a community where people have in the past assisted one another without reservations, has brought about physical and psychological.

Physical and psychological barriers

The sub-division and fencing off of land has created physical boundaries and longer distances between households. Before land subdivisions and fencing occurred, Maasai families lived together in one *boma*, unlike currently when a majority of families reside on separate land parcels, therefore different *bomas*. The situation is made worse when a household fences off their land. The resulting situation is one where the livestock keepers view the land owner as being anti-social. On the other hand, land owners would perceive the livestock owner as not being mindful now that the land is their private property. The result has been the creation of more fences to keep others out. There is also mistrust among community members. As Saloiti puts it, people no longer share cattle dips, previously a common feature among livestock keepers:

> So the current titled land is good, however, for now we see that now it has brought divisions and disagreements among people because my cow cannot now go to the other's *shamba* [land]. He too has his livestock! [Laughter]. I have to put up a fence. (Kenayu)

> Now there is a lot of land privatization taking place and people are less trusted. For example, people are less trusted with cattle dips and the medicine for cattle dips. All the people now use sprays because there is a lot of mistrust as sometimes the person in charge of the cattle dips may not purchase and mix the required amounts of medicine. (Saloiti)

Such a scenario comes as a shock to Maasai livestock herders who have in the past shared land and livestock resources with other community members. The distances

created by land subdivision and fences have the potential to create divisions among households, which eventually turn into mistrust among people. The mistrust is demonstrated in instances when for example livestock keepers are not ready to share livestock resources and services such as cattle dips, which are shared medicated pools where livestock walk through to prevent or eliminate livestock ticks. Such practices emanating from mistrust result in more individualization of previously shared resources, which results in more expenditure, especially when individual families are forced to sell land or livestock to pay for veterinary services that would have otherwise been affordable at the group level.

Increased land sales and landlessness

The formalization and registration of a title to land has made it easier for land owners to sell land, resulting in an upward trend in the price of land. This in turn entices land owners to sell more land. Due to population growth in many parts of Kenya, people from other ethnic groups are moving out of their smaller sized family lands, and purchasing larger land parcels in Ewaso Kedong and Kajiado as a whole. Maasai households who acquired individual private land in the 1980s and 1990s are offering a solution in the form of titled land for sale. As Kenayu and Eunice explain, land title holders are selling land at unpreceded rates to the extent that some family members are getting worried about the future of their children if the household heads continue to sell land:

> … but these days we see land going very fast from the hands of the Maasai, leaving the hands of the Maasai. They sell land like they are migrating somewhere else, yet there is no place they are migrating to. He [*Mzee*] was given this land by the committee that sub-divided the land, what year was that, 1980? That was the time they took loans and land was sold badly. The time when they got their own pieces of land, and in a short time, we don't know what transpired, people sold a lot of land, let me tell you that land was sold, oohooo! was sold like nothing else. (Kenayu)

> At other times, that does not help in that you might be having like only 10 acres of land, then *Mzee* sells five, and let us say you give birth to five sons, where will they stay? So it will be good if there were discussions, so that if he has other important things to use the

> money on, then you can discuss and agree so that he sells one or two acres, and not all that way. (Eunice)

Increased land sales are rendering some household members landless especially when title holders (men) sell land without consulting with members of the household such as women and children. During my field visits and research, I came across many billboards (Plate 14) advertising lands for sale.

Plate 14: Land for sale signs in the study area

Landlessness in land-based economies spells doom to those without land. There are cases where some households have used the land title deed as collateral to access loans. Once they default on payments, the land is sold either by household members to repay the loan or by the loan providers. In such situations whole households fall into destitution and are forced to adopt a different lifestyle such as engaging in small scale business enterprises that are not profitable enough to provide for their subsistence and cash needs.

The decrease in the size of land has resulted in a reduction in livestock numbers due to limitations in access to pastures. A reduction in livestock numbers, especially for households that have not diversified into other livelihood sources often leads to poverty. A good example is households where one person holds the title to land. If such an individual sells the land without consulting with other household members, then the household will be forced to reduce their number of livestock, sometimes resulting in

conflicts and strained relations among household members, i.e., those who want to sell land and those against. One example is that from the family of Kenayu who had to resort to provisions in the land law to bar his father, as the land title holder from selling more of the family land:

> *Mzee*, he looked for me, but I got lost, got lost a bit, then I came back and told him there is nothing like that [laughter] … Yes, he can decide, but if he cannot consult with his people, what could we do? We only kept on seeing the land getting cut, getting cut, then I said this, "no, I cannot stand such a practice." It was in 1988, some land was sold in 1985, and by 1988 he wanted to sell more, I said no, he has to go to the land board and find that the land has a caution and can no longer be sold. So I went to the land board. By the time he went to the land board, he found the land had a caution and could not be sold. Up to now if the other sons want to sell land, they have to find me, consult with me, or they have to come together as one family and then go to the board as one family and say they have come together as a family, and ask for the removal of the caution so that the land can be subdivided. (Kenayu)

> Yes, I have title deeds to all my land. When one has children, one cannot stay without sharing the land with their children. I have subdivided the land out to my children. What I have done is signed down [caveat] that no child should or can sell land without my knowledge, and that rule is not a forceful one, no, even my wives cannot sell land or make any other major decisions without consulting me. (OleRomo)

Such incidents where family members have to resort to provisions in the law are not common. Part of the reason being that in the past, community members used internal negotiation and conflict management mechanisms to solve arising misunderstandings. Cases were only taken to clan elders when household members had failed to reach an agreement. Therefore resorting to official mechanisms has implications on the magnitude of the problem: either, the community structures are no longer applicable, or issues are too complicated for them to handle, or that the community members prefer government systems. In other instances, the registration of title to land has resulted in the concentration of power in the hands of a few household members, mostly men as the holders of title to land. The title holders can sometimes allocate or sell land without consulting with other household members. It was disheartening to hear women narrate cases of how their husbands have sold household land without consulting or even

informing them. In the case of Eunice, the women got to know that the land had been sold from outsiders or when the land buyers came to fence their lands:

> Yes, *Mzee* has sold land. The day he sold land, the women were at home, so they had no chance to say no. So for us we just stay without having any wealth of our own … Yes, he did not explain to them, [gives a frustration laugh] it is his wealth, he cannot explain, even the boys are under him, he cannot explain anything to them … he will not even say [to his wives when he sells], unless you get to hear about it from others. You hear of it along the road or you see people who have come to construct or to fence, then that way you can ask. (Eunice)

> For land, land belongs to *Mzee*. … the land for *Mama* can only be a small piece of land like that piece that has been cultivated [points to some small parcel of land] she is shown such land and told that is where you can plant your maize and vegetables, that is your side and the remaining land belongs to *Mzee*. If *Mzee* wants to sell and *Mama* objects, he might tell her that he remembers the time she came [when he married her] without any land so that the land belongs to him. (Lerionka)

The emerging pattern is that men, by holding the title to land, end up regarding the land as belonging to them, rather than to the household. Such situations can impact on food production and relations among household members, especially if wives and other female members of a household have to limit crop cultivation to the size of land allocated by the household head. In other cases, the title holder will subdivide the land to household members but put a caution on the land. In such a case, the new title holders would have all rights to land, except for the right of alienation, yet their name will be on the title to land. The implication is that the Maasai traditional household head continues to wield power over assets, even assets that should belong to other members of the household. However, all is not lost, further findings from the study indicate that despite the sub-division and privatization of land, the on-going land sales, the reduction in number of livestock, and strained social relations; the Maasai still collaborate at the levels of family, household and community.

The persisting value of community

> I usually say that "community is an umbrella." As in when the sun or rain comes down, it will not hit you hard when the community is in existence, because they are an umbrella and the family is the circumference around you while the community is over you, so it is very important for one to live within a community. (Amos)

The traditional physical set-up of residential units within a Maasai *boma* and the practice of herding all livestock of a household together contributed to more collaboration among people. A follow-up assumption would be that with the sub-divisions of land into individual parcels, the close collaboration among people would decline.

However, further discussions revealed that irrespective of changes in land tenure from communal to individual private land parcels, many Maasai people continue to collaborate and assist one another just as the *Ubutu* wisdom of Africa holds, "I am because we are." Though the Maasai are on individual private land holdings, they still find the need to collaborate and assist one another. Assistance is provided at different levels based on kinship, friendships, brotherhoods, and community. The sense of community and sharing is not new to the Maasai as in the past they shared residential compounds, pasturelands and social ceremonies such as marriage. They find it easy to continue relating at the level of community. The collaboration is witnessed in situations where people, both the indigenous Maasai and newcomers who have purchased land visit one another, summed up by MaJuma and Mboe who explain that people in the community still visit one another and provide assistance whenever one is in need:

> When I want to talk with people, I call them and they come. We visit and talk with one another. Eeeh, [this is a form of exclamation used to emphasize a particular point] even those who have bought land and settled, we have dealings and relations with them. We do eeeeh. Now that things have changed, we embrace both the old and new so that life can continue. (MaJuma)

> Yes, we assist one another just the way neighbours would do. When we are implementing some development activities, even the Kisii are involved in that. If someone comes here and doesn't like the others, they should go back to their Kisii land.

> But the Kisii who come here are good, even the Kikuyus are good, they work with others. They live together with others like good neighbours. (Mboe)

The continued relations among the Maasai are enhanced by factors such as lineage, social networks of family, friends, local associations such as women's groups, friendships, business associations, and the need to share pastures and other assets. The Maasai remain livestock keepers within these ASALs, and they continue to access pastures on one another's land. During times of need, such as illness or death, households resort to established social relations with their neighbours or relatives located either nearby or far. For example, OleJuma, Saloiti and Naresio note that though on private land, the Maasai still share pastures with neighbours or relatives who reside in faraway places:

> We still share pastures, you cannot graze on only your piece of land. You can take your animals to your neighbour's field if there is grass there. The neighbours are related, but you don't only relate with your brother -- we don't only take livestock to the land of our brothers, no, we are all one people and that is how it is among people. One can now use pastures, borrow from others in times of need. `*jirani ni mtu mzuri sana*' [Having a good neighbour is something very good]. (Saloiti)

> There are times when one can consult in relation to household issues or on livestock, even though now many people have started to fence off their land. One can still graze when the owner of the land advise you on which particular side of the land to graze. So we still share pastures. (Naresio)

> I took my livestock to Sultan Hamud [a place located 100 kms away from Kajiado] during this drought. I took them there because that is where my daughter is married. I have taken my cows to the *boma* of her husband. They are neighbours to where I bought land, where I took the livestock to. You cannot take livestock there if there are no relatives. The livestock will all be eaten up and you will realize that you are left with nothing. (OleJuma)

Good relations with neighbours, friends and relatives become helpful when one has to migrate with their livestock to faraway places. As OleJuma explains, at such times, one is not only allowed access to pastures, but given shelter from the harsh environments of rain, thieves and predators. Based on the understanding that no single individual is able to provide for all their needs, the existing good relations among friends and relatives help create a sense of identity and belonging among individuals and households. Once

people have that sense of confidence in the other, they find it easier to call upon one another in times of need such as illness or when in need of money to support a child's education. As Pulei and *Mzee*Maa explain people from the large Maasai community still share pastures and assist one another:

> Even if land has been subdivided, livestock from that side still come to our side and livestock from here go to that side. If a problem comes up, we all go there. If there is illness, we come together and assist, and if there is someone not able to raise money for the children's education, we call a *harambee* [pooling resources] and help. You can be given *harambee* money to cater for fees for like two or three years [of schooling] so that you too can find fees for two years, that way the child is able to complete fourth form [four years of secondary education]. (Pulei)

> People collaborate, they work together, for example if there is a family that is not able, the able one assists. If there is a child within a family lacking in school fees, they will call a *harambee* so that community members assist by fundraising to enable the student to go back to school. Whenever families have a small problem, they inform the rest of the community members and normally people will come together and help them out. So the Maasai community members still assist one another. (*Mzee*Maa)

All community members, including newcomers who have bought land are welcome into the community and expected to integrate and participate in group or community development activities. Their participation can be in the form of pooling resources for the provision of development projects such as schools, roads, and water points. The continued pooling of resources to assist individuals or for the development of shared infrastructure has helped strengthen a sense of community among the indigenous Maasai and newcomers to Ewaso Kedong. Therefore, though on individual private land holdings, the Maasai continue to enhance a sense of community, exemplified with the words of Guyo:

> If one person has a problem, I would go visit them to talk about the problem, after which I can assist them. But if the problem is beyond what I can assist, we call a meeting, come together and assist maybe by giving them one goat from each one of us, because nowadays due to drought, all the livestock can die and one will remain with nothing. When we come together, you will establish that so and so is good, while the other one is not. What I do is relate with the good ones and leave the bad ones on their own. (Guyoo)

The success of social ceremonies demands the presence and participation of large groups of people, both to celebrate and witness. For example, households find the need to involve others in social activities such as marriage, death and, rites of passage, as a way to make them more meaningful:

> Yes, we share resources and cooperate on all other issues because there isn't much one can do without collaborating with their neighbours. There isn't much I can do within my *boma*, without consulting with others. I call them, explain to them and that way we get to assist one another. For example if my daughter is getting married at such and such a place or when my son is marrying, I go and tell my neighbours that my son is marrying from such and such a place or family, that way we assist each other. (OleJuma)

The sense of community has been a virtue of the Maasai people, build and strengthened from the time they were on communal lands from where they shared physical space within the *boma* and pastures on communal lands. To date, individuals try their level best to assist one another, and in cases where one's need is beyond what household members can assist with, they call upon the larger community to intervene, pool resources and provide the required assistance.

In the preceding chapters I have provided findings from the field study. The findings have dwelt on the social and demographic information of the Maasai, i.e., set-up of residential units and relationships among members of a Maasai household. I have shared findings detailing factors the Maasai households consider in holding land as individual private property. Since the Maasai are traditionally livestock keepers in ASALs, I have presented findings on changes to the practice of pastoralism and to social relations now that Maasai households reside on individual private lands, which are smaller in size compared to communal or group lands. In the next chapter I identify and discuss emerging issues from the study, give recommendations on a way forward, and conclude the dissertation.

CHAPTER 8

DISCUSSION, RECOMMENDATIONS AND CONCLUSIONS

Introduction

In this chapter, I discuss and interpret the study findings by describing emerging patterns, themes, and relationships, and link the findings to literature and to the theoretical perspectives that guided my study. The aim is to answer the research question: "On what basis have Maasai households chosen to hold land as individual private tenure, and what are the implications of the choices made to the future practice of pastoralism and to social relations among the Maasai?" My study set out to fill the void by considering the following concerns: if communal land tenure has for centuries enabled Maasai households to provide for their subsistence and cash needs, what has changed so that in contemporary times people are opting to hold land on individual private tenure? If land tenure in Kajiado is changing to private land holdings, on what basis are households embracing individual private land tenure. What are the effects of private land tenure on the future practice of pastoralism, and on social relations?

I start the chapter with a summary of what I set out to study by revisiting my study objectives, findings, and identifying emerging issues and themes for further discussion. To achieve the objectives, my study was based on the following assumptions: households make decisions and choices on particular land tenure types if they perceive them as making it possible to achieve desired livelihoods. That households strive to hold land in a land tenure type that provides them with security of tenure, allows them to manoeuvre when faced with challenges, and enables them to attain a desired livelihood portfolio. The lack of access to land and tenure security by land-based households will become a threat to the particular people's social, economic, political and cultural lives. Land rights underpin land-based livelihood activities of the Maasai people, and that change to land tenure impacts on people as individuals and

collectively, making it necessary for them to want to choose a land tenure type that will guarantee them access rights and tenure security.

I then present and discuss the different theories and perspectives, i.e., especially in relation to the way the land tenure and land rights of the Maasai have evolved from communal to private land holdings. The pattern emerging from the findings of my study is that Maasai households in Ewaso Kedong prefer to hold land as private property. This conclusion is drawn from the high rate of subdivision of group ranches and formalization of individual land holdings through title registration. For example, in the former Keekonyokie Section of the Maasai (Map 2), six out of the seven group ranches have been sub-divided into individual private land holdings. The desire for private land is demonstrated through the increased land demarcation and formalization (see changes from Map 5 to Map 3 to Figure 2). Even though the Constitution of Kenya (Kenya, Republic of, 2010) and the National Land Policy (GoK, 2009) provide for land to be held either on a communal or private tenure basis, the Maasai of Ewaso Kedong have generally opted to sub-divide their group land and register title to individual private land holdings. The assumption is that Maasai households have considered all available options and arrived at the decision that individual private land tenure is the best choice to enable them provide for their desired livelihoods.

Throughout the study, the emerging picture is that a number of historical events have led to the current choice by the Maasai to hold land as individual private property. Findings from the study indicate that the introduction of crop farming and supportive legislation in the form of title registration kick-started the clamour for the subdivision and title registration to lands in Kenya. The benefits that were being accrued by households on private lands enticed households on communal lands to ask for the same. However, the study findings also reveal that not much effort was put to enlighten land-users that different ecological systems support different livelihood strategies, including pastoralism in ASALs. Consequently, the Maasai in drier parts of Kajiado

failed to recognize that high crop yields were limited to lands in the Kenya highlands, forming part of the Maasai dry season grazing areas located in higher elevations. The other contributing factor to the Maasai wanting private lands is population growth and lessening size of lands accessible to the Maasai. The study findings indicate that while on group ranches, many adult men who were still accessing land under provisions of their fathers, wanted land allocations different from that of their fathers. In the process of the group ranch management committees trying to solve the matter, it became more feasible to subdivide the ranches so that household heads could deal with the issue of land allocations to their adult sons and grandsons. This far, the privatization of land can be attributed to internal population growth (Boserup, 1970; 2007; Meek, 1949; Swynnerton, 1955), thus supporting the arguments put forward by Migot-Adhola (1991) and Sjaastad and Bromely (1997) that communal land tenure systems are not static, but been evolving, and left on their own are bound to evolve into enclosures that are adapted to their context (Toumlin, 2009), rather than the current call for "blanket" title registration using a system developed for a different context (Jacoby & Minten, 2007).

The study findings have also revealed that the Maasai of Ewaso Kedong have chosen individual private land holdings as a way to adapt to changes in their wider environment. The changes are mainly in the environment whereby drought has increased in frequency and intensity. The result being that the Maasai have found it difficult to rely solely on livestock raised through the practice of pastoralism. In their bid to provide for their livelihoods, Maasai households have adapted crop cultivation which requires the creation of enclosures on land. The Maasai have also access to information on the existence of a thriving land market and found out that they need to register title to their land to be able to participate and benefit from the existing land market.

To conclude the chapter and dissertation, I draw conclusions and make recommendations on a way forward, and tell my readers what I believe my study

findings mean to the people of Ewaso Kedong, to scholars, development agencies, and policy makers concerned with the alleviation of rural poverty. To support the recommendations I make, I start by providing an elaboration of emerging issues from the study. The issues relate to changes to the land tenure of the Maasai.

Change and the Maasai search for security of tenure

Findings from my field study indicate that the size of land accessible to the Maasai pastoralists has reduced over the years, from one vast area transcending many climatic conditions, into the current individual private land holdings. The causes of this change are varied as identified in the earlier chapters of this dissertation. In the immediate section below I identify and discuss changes that have occurred to the land tenure of the Maasai and how the Maasai people have responded to the change.

Shifts in land tenure and shifts in choices made

Findings from my research study indicate that land tenure types in Kajiado have changed over time from being exclusively communal, to include group ranches and individual private land holdings. In the traditional Maasai set-up, people lived together on communal lands, which have since been sub-divided into group ranches and individual private land holdings. The pattern emerging from my study findings is that each time a land tenure regime changed, the Maasai embraced the new one. For example, the desire to hold land under private tenure is demonstrated through the increased land demarcation in Ewaso Kedong. Even though the land policy in Kenya (GoK, 2009; Kenya Constitution, 2010) provides for people to own land either on a communal or private tenure basis, the Maasai of Kajiado seem to have opted to sub-divide and register title to individual private land. The assumption is that the Maasai households have considered all available land tenure options and arrived at the decision that individual private land tenure is their best choice.

The preference for individual private land ownership is more pronounced among the female interviewees who said individual private land tenure would enable them to

participate more in decision-making processes. The impression given is that the Maasai women find it easier to participate in decision-making at the household level compared to the community level. The situation is partly attributed to the legacy from the Maasai patriarchal society, in which Maasai women were not allowed to participate in decision-making processes or activities outside of the *boma.*

Changes have taken place to the Maasai society, exemplified when the female participants voiced what would be termed as controversial ideas within the Maasai patriarchy. For example, all the female participants were of the opinion that a title deed to land should contain names of both the husband and wife, since the land belongs to the household. To these participants, if both names (husband and wife) are on the land title deed, then *Mzee* is not likely to sell land without consulting with his wife. The implication is that women have good knowledge about a land title deed and the powers therein. My study finding that women prefer private land tenure corroborate with Mwangi's (2007) findings that Maasai women, especially widows, supported the sub-division of group ranches into individual private land holdings. The women's rationale for the support was that private land tenure would make them land owners as they would inherit their deceased husbands' shares, therefore giving them the control and independence they lacked within the group ranch set-up. However, my study findings go beyond the issue of ownership through inheritance, to include the desire for women to participate in household decision-making on development initiatives such as the number of livestock to keep, cultivation of food crops, bequeath land to children and other family members, include and exclude other land users, and freely buy and sell land.

The need for co-ownership arises from past experience. In a number of cases during my research, women and younger men complained that their *Mzee* had, in the past, sold part of the household land without consent from other members of the household. They attributed the reason for *Mzee* being able to sell land to the fact that the title deed bore

his name. Therefore, by the women preferring individual private land, they hope that their names will be included in the title deed, and that way their husbands will not be able to sell land without their consent. The co-ownership of land would also empower the women during negotiations on land-use activities such as food crops to grow on the land. However, taking into consideration findings from my literature review and field study in Kajiado indicating that the Maasai have historically lost land in each of the land tenure types of communal, group ranches and individual private land, I am left wondering of the extent to which co-ownership of private land (by husband and wife) will enable the Maasai households to achieve security of tenure, more so when men have found ways to go round government policy as demonstrated by cases whereby to fulfill government policy. The law demands that a married man can only sell household land with the consent of his wife, to which some men have devised other methods of selling land without consent of their wives; they hire women to stand in as the wife:

> Wives for hire have invaded Narok County and are being used to transact multi-million illegal land deals that have left many families landless in the past few months. Investigations by The County Weekly have unearthed an intricate land transaction scandal in which cunning Maasai men hire women to act as their wives while secretly selling off family land. Many families in the county are falling victims to this scandal which sources say was fast spreading into the nearby Kajiado County. No arrests have been made since the victims do not report to police for fear of revenge attacks from their spouses. … She said efforts to follow legal channels were fruitless as minutes from the lands control board showed that she had consented to the sale of the family land yet she had not been informed about it by her husband. "I was shocked when I went to the Land board to report that my husband had sold family land without my consent only to be shown an affidavit filed and bearing my names," she said. "These women for hire are making life difficult for the real wives. They are given proceeds of the sell and they take up our place and once the transaction goes through, they are paid their fee," she said. …Investigations showed that these women were just a fraction of the many women who had lost their family land to the new racket. (StandardMedia, 2013)

Findings from my study indicate that each of the land tenure type has at some historical period provided tenure security and insecurity to Maasai households and community.

The historical trends indicate that the Maasai have lost land every time there has been a change in land-related policy and implementation. For example, during the 1904 and 1911 Anglo-Maasai Agreements (Southall, 2005; Sandford, 1919; Waller, 1976), the Maasai community lost land in the Northern Reserve. In terms of changes in policy, the land ordinances formulated during the colonial period, and their subsequent implementation in independent Kenya resulted in loss of communal lands. For instance, the *1959 Native Land Registration Ordinance* introduced changes so that registered land ceased to be governed by customary land law (Syagga, 2006), implying that registered land tenure is superior to communal tenure.

The formulation of group ranches in the 1970s is another testament of the superior position held by registered land. During the formation of group ranches, the Maasai households that failed to register as members of a group ranch ended up losing land that they thought was theirs. The Maasai who tried to adhere to customary land law ended up becoming landless, as the Group Land Act stipulated that all households register as group ranch members. Those Maasai who thought they were protected by customary land tenure and did not register as group ranch members ended up losing their land.

The Maasai community lost more land during the sub-division of group ranch land (Homewood, 2004; Grandin, 1986; Mwangi, 2005; Kidemi, 2004; Ole Munei & Galaty, 1999), especially in cases where the elite from within and without the community had some communal land registered in their names as individual private land. During the sub-division of group ranches into individual land holdings, only registered group ranch members were eligible to receive land. Therefore, women and the men born after the formation of group ranches did not qualify to receive land when those ranches are subdivided. They are at the mercy of the household head to subdivide the land and allocate some to them. The ongoing registration of titles to individual private land in the names of a few household members means that other household members have no

ownership and control over household land. Taking these historical events into consideration, the Maasai preference for formalized land is partly founded on fear , the fear to lose land if they continue to hold it as communal lands or group ranches.

The implication is that more and more households have since opted for private land by registering title to their land. By registering title to land, Maasai households are making it clear that the only way to ensure security of tenure is by privatizing the land. If households and communities have in the past lost land, what guarantee do they have that the existing land policy will provide them tenure security? Should rural households continue to hold land on communal tenure when historical events indicate that they can lose the land to whoever gets it registered?

Some proponents of communal land tenure (Jacoby & Minten, 2007; Migot-Adhola, *et al.,* 1991; Manji, 2006, Nyamu-Musembi, 2008; Lesorogol, 2005; Bruce, 1993; Englert & Daley, 2008) have argued that communal land-tenure gives tenure security to community members. Yet, findings from my study reveal that unregistered land, held communally is susceptible to secret registration by individuals from within or outside the community. My review of literature points to the supremacy of a title deed in land dealings; once land is registered, it is deemed to belong to the title holder. In case of conflicts over such land, the practice is that a complainant, the community in this case, is burdened with the task of proving to a court of law that it originally owned the registered land. The findings from Ewaso Kedong provide empirical back up to findings by Tough and Dimmer (2013), who, in reference to the works of Demsetz, (1967); and Alchian & Demsetz, (1973) concluded that not all innovations of settler property rights can be said to be well thought ways of economizing on resources, in some cases lands that were set apart for indigenous people still found its way to the market or was transferred to the control of settlers. Communal lands of the Maasai can be said to be more insecure considering the on-going events under the broad concept of

"international land grabs." Available information indicates that the land that national governments have leased to investors is either communal or public land.

The above account of historical events indicating that the Maasai lost land with each change in land policy, calls for an urgent need for scholars and policy makers to intensify debates and discussions on the validity of existing policy and legislation (GoK, 2009; Constitution of Kenya, 2010). The policy provisions are in support of communal and private tenure types, yet households do not feel like they have security of tenure if they hold land under communal tenure. In the meanwhile, one way to safeguard communal lands from outside takeovers is to have all communal lands sub-divided and registered to households as individual private property. Once that is done, households practicing pastoralism, especially in the ASALs can form associations of land owners through which they may continue to access individual private lands on a communal basis. That way, they will attain security of tenure while at the same time be able to access land on a communal basis.

In relation to which land tenure type to provide tenure security, my study established that the Maasai community has in the past lost land held under communal and group ranch tenure, and that registering individual private title to land does not guarantee tenure security, especially to household members. During the study I encountered cases where the title holder, with or without consent from other household members, has sold registered land. They are able to sell household land because the land is registered. The current practice is that no potential land buyer will make payments for land unless they are assured that such land exists, and the assurance is obtained when the seller shows the title deed of such land. Before the introduction of individual private land title in Kajiado, land was not sold, at least by individual community members, as legal land transactions require a title deed.

Land sales in Kajiado have sky rocketed since the introduction of individual private land titles in the 1980s. Since then, people from within and outside of the Maasai community have flocked to Kajiado and bought land, like never before:

> Aiayaa, I don't know of any person that has not sold any of their land. I don't know of such a person, I cannot tell who such a person is who has not sold part of their land. Some sell and buy more land, others sell and purchase plots and construct rental houses. Many have sold and bought land. Many have sold land, and even in some areas where we go to buy, the sellers have also bought such lands. (OleJuma)

To this extent, findings from my field study enrich the views held by Tough and Dimmer (2013). The authors analyze land cases from the Maori of New Zealand, Indians in the USA and the Metis Land Scrip in Canada, and conclude that the creation of individual property rights on indigenous lands were aimed more at making the indigenous lands available for sale.

The results from my study in Ewaso Kedong reveal that Maasai households started selling land after the government allowed them to sub-divided group ranches. I suggest that the current debate in Kenya on the "land question", which has so far focused on historical injustices, needs to include discussions on whether active engagement of the government in the sub-division and registration of communal lands into group ranches, and later on into individual private land was a conspiracy aimed at availing land held by the Maasai to the market, than protecting the lands from outside takeovers.

Another way of describing the ongoing land sub-division, formalization and sale is in the form of an opportunity for the Maasai to improve their livelihoods. After many years of remaining conservative by practicing pastoralism, the Maasai have decided to explore other ways of life by integrating into the real estate economy. To this extent, I argue that the formal recognition of property rights on Maasai land through title registration has enhanced the transformation of Maasai land from pasture lands, into a capital asset (De Soto, 2000; World Bank, 2003; Demsetz, 1967). Therefore, the Maasai

households on individual private land are headed towards overcoming poverty. By registering title to their land, the Maasai are able to participate in the wider market economy, where more wealth is created (De Soto, 2000). However, if the registration of land is the only requirement for households to get out of poverty, why are there households in Kenya that have held individual private land for almost half a century, yet still experience poverty? In a similar sense, there are households that have been on communal land tenure, yet remained poor. This calls for future studies in Kajiado to move beyond historical processes to examine how government policy on land is implemented.

Reduction in the size of land accessible

The findings from the field study and analysis of available literature indicate that changes have occurred to the way the Maasai hold and access land. The changes are in terms of the size of land and introduction of new legislation on land. The changes are traced back to the period of the British colonial administration in Kenya (1885-1960). To access land for crop cultivation and for settlements, the then administration annexed land previously accessed by Maasai pastoralists (Southall 2005; Waller 1976), mostly as dry season grazing lands. The administration also carved out part of the Maasai land and created reserves (Map 5) where they settled people from other parts of Kenya who had been displaced from the highland regions (Syagaa, 2006). To safeguard the lands designated for different uses, the administration introduced legislation for each land type.

The colonial administration introduced land Ordinances and policy through which agricultural lands were formalized into private property (Okoth-Ogendo, 1991; Syagga 2006). During this period, communal lands continued to be administered through customary land law (Bruce & Migot-Adhola *et al.*, 1994). The land Ordinances (Syagga, 2006), when implemented, restricted the Maasai movements to particular lands and spaces. For example, the 1902 Ordinance declared that empty land, lands not developed

or any land vacated by a native would be forfeited as Crown land (Syagga, 2006). The Ordinance was detrimental to the Maasai in many ways: first, any land not developed was basically a reference to lands not cultivated with crops. The Maasai being pastoralists did not cultivate crops on land. The Ordinance also stated that any vacated lands could be forfeited. The Maasai pastoralists thrive in ASALs through frequent movements in search of pastoral resources as weather conditions and availability of resources changed. The new policy implied that the Maasai would be considered to have vacated their land any time they moved with their livestock in search of pastures. The Ordinance was implemented when part of the Maasai dry season grazing lands were carved out and given to individuals for the cultivation of crops.

More changes to the size of land accessible by the Maasai pastoralists occurred through the formation of group ranches in the 1970s (Kenya, Republic of, 1968). The government formulated the Group Lands Registered Act (1968) to support the formation of group ranches. Once a household was registered as a group ranch member, such a household was limited to accessing pastures and water resources from within their ranch. Again, the land accessible to the Maasai pastoralists was reduced in size. The fear to lose more land made the Maasai welcome group ranches, and register as group ranch members, as the Act gave hope of security of tenure to the Maasai. According to the Act, once household heads registered as group ranch members, a land title was registered to such lands in the name of the group. Title registration was aimed at securing group ranch land from outside appropriation, implying that unregistered lands were available for appropriation. The Maasai who refused to register as group ranch members and tried to adhere to customary land law in accessing resources on land, lost their claim to land. This situation is summed up by one of my study participants when they said:

> At that time, people went for meetings. We were being told that every 6th day of the month, there will be a meeting. If one did not go for the meetings where land was discussed, and you were not counted, you missed land. Many of those who missed land are those who did not go to the meetings that were called by the elders. They missed

> land. If meetings are held and there is no representative from a particular *boma* or household, they missed out on whatever is being shared out. (OleJuma)

Though the formation of group ranches was partly to safeguard the land of the Maasai from outside appropriation, the Maasai pastoralists lost access to part of their land in that once a group ranch was registered, members could only access land within the boundaries of the ranch. Access to land outside of their ranch was only possible through special arrangements with the management committee of the destination ranch. Maasai households found it hard to practice pastoralism on reduced land sizes. In the traditional practice of pastoralism, Maasai herds made seasonal movements (Map 6) to access pastoral resources that appeared and diminished with the rainy and dry seasons. Therefore, confining Maasai livestock to within particular ranches and lands meant that livestock were susceptible to hunger, and the environment to degradation from overuse. One of the reasons for the practice of pastoralism in ASALs is to give resources enough time to regenerate (Noris & Davis, 2005), implying that group ranches on smaller land sizes would lead to the confinement of livestock to limited land areas, and subsequently to the degeneration of the resource base.

The challenge of access to pastoral resources on reduced land sizes was to some extent exasperated by changes in governance structures. The Maasai community had for many years practiced pastoralism on communal lands guided by the African customary land law, and through the Maasai age-set system. The 1968 Act guiding the formation of group ranches came with guidelines to govern access to resources on ranches. Part of the guidelines stipulated that group ranches form group ranch management committees comprised of elected officials. The result was that elected members were in some cases different from elders in the Maasai age-set governance system, implying differences in opinion and sometimes conflicts as each group of leaders tried to guide land users. Conflicts in the management of group ranches have been cited (Mwangi, 2007) as one of the reasons for the subdivision of group ranches.

Therefore reductions in the size of land accessible to Maasai pastoralists, and problems associated with the governance of group ranches created more fear among the Maasai. To overcome the fear of loss of land, Maasai households who had information on individual private land tenure started to agitate for the sub-division of group ranches. Further changes to the size of land accessible to the Maasai were made through the sub-division of group ranches into individual private land holdings (Figure 1). As detailed in chapter 7, the Maasai households supported individual private land holdings as the way through which they could safeguard their access to land (Diagram 1) and rely on such lands to provide for the subsistence and cash needs of their households.

Through these changes in the size of land accessible to the Maasai, one would ask why the Maasai agreed to the sub-division of their land into group ranches and individual private land holdings yet they knew from experience that vast lands (communal) are best suited for the practice of pastoralism in ASALs. An analysis of changes in land tenure of the Maasai reveals a variety of causes and consequences mainly in the form of the perceived superiority of titled land.

Perceived superiority of titled land in the provision of tenure security

The land Ordinances in a way introduced a perception among the Maasai and other Kenyans that privately registered land is superior to communal lands. The result was that more and more Kenyans have sought for ways to acquire land and have it formalized through title registration. The perceived superiority of titled land was demonstrated in cases where communal lands were annexed and registered to "make them secure." The perception was from the fact that even though communal lands continued to be administered through customary land law, the same lands could be taken, registered and become the property of whoever was the first to register title to the land.

The practice of title registration as the way to safeguard tenure security introduced by the colonial government was continued after Kenya's independence in 1963. To support

registration of land, the 1915 Ordinance became the 1963 Private Lands Act. Consequently, many Kenyans continued to perceive titling as the way to have secure access to land. Title registration was practiced more when acquiring parts of communal lands for individual use. By 1964, some 8,000 hectares of the best dry-season grazing land around Ngong had been sub-divided into small individual farms and registered as private lands (Campbell, 1979). The acts of a few individuals registering part of the communal lands in their names confirmed a fear among the Maasai that title registration would make them lose communal land to whoever had a title registered to such lands. The practice of title registration as the way to lay a claim to land is synonymous with tenets of the labour theory, that land is created free for all and only becomes private property when an individual "mixes their labour" with the freely available land (Locke, 1690). The implication is that anyone who took communal lands used by pastoralists as pasture lands, built a fence and cultivated crops on the land, is deemed to have "mixed their labour" with the "free land", and therefore could keep the land as their private property. Such actions of taking and privatizing pastoralists' lands created fear among the Maasai who had continued to access land on a communal basis.

Scarcity of land and the registration of title to individual land holdings among the Maasai resonate with tenets of the evolutionary theory (Boserup, 1970; 2007). The main argument in the theory is that changes occur to land tenure from communal to private property under conditions of growing land scarcity. Scarcity comes about as a result of increases in population density, advancement in farming technologies, and the development of agricultural markets (Boserup, 1970). As the population of land users grows, and the availability of land for expansion diminishes, distinct boundaries emerge as a way to exclude other members of the social group (Bruce & Migot-Adholla, 1994; Cotula, 2007; Coldham, 1978), acts which are synonymous with privatization. The scarcity of land leads land holders to declare more individualized rights on land (Alchian & Demsetz, 1973), and register title to such lands, whenever the governance system provides for title registration.

Fear of losing land

The emerging trend from this study's findings is that the Maasai have historically lost part of their land every time there has been a change in land tenure and land legislation. Therefore, the constant fear among the Maasai that they would lose land was a factor in some of the decisions they have made over the years. My study identifies fear at many levels: long before Europeans came the Maasai community had fear of losing access to pasturelands. The fear is indicated by the army of Maasai *Morans* whose role was to defend the community against outside invasion, to identify grazing fields, and to guard livestock while they were out grazing, especially in "enemy" fields. The fear to lose more land caused the Maasai to sign the 1904 and 1911 Anglo-Maasai Agreements which created the Maasai reserves with the promise that the reserve land would remain land of the Maasai community. With the change of government at Kenya's independence, the Maasai had a fear of more appropriation of their land by the new government and elites. The fear of losing land can be attributed to the acceptance of the Maasai to register as group ranch members. Within the group ranches, land limitations led to fear of losing access to adequate pastures for livestock, especially for members of group ranches located in drier areas, resulting in the willingness of the Maasai households to sub-divide their land into individual land holdings. The current fear among the Maasai on private land holdings is that the sizes of land are too small for the practice of pastoralism, and that the title holder can sell household land whenever they decide. The result has been more diversification of Maasai livelihood strategies to include crop cultivation, business in livestock and land, education of children to equip them for waged employment. Diversification is to shield household members from destitution, especially if they lose access to household land.

Although the theme of fear of losing land is unique to my study, it has been implied in the study by Mwangi (2003) establishing that the formation of group ranches and registration of household heads as ranch members resulted in fear among women and

younger men. The fear was that they could lose their stake to land as provided for in the communal land tenure regime. Subsequently, when group ranch members agitated for the subdivision of their group ranches into individual land holdings, they received support from younger men and women (Mwangi, 2003). Married women, widows and younger men of 50 years and below were not registered as group ranch members, and therefore did not qualify to be allocated land during the sub-division into individual private land holdings. For these women and young men, privatization and title registration seemed like the only way through which they could become land owners, therefore maintain access to land, i.e., when the older men sub-divide and allocate private land to their wives and sons. Widows hoped to become land owners by inheriting private land of their deceased husbands. Privatization of land was therefore viewed as giving women control and independence over land which they lacked within the group ranch set-up (Mwangi, 2003; 2007; Ole Munei, 1999).

There is also the added fear among household members that the person with the title deed to land will sell the land without the knowledge of other members of the household. More fear is generated from the current practice in most Kenyan courts whereby the party with a title deed to land is deemed the owner until the claimant of such land proves otherwise. Court cases in most cases are tedious, time and money consuming exercises that many ordinary citizens try to avoid. Related to the pattern of fear, the action of the Maasai to formalize land can be interpreted to mean that the Maasai have decided that one way to avoid losing land or resorting to lengthy court cases is to be the first ones to register title to their land. Subsequently their actions of title registration out of need and not want, adds to the view that registered land is more superior to communal lands. This perception and practice contradicts provisions in the National Land Policy (2009) and the Constitution (2010) which provide for both private and communal land holdings (GoK, 2009; Kenya, Republic of, 2010) in the country.

> Land in Kenya is classified as public, community and private. Community land shall vest in and be held by communities identified on the basis of ethnicity,

> culture or similar community of interest. Private land consists of registered land held by any person under any freehold tenure; leasehold tenure; and any other declared private land under an Act of Parliament (Constitution of Kenya, 2010: Chapter 5. Sections 61-62).

One explanation for the assumed superiority of titled land could be that the *de facto* overrides provisions in the *de jure*. Even though the law provides that land can be held on the basis of both private and communal tenure, the practice since the colonial period, by policy makers, the courts of law, and prominent individuals in society is that of title registration. As a result, the Maasai too have bought into the idea that individual title lands are superior to communal land holdings.

Fear of losing private titled land

Irrespective of the choice of individual titled land among the Maasai of Ewaso Kedong, I still see loopholes and tenure insecurity in registered individual private land holdings. My study findings indicate that registered land is no guarantee of tenure security, especially at the household level where title holders have sold land without informing other members of their household. My study findings established that to a certain extent, individualized land creates fear among members of a household. For example, during the subdivision of group ranches into individual land holdings, land certificates were allocated to only individuals who had been registered as group ranch members. The members were elderly household heads. Therefore, many women and young men were not considered for land allocations during the subdivision of group ranches into individual private land holdings. Information from the study participants indicate that there are some household heads who registered one title to all the land in their name. There are others who sub-divided their land allocation and registered different titles to the various members of their households, mostly to their wives and adult sons. The implication is that in some households, only the title holder has full rights over the land, while other household members are limited to user rights.

Subsequently, a title deed though intended to secure land has become a source of tension among household members, especially between those whose names are in the title deed and those whose names are not. A title deed to land makes the registered land the personal property of the title holder and provides some assurance to the title holder that other members of society will recognize and respect that right (De Soto 2000; World Bank, 2003; 1975). A title to private land is further viewed as giving rights of management, rights of inclusion and exclusion, and rights of alienation of such lands (Schlager & Ostrom, 1992) to the title holder. My study findings reveal that the formalization of land through title registration gives rights and powers over such land to the title holder. In some cases, title registration creates fear of loss of land among all the other members of a household whose names are not included in the title to land. Such household members are at the mercy of the title holder to subdivide the private land to them, a situation that creates more fear, fear from not knowing if the title holder will allocate some land to them, or if and when the title holder will decide to sell the land. To this extent, title registration has not helped to remove the long-standing fear of losing land among the Maasai as a community, households or individuals.

Therefore in cases where a title to land was registered in one name, the name of the head of the household, there is fear among women and children, a fear that the title holder can sell the household land whenever they want to. This fear became real to some participants. For example, Eunice who shared information that the land they reside on is in the name of her father-in-law as the head of their household. The father-in-law has in the past sold land without informing any member of the household, not even his wives or adult sons. Another participant, Kenayu reported that his father's habitual sale of part of the household land made him to put a caveat on the land as a way to stop more land sales. The fear that his father would sell more land made Kenayu to take action, an act bound to strain relations with his father.

The other source of fear is from the powers of government to take away private land. The government still has powers to appropriate individual private lands for the benefit of matters of national interest such as wildlife conservation. In the case of the Maasai, the community resides on land in an area that forms part of the larger Maasai Mara wildlife conservation area. There are chances that one day the government can revise land boundaries to increase the size of land for game reserves and game parks. The nearest lands are those of the Maasai. To this end, my findings challenge the position taken by proponents of privatization of land ((De Soto, 2000), that titling safeguards land and ensures security of tenure. Based on the study findings, I argue that title registration to land in Ewaso Kedong is no guarantee of tenure security especially for other members of households other than the title holder.

The fear to lose access to land echoes arguments put forward by proponents of communal land tenure (Jacoby & Minten, 2007; Migot-Adholla, 1991; Manji, 2006; Nyamu-Musembi; 2008; Lesorogol; 2005; Englert & Daley, 2008) that communal land tenure provides more tenure security than individual titled land. The rules and arrangements governing the users of communal lands find their legitimacy in tradition as observed and practiced over generations (Migot-Adholla & Bruce, 1994; Cotula, 2007). In communal land tenure, a whole community, clan or ethnic group holds and uses land and its resources in common (Migot-Adholla & Bruce, 1994; GoK, 2009). The said group has well-defined membership and resource boundaries and exclusive rights to the jointly owned resource upon which they depend to provide for their livelihoods (Andersen, 2011). The existence of membership and boundaries are to help exclude outsiders and in the process secure the rights of group members (Andersen, 2011; Migot-Adholla & Bruce, 1994). The fact that access to land is based on kinship and gets handed down to successive generations of kin means that such land cannot be sold by any of the members, a state summed up by Meinzin and Mwangi (2008) as land being inalienable for it belongs to more than the individual in the present, but also to the groups in the past, present and yet to come. However, what is to be done with the

current practice whereby anyone who registers title to land is deemed the owner until proven otherwise, i.e., even though households find communal tenure practical in the accordance of access rights to many land-users, it does not fully protect the lands from outside appropriation. Findings from my study reveal that unregistered land is susceptible to registration by unscrupulous individuals from within or outside the community.

The other instance when titling has not provided tenure security is where title holders use their land titles to guarantee loans from banking institutions. In cases where they are not able to repay, the bank will sell such lands to recover their money. Other cases where individual land can be lost is if a title holder is not very informed on the operations of the land market, especially the pricing part, they will end up selling their land for less. This has happened among the Maasai whereby more informed middlemen offer prices that are lower than what the market offers. In cases where title holders are not well informed on prevailing land markets, they end up selling land at a loss, while middlemen accrue all the benefits.

Now that the Maasai of Ewaso Kedong hold land as individual private property, I sought to understand the process through which the Maasai land holders implement their property rights on private land, and what type of social relations are emerging from the practice.

The practice of property relations on individual private lands

Literature on land tenure indicates the existence of two approaches to the practice of property relations, i.e., free-market (liberalism) and social relational (communism) approaches (Singer, 1988; Ikdahl, 2010; Benda-Becckmann, 2006). The Maasai of Ewaso Kedong have embraced individual private land holdings where, according to Singer (1988) and Ikdahl (2011), they are expected to operate within property rights that have been defined by the State where rights are only recognized when individuals enter into contracts, and they are viewed as free and autonomous individuals. The private

property rights under which the Maasai registered their land were defined by the State under the Private Lands Registered Act (Kenya, Republic of, 1963). However, when it comes to when individual rights are recognized, the practice among the Maasai was found to deviate from expectation, which is supposed to be when individuals enter into contract. The contractual rights were found to be observed in cases where a Maasai has sold land to an outsider. But in cases of Maasai on private lands, the study established that social relations among the indigenous Maasai on private land continue as per the Maasai cultural practices of sharing pastures, pooling resources to assist those in need and participating in one another's cultural ceremonies.

Further findings from my study indicate that Maasai land owners (title holders) continue to operate more as kin rather than as autonomous individuals. The members of a household and the rest of the community were found to treat the title holders in similar ways as before, i.e., when they were on communal lands. For example, household members were found to give respect to the head of their household, as done by Amos, Eunice and Liz, among other interviewees. In the case of Amos, though educated and sometimes felt that he would have made better decisions on the management of livestock by reducing the number, he still abides by the decisions made by his father. The reasoning given by Amos, one of my interviewees is that the ways of his father could be correct as the father has made decisions in the past that have seen the members of his household succeed in a number of ways, including paying school and medical fees for Amos and his siblings. In the case of Liz, instead of asking for her rightful financial support from her husband in the education their children, she instead diversifies from activities on land into a business enterprise to avoid getting into conflict with her husband. One of the reasons given by Liz is that there is not much she can do to press her husband; if she reports him to the traditional clan of elders, the elders might be on the side of her husband as the head of the household. If Liz reports her husband to the relevant government authorities, members of her local community might shun her as a "bad wife."

Even in situations where only one name is on the title deed to household land, all the members of such a household have rights of access, withdrawal, management and exclusion. The only rights they lack are rights to alienate the land, simply because the title deed is not in their name. However such household members have a right to bar the title holder from alienating the land. The study participants expressed the right of alienation when for example Kenayu said that when he noticed that his father was selling more and more of the household land, he went to the lands office and put a caveat to stop further sell of land. In this case, Kenayu`s name does not appear on the land title deed but as a member of the household, as a son of his father, he received recognition and attention at the land`s office. The implication here is that the practice on private land shifts from the free-market approach to the social relational approach whereby interests of other family members are considered and integrated into the contract. The consideration of the rights of household members not included in the contract is on the basis that property relations of the Maasai have been created in long term family relations, through contributions over time, and through non-monetary means (Ikdahl, 2011).

So, how does one explain this situation whereby people hold land as formalized individual private property, but are held responsible by other household members who are not part of the contract? The property relations entailed among the Maasai can be explained from the history of the Maasai land tenure of communalism. In the practice of communal land tenure, access to land was based on kinship, long term relations have developed among people as members of families, households and whole communities. Since the Maasai are emerging out of communal land tenure only since the 1970s, they are deemed to still hold strong practices of social relations. For example, the Maasai still identify as members of families, households, clans and community. The strong social relations were revealed when participants said they still share pastures, and they come together to pool resources and assist whenever one of them is in need. Based on the

cultural practices of the Maasai which are mainly relational, the holder of the title to household land is yet to learn and internalize the new ideals that go with private property rights on land. Hence, the reason some of my participants still give land to both their male and female children, a practice that emanates from the Maasai cultural practice of giving a cow to each child at birth, and the child takes ownership of such livestock in adulthood.

The implied reasoning is that existing social relations among the Maasai people have developed over many years. The relations give household members automatic rights to the land. The traditional property rights transcend contracts to include family members and members of the larger community. Therefore, property rights on private lands of the Maasai still reflect the practice of social relations created when land was accessed on a communal basis, whereby proximity and long term sharing of resources helped create a bond and intimate relations among members of the Maasai community.

The other supporting factor is the current practice of land rights in Kenya. According to the Registered Lands Act (GoK, 1963; 2012), the name of one household member can be entered into a title deed, but legally all the other household members, made up of kin are automatically incorporated into the land contract, even though they are not present at the signing of the contract. The mix of practices from the social relational and free-market approaches was illustrated during the sub-division of group ranches and the registration of title to individual private land holdings. During the formation of group ranches, only traditionally recognized heads of households, the majority of whom were elderly men, were registered as members. Members of their household then accessed resources on the ranch under provisions of the household head. During the sub-division of group ranches, land was allocated to registered household heads on behalf of the rest of the members of their household.

The related legal practice is that such a title holder to household land cannot alienate household land without consulting with members of the household, especially the wife

and adult children. The implication is that the holding of a legal contract in the form of a title deed to household land, is not limited to autonomous individuals, rather, the individuals are deemed to be holding the title, therefore land, on behalf of the many members of the household, and is thus relational. The practice of provisions from both the free-market and social relational approaches is another unique finding from my study. The mix of relations implies a new blend and complex social relations within the Maasai household and community.

Complex social relations

The property rights and social relations practices in Ewaso Kedong can be classified under the complex social relations described by Meinzin and Mwangi (2008), and the bundle of social relations by Schlager and Ostrom (1992) and Zhuo (2005; 2011). Meinzin and Mwangi (2008) describe complex social relations as a web of interests and relations among many different parties with a right to access, use or manage a particular resource within customary institutions or state law. The relations among the Maasai are deemed complex in that by holding land on individual private basis, the land is deemed to be private to the title holder, to be accessed by others by permission. However, the practice of asking for permission was found to be practiced more for resources on lands of outsiders who have bought land from the Maasai. The newcomers have fenced off their land and the local Maasai accept that they no longer have access to such lands, because they have sold the land and now the land belongs to the new owner. Yet on the other hand, the Maasai on private lands expect the newcomers who have purchased land and settled on Maasai land to integrate into the Maasai community and participate, for example in social ceremonies such as marriages, funerals and communal development projects such as the construction of water dams, and rural roads.

In relation to pastures on private lands of a fellow Maasai, the land owners have indirect ways of communicating their willingness to share resources on private land.

The Maasai use fences so that if one has fenced all their land, the message being communicated is that the others do not have permission to enter the land. On the other hand, leaving land unfenced means that livestock of those who have not fenced all their land can access pastures on such open fields. Relations of the Maasai on private land were found to be different from relations of the Maasai with land buyers who are not of indigenous Maasai. These relations appear to be complex.

More complexity in relationships comes about in that at one point the land-related practices relate to tenets of private property and free-market approaches, and at another time the practices resort to being social relational. This is another unique finding to my study, that the Maasai of Ewaso Kedong practice a very complex type of relations that shift from free-market, to social relational, to a mixture of the two. These practices can take time to comprehend. For example, a land buyer might assume that by purchasing land from the Maasai, they can become autonomous individuals, only to realize that other community members will be calling upon them for assistance. The private land owner will also realize that members of the Maasai community expect the individual to seek assistance from the other community members whenever they are in need, such as in times of illness. Therefore, unlike in the free-market approach where contractual agreements override social relations, in the case of the Maasai social relations override contracts entailed in the land title deed. This finding is unique to my study in that no other research in Ewaso Kedong or Kajiado has established findings related to the complexity of social relations which shift from contractual to social relational depending on circumstances.

I found it evident from the study findings that the Maasai of Ewaso Kedong still prefer social relations as practiced on communal lands even though they are now settled on individual private land holdings. Considering that changes have occurred to the land tenure, to the size of land accessed by the Maasai, and property relations of the Maasai,

I sought to understand how the Maasai individuals and households identify themselves.

Identity of the Maasai

The place called home

The study findings indicate that the importance of land to the Maasai household has increased over time. The study established that the value of land has changed. The new value of land is indicated by the Maasai search of a land tenure type to help them secure constant access to land unlike in the traditional society where the Maasai relied on land to pasture and water their livestock. The pasture lands were spread over a large land area which the Maasai identified as their grazing lands. The Maasai community identified pastures and water resources on their communal lands as wet and dry-season resources accessible by members of the Maasai community through their Section, Locality, Neighbourhood and household. Land also played a social-cultural role. For example, there were particular lands set aside for traditional ceremonies such as circumcision, lands where *Morans* had residential units, and lands where Maasai elders performed ceremonies to receive blessings or appease the ancestors. During this period, individual Maasai people identified themselves to outsiders as members of the Maasai community.

Over the years, the Maasai territory has been subdivided into group ranches and individual private land parcels. Formalization of individual private land through title registration has enabled Maasai land owners to sell land to people from other ethnic groups of Kenya. The new land owners have fenced off their land. The resulting situation is that the place the Maasai call home has been reduced from the Maasai territory (Map 5) into delimited parcels of land (Figure 3). The concept of "community" is changing to include people from outside ethnic communities with different social-cultural, economic, political and environmental practices. So, if the new community comprises of people of Maasai and non-Maasai ethnicity, do the indigenous Maasai still

refer to Kajiado and Ewaso Kedong as home? My study established that the place called home has changed from the Maasai landscape to lands held by individual households.

In all the previous studies on changes that have occurred among the Maasai as changes occur to land tenure, the issue of changes to the place called home has not emerged, therefore a finding unique to my study. Past studies (Nkedianye *et al.*, 2009; Homewood *et al.,* 2009; Cochrane *et al*, 2005; Wangui, 2003) established that the privatization of the Maasai communal lands has had both positive (Diagram 1) and negative (Diagram 2) influences to the Maasai way of life. Cochrane *et al.* (2005) established that the livelihoods of the Maasai have changed as a result of changes to land tenure to include increased drought, increased human capital, and the Maasai interaction with institutions such as schools, markets, healthcare and government. Past findings relate to the broader issues of change to the physical appearance of the Maasai landscape, to the diversified livelihood strategies to include wage employment, crop cultivation and business enterprises. Changes to the place called home are reflected in the composition and physical set-up of the Maasai household, in gender relations, in household decision-making, in perceptions over land, in the practice of pastoralism, and overall thoughts on land and poverty alleviation among the Maasai.

Land tenure as a socially accepted institution to regulate the behavior of people as they access land (Lastarria-Cornhiel 1997; FAO, 2002) imply that any changes to the rules of the institution of land tenure will result in changes to the way individuals and groups relate with one another. The association between land tenure and social relations is based on the fact that if land tenure is formulated and regulated by society, then tenure becomes a social institution which is socially accepted to regulate the behavior of land users, and subsequently the social relations which are established around land to determine who, among society members can use the land and how. As a social institution, an existing land tenure system will be related to the other societal institutions and structures such as family structures, marriage and inheritance

structures, and political structures (Lastarria-Cornhiel, 1997). Subsequently, as changes occur to land tenure, so will other social structures. Related to the findings from my study, then a change in the land tenure of the Maasai from communal to individual private land holdings is expected to result in changes to the family or household structures, or the place individuals call home.

Findings from my study reveal that the nature of the Maasai family has changed in size and composition: the physical structures that previously made up households have reduced in number, so has the number of household members. The findings from my study reveal that the number of household members has dropped from the previous large numbers made up of grandparents, parents, children, daughters-in-laws and grandchildren, to less numbers composed of a husband, wife and children. At the same time, the number of physical structures has reduced to two or three structures, i.e., the main house for the family, kitchen, quarters for circumcised boys and a shed for goats and calves. The implication of these changes is that children are being brought up within nuclear families from where they relate with neighbours, who are not necessarily Maasai. The chances are that a neighbours' child is from a different ethnic group. Likewise, the Maasai children now attend school where they interact with peers from different ethnic groups, and social-economic backgrounds. When the Maasai youngster goes back to their family, they return to the land and household of their parents, unlike before when they went out grazing livestock and returned to the Maasai territory. Now Maasai families migrate with livestock and return back to a specific place called home unlike before when whole families could move, so that home was a seasonal location, within the larger Maasai territory. The Maasai now construct permanent buildings and have invested in fences with barbed wire, improved activities on land, identifiers that make "home" an enclosed place. Within the enclosure called home are families that have shared assets and whose members consult more in decision-making. Families where female members are "moving out" of the *boma* to the public space called school, market, and place of work.

The evolving Maasai household: from unitary to bargaining

My study findings reveal that the Maasai household is evolving in composition, size, assets, and livelihood strategies and in decision-making. I encountered households made up of a husband, wife and three children, very different from the indigenous Maasai household that was mainly composed of the household head, his wife or wives, daughters, adult sons and their wives and children, and sometimes grandchildren. On the other hand I encountered households where the title deed is held by one member, the household head. Such households are composed of many members including the household head, adult and minor children and grandchildren. As a result, Maasai households are changing, though in different ways. Changes in the composition of households are partly influenced by the nature of the land title held, so that households on one-titled land tend to be larger in composition, compared to households where land has been subdivided and titles have been issued to individual household members. Therefore anyone wanting to understand the nature and composition of the Maasai household on private land holdings will need to do it on a case by case basis, and not on assumptions based on the expected practice on individual private land holdings.

I further established that the nature and size of the household has an influence on decision-making: in households where land has been subdivided to individual adult sons, decision-making processes were found to be concentrated within the household. A lot of consultations and bargaining were found to take place between husband and wife, illustrated when Noah reported that even though the title deed to their land is in his name, he cannot sell land without first consulting with his wife. His wife also consults him whenever she wants to make a major decision such as to sell livestock or land. If one of them refuses, the other will have to provide a convincing explanation or the plan stops there.

Young adult men with a title to land were found to consult more with their wives than with their father as the traditional head of their household. Consultation was found to

be concentrated in households with younger household heads of 40 years and less, and households headed by women. Older interviewees (over 60 years) in majority of cases consulted less, further indicated by their use of words and language with some finality on choices made. They used the personal pronouns of `I, my, mine, me' in reference to who owns and controls household assets, and makes decisions. On the other hand, women and younger adult men used the inclusive pronoun "we, us". These tendencies can be explained as remnants of the traditional Maasai patriarchy whereby women were relegated to within the *boma* from where they communicated to the public through their husbands and adult sons. An example is *Mzee* Guyoo, over 70 years old. Even though *Mzee* Guyoo has sub-divided his land and given title deeds to his wives and adult sons, he still talked of the need for his wives and adult sons to consult with him before they can sell land. The sons can sell their share of livestock but not land, as he has put a caution on the land to that effect. These acts of older men refusing to let go are explained by scholars (Kandiyoti, 1988; Kevana, 2012; Ransom, 2011) as resulting from the most recent organization of the economy. Communities, where the economy has recently emerged from a patrilineal organized subsistence economy with the husband as the dominant decision-maker will take longer to change as social norms and institutions take longer to change and adapt. However, customary rules are continually evolving, especially as people from different cultural backgrounds interact, populations grow, political and socio-economic activities change, and new laws and practices are introduced from outside (Boserup 1970; 2007; Platteau 1996; 2000; Cotula 2007), so the Maasai are continually adapting.

Further probing during the interviews revealed that the increased consultation between couples is influenced by the fact that women are involved in income generating activities and own assets within the household, unlike before. The activities include the making and selling of Maasai handicrafts (Plate 6), cultivation of food crops for consumption and for sale, waged employment, women trade in livestock, and women own livestock and land that they inherited from their parents or were gifted by a father-

in-law or husband. Owning assets is said to give bargaining power to different members within the household (McElroy & Horney, 1981; Chiappori, 1997; Antwi-Nsiah, 1993). Assets are mainly to be used for the provision of one's needs or to meet obligations. The traditional obligation of women was to provide food for family members. In the past, Maasai women relied on livestock owned by their husbands to provide food for members of their household. Therefore, if the women are able to cultivate enough food crops or make enough profit from their business to purchase food for the family, then such a woman will feel self-empowered enough to question her husband. The husband will feel obliged to collaborate as not doing so might not have an impact as the woman no longer relies solely on livestock, assets of the man to fulfil her obligations. Similar findings on relations between women's assets and wellbeing have been established by other researchers (Antwi-Nsiah, 1993; Haddad & Reardon, 1993; Sen, 2001; Lilja, 1996).

Private land, gender and household decision-making

The shift in livelihood strategies and decision-making among the Maasai is best viewed under the perspective which theorizes that household decision-making evolves from unitary to bargaining as livelihood strategies diversify (McElroy & Horney, 1981; Chiappori, 1997; Antwi-Nsiah, 1993). The changes occur when household members move away from a subsistence economy by diversifying into other livelihood strategies (McElroy, 1981). Bargaining is said to occur when other household members start to challenge the economic and social power of the household head (McElroy & Horney, 1981). The challenge is demonstrated in situations where individual household members, who own or control essential assets, negotiate with the household head to have their ideas included in decisions and choices made (Pareena, n.d.).

In my study, Anne and the other female participants exuded confidence when talking about the economic activities they are involved in. Anne narrated how her mother stopped cultivating crops on land because her business in beadwork generates more income. However, the decision of Anne's mother to abandon crop cultivation can be

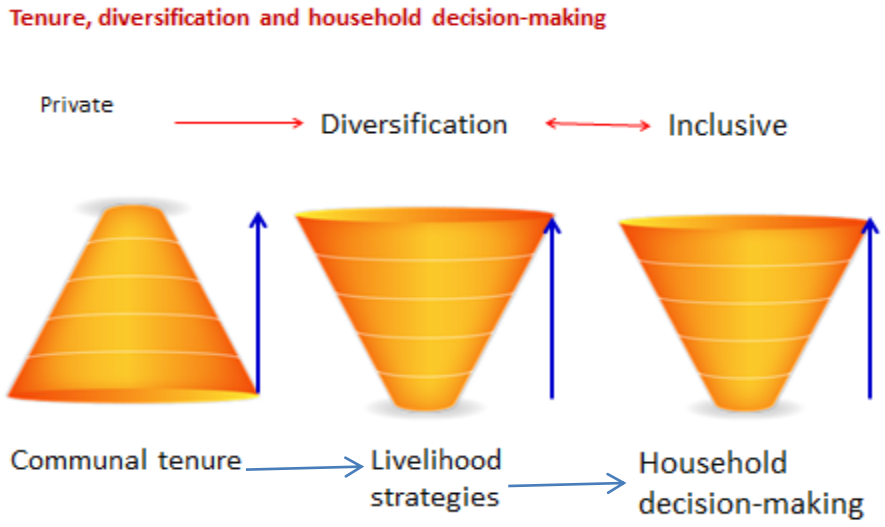
interpreted in another way; that the mother did not feel in control of her decisions, especially if the title to their household land is in her husband's name. In such a case, Anne's mother might not have the freedom to make major decisions on land use, and as a result decided to engage in beadwork business for which she has freedom to make decisions. In future, I foresee more Maasai women will either press for more control over assets of the household, i.e., land and livestock, or they will opt out of land-based activities and move to business enterprises in assets different from those of the head of the household.

Another outstanding observation made from the study findings is in relation to assets and household decision-making. As already elaborated above, the Maasai household is evolving from a unitary to a bargaining entity. As more and more women get involved in income generating activities, the decision-making arena is opening up by being more participatory and inclusive. During my interviews, I noticed that once the women participants started discussing the interview questions, they talked without fear, an indication that they are knowledgeable on events within and outside of the household. I also observed that all the women participants were energetic, and voiced ideas that would be termed controversial within a patriarchy. For example, all the female participants were in agreement that a title deed to land should contain names of both the husband and wife, since the land belongs to the household. To these participants, if both names (husband and wife) are on the land title deed, the man is not likely to sell household land without consulting with his wife. The implication is that women have good knowledge of a land title deed and powers therein.

Based on information on the traditional roles of Maasai women, I conclude that the role of Maasai women has changed over time from a position where they were confined to the *boma* with limited say in decision-making, to a situation where they are able to discuss issues of asset ownership and control, engage in livelihood activities outside of the home and consult and are consulted during decision-making. The most noticeable

new aspect of households that have diversified their livelihood strategies is that decision-making too has diversified from being a preserve of *Mzee*, to include other household members such as women and children. Likewise, during decision-making, other household members are said to be active participants to the extent of sometimes challenging *Mzee*'s decisions. The overall pattern emerging from the analysis of assets, gender and decision-making is that as land tenure changes from communal to privatized individual land holdings, livelihood strategies diversify away from livestock, and consultation and bargaining increases during decision-making (Diagram 4).

Diagram 4: Private land tenure, livelihood diversification and household decision-making



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During my discussions with the study participants, it was made known to me that decision-making has devolved from the community level where it was tedious and time consuming, demanding consensus from many people, to the household level where it involves fewer household members. The participants explained that they prefer decision-making at the household level because it is easier to involve fewer individuals

who live in close proximity, therefore able to consult at any time. Quick consultation with fewer people, mainly the wife, husband, children and sometimes parents and brothers, imply that decisions will be made quickly enough whenever an opportunity presents itself.

Outside of the household, women's roles are recognized in cases where they participate in the market and at local associations from an informed position. For example, women were found to own assets such as goats, beadwork and food crops. The research findings indicate that women do research on local and outside markets to sell their products for the highest price. To that extent, my study findings concur with the writings of Sen (Sen, 2001) that variables of independent income, employment outside the home, asset ownership, literacy and education have a unifying empowering role for women. In my study, I established that more and more Maasai female children are registered in school, while some women are in wage employment and others are engaged in the business of raising and selling goats, milk, livestock manure, food crops and beaded ornaments, and belong to women's groups. Therefore, they have a source of income outside the home. To Sen (2001), women's power, especially the one gained through economic independence can have far reaching impacts on organizing principles that govern divisions within the household and society (Sen, 1990; 2001).

My study further established that part of the women's bargaining power emanates from men, especially younger men who have been exposed to more views from outside their community through education, the media and interactions in the market. These men have hence borrowed new ideas on decision making and benefits of consulting. For example, Amos, a university educated young man informed me that he will consult with his wife, that he will not act like his father who sometimes makes decisions on his own. Asked why he plans to consult with his wife, he said he believes that every individual has something unique to contribute. Amos currently wishes his father would consult with him and implement some of his suggestions. To Amos, a university

education has equipped him with some good ideas that can help his father make better decisions on land and livestock. Therefore findings from my study go beyond what is in literature that household well-being improves as women seek employment outside of the home and own assets. My study established that household decision-making can also change as men get more enlightened through education and interaction with the outside world. The result is that even in households where women have not gained an education or employment outside the home, the men still find it of benefit to consult with their wives. The conclusion reached is that change within households, and especially on gender relations comes about due to many factors, including changes in the status of women, exposure of men to new ideas, and diversification of livelihood strategies.

The agency of women participants in my study is illustrated by the accomplishments of some of them made through smart investments. Liz, in a polygamous marriage, works very hard: she operates a grocery shop, buys and fattens goats for the market, cultivates crops for home consumption and for the market. She uses part of the returns from her business endeavours to pay university fees for her daughter. Like many women in rural areas, Liz sees hope in education, that by struggling now to educate her daughter, the returns will make her life better in future. This was also demonstrated by Naresio, a widow, who is able to provide for the subsistence and school fees needs of her minor children. The older daughters of Naresio received higher education and are now in waged employment whose earnings they use to assist her financially: one in the army and two are school teachers, implying that the younger children will have access to better education, nutrition and health care. Using the case of Liz, I argue that Maasai households are adapting to change. Liz has diversified assets from the traditional livestock to include a grocery store, goats for the market, food crops, cross-bred cows for milk production, educated children in wage employment, she monitors prices in the market before selling her goats. Diversification is aimed at shielding the household from changes in weather, and unsteady livestock markets. This finding relates to

arguments by Sen (2001) and Ramu (1988) that educated women employed outside the home tend to access and provide better health care, education and nutrition to their children, (and aged parents) compared to children of mothers who work within the home. Other literature suggests that women with higher education and a source of income separate from that of their husband reportedly received more respect and were consulted more during decision-making (Lawrence, 2007).

Though the Private Lands Act (1963) gives powers over land and other household assets to members of a household, I found Liz not to be exploiting this provision fully to her advantage. Liz still adheres to many Maasai cultural practices: for example, Liz only started working outside of the *boma* after receiving permission from her husband. Liz also shared information that she cannot do things contrary to the expectations of her husband or culture. For example, if her husband sells land, she cannot report him to the government as community members will view her as being a "bad wife" and some might even socially isolate themselves from her. Liz cannot report her husband to the clan elders, as she puts it, because he will ask her whether she came with any land from her home when he married her. The implication is that according to the Maasai cultural practice, all the land belongs to *Mzee*, Liz's husband. Liz also talked of how she finds it odd that some young people do not give much respect to the elders. She gave an example of how young girls nowadays dress in revealing clothes and some do not give the expected Maasai greeting to their elders (Plate 1), instead they can dare shake hands with their elders or say something like "hi". All these examples demonstrate once again that cultural practices take a long time to change, especially among the older members of society such as Liz, and members of her clan of elders.

The above examples illustrating on a growing women's agency is summed up by Kandiyoti (1988) as the beginning of the demise of patriarchal bargains, which starts first with the release of young men from their fathers, (and women from their husbands), when market forces and capital penetrate in rural areas. Haddad and

Reardon (1993) and Sen (2001) explain that one of the enabling factors is a change in the price of women's assets, hence their bargaining power. The result is a different allocation of resources whereby women get to exercise more leverage in decision-making (Antwi-Nsiah, 1993; Lilja, 1996). Related to the price of women's assets, my study findings indicate the availability of a market for milk, livestock manure, food crops, and handicrafts as enabling to women. These items traditionally belonged to women and were mainly for home consumption but have now gained value as market items, especially the Maasai handicrafts that are widely sought after in local and international markets (Plate 6). Thus, as women depend less on assets of men, and as their income increases, they gain more financial independence and are economically well-placed to provide for the needs of their household members, therefore acquire more bargaining power. The implication is that, to some extent, the Maasai cultural practices of the eldest male as the decision-maker are waning with time. This finding relates to the argument of Kevana (2012) and Ramson (2011) that as women access available economic opportunities, then changes will occur in societal norms and restrictions on women, thus giving them more power over decision-making and household assets, and subsequently such a household will be viewed as progressing from unitary to collective bargaining.

Livestock keeping on private lands

The Maasai households in Ewaso Kedong have diversified livelihood strategies to include wage employment, business enterprises, cultivation and marketing of land and food crops, as a source of income. Some of the animals kept are of improved breeds, chosen carefully for milk and beef production, for home consumption and markets. The study participants revealed that change in the number and quality of livestock has been necessitated by factors such as reduced size of land, reductions in labour and challenges of accessing water and pastures, especially as more land owners fence in their land. Increases in drought has made Maasai households to question the cost-effectiveness of keeping large herds of livestock that end up dying from lack of pasture and water.

Through exposure to the outside world, the Maasai have realized that it costs time and other resources to keep large numbers of cattle that produce the same amount of milk as could be gained from fewer livestock of better quality. Findings from my study point to a future where Maasai households will continue to keep livestock though in a changed form: some Maasai prefer to have many livestock of the traditional breeds while others have reduced the number of livestock to fewer improved breeds; a situation which relates to events taking place in the larger environment.

Vendryes (2012) and Schwartz (2005) reference studies from different parts of the world and conclude that pastoralism as a livelihood is disappearing. In places such as Saudi Arabia, pastoralism has been transformed into what is referred to as "high input mechanized long distance grazing systems" (Schwartz, 2005). In the southern rangelands of Tunisia, pastoralism is disappearing as the area is currently depopulated as pastoralists have abandoned the lifestyle and moved into other sectors of the economy to earn a livelihood. Likewise, in Somalia pastoralists are faced with conflicts associated with the privatization of former communal lands for settled livestock production. Schwartz (2005) therefore concludes that in many other parts of the world, pastoralists have integrated into the wider market economy and have changed from the traditional practice to specialized meat production for the market. Likewise, some Maasai households have made changes to livestock keeping with a focus on improved breeds for milk and meat production for the market.

In the above section I have focused on emerging issues as a result of the choice of Maasai households to hold land as individual private property. To bring this discussion to a conclusion, I single out issues that are still relevant to my study, but will require more attention in the form of further field research and deliberations.

Recommendations

The discussions above reveal emerging issues that require further research and debate. Therefore I make the following recommendations to policy makers, to scholars debating the land tenure question, to households in Ewaso Kedong and to development agencies working with the Maasai on development and poverty alleviation.

1. The understanding of change in land tenure and decisions on choice are better understood from a historical perspective, i.e., choices of land tenure have been shaped by historical events (memories of the loss of land and the fear of losing land), and by the need to provide for a livelihood within the current market-based economy.
2. Pastoralism being a land-based livelihood strategy, reliant on mobility and availability of labour means that changes to land tenure, size of land, and labour, will result in changes to the practice of pastoralism. Pastoralism has changed by including improved livestock breeds, feeds, and use of veterinary services. The need for further research to establish the impact of settled livestock keeping on ASAL environments.
3. More research is needed on the definition and practice of private property. Is it a "one-size-fits-all", or context specific? Findings from my study indicate that the concept of private land in Kenya is implemented differently from that described in literature by other scholars. In the literature, rights in private property are recognize and limited to only those in the contract, whereas in Kenya, the law recognizes household members as part of the title deed, even in cases where their names are not part of the contract.
4. The current trend of land sub-division and registration of title calls for more lobbying and advocacy for recognition of both private and communal land tenure as provided for in the National Land Policy (2009) and Constitution of Kenya (2010). Advocacy work will help shift the current thinking that only privatization through individual titling provides security of tenure.

5. Based on these findings, my recommendation to scholars studying land tenure in rural Kenya is to be open to new trends as seen in the amalgamation of the two approaches (free-market and social relations) by the Maasai on private land tenure. As a follow-up to this finding on the complexity of social relations, I make a recommendation for future research to focus on the land buyers in Kajiado to get their perspective on the type of property relations anticipated when they purchased land in Ewaso Kedong, and which relation they have had to practice in their new homes in Ewaso Kedong.

Conclusions

Change is inevitable. The Maasai of Ewaso Kedong have embraced individual private land holdings with the advantages and disadvantages that come with it. At the stage they are in, the Maasai have households cannot retreat and will not because the benefits of being on private land have enabled them to continue to support a viable livelihood strategy, hence, escape falling into poverty. Though private tenure has brought challenges to the traditional social relations, the Maasai have found a way to balance the `then' and the `now', a middle ground of sorts, e.g., they are on private land, yet continue to assist community members in need by fundraising for school fees, for medical bills, and share pastures.

Based on the study findings, I find it important to appreciate the fact that change among Maasai households is occurring at different paces, depending on the reality of each household in terms of assets and the skills of individuals within households. The Maasai have embraced new ways of doing things, especially in relation to land tenure, access to information, diets and education, while retaining some social-cultural practices, such as pooling resources and assisting those in need. The Maasai still value livestock as part of their livelihood strategies, the reason they have adapted livestock keeping from pastoralism to settled production so as to continue benefiting from the products of livestock.

I conclude my dissertation with reflections on the future of private land tenure, pastoralism and social relations and livelihoods of the Maasai of Ewaso Kedong. One would still ask the question, what land tenure choices Maasai households should be making? The initial answer would be communal, because Kajiado is an ASAL, where pastoralism has traditionally proved to be the most viable livelihood activity. However, findings from my study indicate that the way of life of the Maasai has changed, including their land tenure and livelihood strategies. The changes have provided opportunities and challenges from which some Maasai households have benefited by strategizing around their assets, available land policies and processes, and in the process they have overcome challenges brought about by drought or lack of labour. More changes are bound to occur as more Maasai children acquire a formal education and the older generation gets more exposure to the outside world. The study has revealed that there still exists challenges in individual private land tenure, previously thought of as the answer to shortcomings of communal tenure. The indication is that the debate on communal verses individual private tenure will continue.

The Maasai, though on private land are still at the crossroads because they have embraced private land tenure yet they live in an ASAL where pastoralism has been identified as the most adapted livelihood strategy. On the one hand, diversification of livelihood strategies from pastoralism to include the cultivation of crops and settled livestock keeping is a good choice by the Maasai in that diversification will enable them escape falling into poverty, especially as weather changes become more unpredictable. However, permanent settlements in the fragile ASALs are bound to result in resource and land degradation. For example, by the Maasai settling down on individual private land holdings, they are bound to cultivate more food crops. Ewaso Kedong being an ASAL, the cultivation of crops will require irrigation. The study has already established that droughts in the area have increased in frequency and intensity, so where will the Maasai get water for irrigating crops on land? The sub-division and privatization of land means that there will be less land available for the practice of pastoralism as well.

Therefore, the Maasai are still at the crossroads with multiple constraints and opportunities, all depended on their assets and livelihood strategies.

Drawing from the above discussions, I conclude by saying that the Maasai are integrating into the wider market economy by reorganizing their assets, social relations and livelihood strategies. Even though members of Maasai households have conflicting views on property rights on land, with some in favour of private and others communal land tenure, there is evidence that the basis used by households to make decisions is comprehensive, considering the institutional and environmental constraints surrounding their decision-making processes.

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APPENDICES

Appendix A: Objectives of the study

INFORMATION SHEET FOR INTERVIEWEES

Study Topic: Negotiating Rural Land Tenure

Title of Research Project: Household Decision-Making on Choice of Private Land Tenure

Principal Investigator:

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Purpose of Research Project: The proposed research is intended to establish the rationale of household decisions to hold land as individual private property.

Note: *In the Maasai culture it would be disconcerting and culturally inappropriate for me to expect the participant to read and sign an information sheet before agreeing to an interview. Thus, I will paraphrase contents of this information sheet when I go to each interviewee, and leave a copy of the information sheet with them for future reference*.

Method

You are being asked to talk to me the researcher on how your household makes decisions on choice of land tenure and livelihood strategies. I am a university student so the information collected will be used to write a PhD thesis as part of my study requirements. Your participation in the interview is entirely voluntary and you are to answer the questions in your own words - there is no right or wrong answer. The interview will last for about two hours (varying with individual interviewees), and you may be asked to talk to the researcher again at some other time if issues come up that require clarification from you. In this study, **land tenure** will be understood as the terms and conditions under which the Maasai people acquire, access, use, retain, transmit, or dispose of land. The current land tenure types in Kajiado are in the form of group ranches, trust land and private land. **Livelihood** refers to the way(s) in which people obtain and express a living. **Livelihood strategies** will refer to the ways through which Maasai households obtain a livelihood by earning income and obtain one's living needs by doing several different activities, and even migrating. **Household** and **family** are used interchangeably to imply identifiable Maasai dwelling unit(s) and members therein.

Confidentiality

While I cannot guarantee total confidentiality and anonymity of the statements you make, I will make every effort to protect your privacy. It is possible that people at your home (or other place where interview is being conducted) will know that you took part in this research study, however they will not know what you said. The interview will be recorded on tape to enable me to capture your thoughts without misquoting you. At a later date I will listen to the tape and type out the contents as they are before analyzing them. Your name as the interviewee will not be recorded on the tape unless you insist, and in such a case I will take note of such a request. Instead, a number or nickname will be assigned to each interview and used on anything that gets written about the interview. Only I as the principal researcher will know the name of the person on the tape and its respective transcript. All original tape recordings will be saved in my computer and protected by a password.

Benefits

This study may or may not have any direct benefits for you. Nevertheless, it is hoped that your perspectives on household decision making on choice of land tenure will be an important source of information on the Maasai in relation to key relationships between land tenure and household decision-making, and interactions between access to land, the practice of pastoralism, social relations among people and poverty alleviation.

Risks
The research is not expected to harm you as the interviewee in any way. Anything you say will be kept in confidence with me and my University supervisor, Naomi Krogman. We will not use your name and be careful in how we represent your quotes so that you won't be identified by anyone reading the study findings.

Withdrawal from the Study
You are free to withdrawal from the research at any stage without any consequences. If you decide after the interview that you do not want what you said to be used, all you will need to do is communicate with me within one month of your participation in the study. My contact information, including that of my local contact person, and that of my supervisor in Canada are on the first page of this information sheet. If you contact me directly or through the local contact person within one month of the interview to ask your interview be removed, I will destroy the audiotape of your interview and not use anything you said in the study.

Use of your Information
This study is being done for a PhD thesis. I will learn from my interview with you and several others, and summarize these interviews into research documents and presentations. Your name will not appear in the research documents or presentations. A copy of the research report will be provided to the Ministry of Research and Technology, Kenya as specified in their research permit to me. The research findings may also be presented in academic journals and research conferences.

Appendix B: Interview guide

INTERVIEW GUIDE

Field Study in Kajiado, Kenya on:

HOUSEHOLD DECISION-MAKING ON CHOICE OF PRIVATE LAND TENURE

Principal Researcher: Eileen Omosa, PhD Candidate, Department of Rural Economy

Demographic information

1. Age
2. Gender
3. Marital status

1. Please describe a bit **about yourself**, including **your role** within your household and within the larger Maasai community.

2. What are the roles and responsibilities of members within your household? (Probe: *wife/husband, children, in-laws, etc.)*

3. How does one get to become a **head of a household** in the Maasai community? *(*Probe*: Is it the one who provides basic needs, the oldest member of the family, male member, one with most animals, money, education, etc.)?*

Assets and livelihood activities

4. What are some of the assets within your household? (Probe: *source, ownership, control, uses,* etc).

5. What livelihood activities are members of your household involved in (Probe: *interviewee, other individual members*)

6. Who allocates roles, responsibilities, resources within the household? (Probe: *criteria used, when dealing with whom,* etc.)

Household leadership and decision-making

7. How were decisions made in the traditional set-up of the larger **Maasai community** (before the Whiteman came to Kenya) (Probe *who was involved in decision making, what structures and processes were available for them to use when making decisions, etc.?*

8. How are decisions made within the larger Maasai community after the arrival and interaction with the Whiteman? (Probe *who was involved in decision making, what structures and processes were available making decisions, etc.?*

9. How do the Maasai households make decisions **nowadays (**Probe *who is involved in decision making, what structures and processes are available for them to use when making decisions, etc.)?*

10. What **process** do people within Maasai households typically **follow** as they make decisions, especially on the choice of a land tenure type to hold land?

11. What **changes have you witnessed** to the way the Maasai make decisions in the traditional and modern times? (Probe: *what are the noticeable changes in the structures, procedures followed, etc.*).

12. Who **guides** Maasai households or the community when making decisions (Probe with *do individuals make decisions, do they consult others, do they follow existing government policy, do they rely on the land or money or information they possess, etc.*)?

Land and land tenure

13. What type of title is your household land held (Probe: *one title to the household head, many titles to different members of the household such as wife, adult sons,* etc.)

14. In whose name is the land title to the household? (Probe: *whose decision was it, how do other members of the household access land*, etc.)

15. Why do **different Maasai families hold land** in different land tenure types (Probe: *elaborate on which land tenure types are practiced and reasons for the choice*)?

16. How did your **household members** arrive at the **decision** to hold land as individual private property? (probe: *who is involved in decision-making, who made decision on private land tenure*)

17. Whose decision was it to **hold land on private tenure**? (Probe: *household head, adults of household, all members of household*?)

18. What is good/**advantages** of holding land on private tenure? *(*Probe: *for benefits to the individual, household, community)?*

19. What is NOT good/**disadvantages** of holding land on private tenure? *(*Probe: *for negative effects to the individual, household, community)?*

Social relations

20. What is the **nature of social relations** at different historical periods of the Maasai community (Probe: *communal lands, group ranches, individual private land holdings*).

21. What changes have occurred to the way people within your household and community relations (Probe: *positive changes, negative changes, response from individuals and groups*)

22. How have you dealt with some of the positive and negative change?

23. Do you have any dealings with the larger community now that you are on private land (Probe: *what types of social relations exist among members of households and the larger community, etc.)*

24. How does **consultation** among household members **contribute to decisions made on land tenure?** (I.e. *probe: are decisions made through consultation different from those made by individuals*)?

25. How are the **benefits** and **drawbacks** of group decision-making shared at the household level? *(*Probe: *if more than one family member makes a decision that turns out to be **beneficial or not good**, how is such a situation dealt with – this can be in the form of rewards or punishment)*

26. What lifestyle do you prefer and for what reason? (Probe: *in the communal set-up, group ranches, or individual private land holdings?*)

27. Do you have livestock? What do they **feed** on most days of a given year? (Probe: *pastures, nappier grass, processed flour, etc.*).

28. Have there been any **changes** to the way you raise your livestock? (Probe*: identify and discuss changes*)

29. Where do **livestock** from your household graze now that land has been **sub-divided** into individual holdings? (Probe: *on the future practice of pastoralism, for how long pastoralism will continue, and in what form, etc.*).

30. Are there specific concerns you have about continuing your pastoral livelihood? Please explain.

31. Where do you see the practice of pastoralism (by your household, and community) in the future, i.e., in the next five, 10, 20, 50 years?

Thank you for your time and for sharing your ideas. I will be compiling all the interview responses i**nto a report i**n the coming months. If you have any further comments or ideas please feel free to contact me.

Appendix C: University of Alberta HERO Research Permit

Ethics Application has been Approved

ID:	Pro00013752
Title:	Land Tenure and Rural Livelihoods: The Rationality of Household Decisions on Choice of Land Tenure and Survival Strategies among the Maasai of Kajiado, Kenya
Study Investigator:	Eileen Omosa
Description:	This is to inform you that the above study has been approved.

University of Alberta
Edmonton Alberta
Canada T6G 2E1

Appendix D: Kenya Government Research Permit

REPUBLIC OF KENYA

NATIONAL COUNCIL FOR SCIENCE AND TECHNOLOGY

Telegrams:"SCIENCETECH", Nairobi
Telephone: 254-020-241349, 2213102
254-020-310571, 2213123.
Fax: 254-020-2213215, 318245, 318249
When replying please quote

P.O. Box 30623-00100
NAIROBI-KENYA
Website: www.ncst.go.ke

Our Ref: **NCST/RRI/12/1/SS-011/521/5**

Date: **3rd May, 2011**

Eileen Kwamboka Omosa,
University of Alberta,
ALBERTA.

RE: RESEARCH AUTHORIZATION

Following your application for authority to carry out research on **"Land tenure and rural livelihoods: The rationality of household decisions on choice of land tenure and survival strategies among the Maasai of Kajiado"** I am pleased to inform you that you have been authorized to undertake research **Kajiado District** for a period ending ***31st December, 2013.***

You are advised to report to **the District Commissioner, the District Education Officer of Kajiado District** before embarking on the research project.

On completion of the research, you are expected to submit **one hard copy and one soft copy** of the research report/thesis to our office.

P. N. NYAKUNDI
FOR: SECRETARY/CEO

Copy to:

The District Commissioner
Kajiado District

The District Education Officer
Kajiado District