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# Ha(l)ving land in common: the subdivision of Maasai group ranches in Kenya

John G. Galaty

## Introduction

Throughout the world, customary rights in land are being replaced by formal systems of tenure, often devised to stimulate change in forms of agrarian production. With the demise of collectivism and the dissolution of many state-owned agricultural enterprises, privatization of rural land has gained legitimacy as a model for both empowering and 'modernizing' a peasantry, for the theoretical aim of achieving greater sustainability of and efficiency in forms of resource use (Toye 1987). But, despite the rosy image of peasant rights being secured through private title, the moment of enclosure and privatization is more often characterized by exclusivity rather than equity. All too often, land is consolidated in the hands of a few, who use it less intensively and sometimes less efficiently than was the case prior to enclosure (Bromley 1992).

To avoid the inequities and fragmentation that accompany privatization, some tenurial models have been developed that would confer land rights on a community, whose members would bear responsibility for managing and husbanding its resources (Ostrom 1990). Far from allowing "open access" for anyone to anywhere, "common property" systems, whether based on custom or innovation, are associated with a definable group, ideally a 'commu-

nity', for which having land 'in common' entails both rights in and responsibilities for definable resources (Bromley & Cernea 1989).<sup>1</sup> Community property, which, although often based on customary rights may also be titled, is most appropriately distinguished not from 'private' property, per se, but from individual ownership, on the one hand, and state ownership on the other. One might suggest that the future disposition of the world's great agrarian regions will be influenced by whether community property — in its many forms — proves *politically* sustainable faced with its attractiveness for those in a position to benefit from its enclosure and individualization. Quite apart from whether state, communal or private holdings tend to be more or less efficiently or sustainably managed, if land can be, it tends to be individually appropriated unless institutional and legal safeguards are put in place and the legitimacy of a given form of land holding is maintained (North 1990). This paper explores the legal, institutional and social conditions under which a particular system of common holdings becomes vulnerable to enclosure and individualization: Group Ranches in Kenya.

The conundrum of property is especially acute for dryland regions for which the contradiction between equity and viability — and between achieving scales of holdings ecologically large

enough but managerially small enough — is especially pronounced (Peters 1994; Bennett 1988; Baxter and Hogg 1987). The notion of the 'group' represented a compromise between customary and private forms of tenure, especially suitable for arid and semi-arid regions in which range resources are primarily used in extensive forms of exploitation. Group Ranches, as founded in the Maasai districts of Kenya from the late-1960s to the mid-1970s, exercised three functions: land-holding, resource management, and community organization (Galaty 1980; 1992). For twenty years it has been asked "do Group Ranches work?" Today we must ask "why are Group Ranches failing?" Furthermore, if group holdings are diminished, or if group entities are legally dissolved and their land assets subdivided among its members, how will necessary community functions, including management of regional resources, be carried out? If we understand what pressures have led to the demise of the program in several districts, we may be able to ascertain whether it has been a failure of concept, a failure of program, or a failure of execution (Galaty 1994a).

The 'group' is a definitive human collectivity that stands in an exclusive relation to a precise tract of land, to which it holds title. To adjudicate a given region as a Group Ranch, a committee of 'representatives' is struck by the Ministry of Lands, which serves to define and register the group's membership and to administer the group holdings and manage its resources. The registered members, who are drawn from the community that has customary rights of occupation, collectively hold the group title. However, the registered members are, by design and in fact, primarily adult males, though they are considered to hold the land on behalf of the entire community, including un-

derage males and females, children and adults. In principle, subsequent members may be registered, though they should be drawn from the residential community; the cohort of young men who come of age have been considered in the past to be entitled to registration. Thus the 'group' holds land, manages resources and represents a community; however, all three functions are in fact normally exercised through its committee, the 'group' representatives (Galaty 1980).

In the past, local communities such as the Maasai have often practised sustainable resource management using a mixture of common and familial property rights. Current development policies generally encourage privatization, but the beneficiaries — frequently those with wealth and power — often do not use resources efficiently or sustainably (Toye 1987). Here, privatization is overdetermined, since it emanates from interests at several levels: from interest groups composed of those who anticipate receiving benefits, at the local and national levels, and from the international community, composed of policymakers, bureaucrats, theorist-scholars and investors (North 1990).

The latter have proposed that the twin ills of collectivization and common property were best cured through placing property in the hands of individuals. The assumption has been made that property systems (based on written laws and unwritten cultural norms) exercise a crucial influence over the ways in which people interact with nature, and help shape the social and political relations between individuals and groups connected through the land on which they stand (Bromley 1991). Privatization, it has been thought, would encourage more judicious, sustainable and productive use of resources and more efficient and careful husbandry of the

environment (Hardin and Baden 1977). But conjoining desirable outcomes does not necessarily make them compatible: sustainability and productivity are often difficult to reconcile.<sup>2</sup>

Based on freehold title, it was thought that Group Ranches would provide security of tenure, and this would lead to increased investment in the land and greater range productivity. Security of tenure would be ensured through limiting membership to a specified group, the registry of members confirming the rights of each registered member to an unspecified but equivalent share of group assets. An entailment of secure title was the right to exclude non-registered persons and groups from occupying group holdings, but this right appropriately applied pertains only to those without customary rights, who cannot be construed as members of the community. Thus, although legal membership rights are only held by registered members, members of their families and other non-registered community members have been seen to retain certain rights in the group holding: of residence, of potential inheritance, and of eligibility for future membership.

In this paper I will develop the disquieting thesis that the Group Program implemented in the Maasai districts fulfilled none of the institutional requisites that would have increased its chances of success (North 1990). Security of tenure was undermined since membership was generally not limited, share-rights of members were not protected, and exclusion of non-members was not accomplished. These failures undermined the conditions under which investments could be made using group holdings as collateral, and it is unclear that any increases in the productivity were achieved on group holdings. Group Ranch failure was less

the reason for subdivision than its result, an outcome of the seemingly inexorable process of enclosing and individuating parcels of the group's holdings that in fact in many cases began even before these holdings were adjudicated under group title. Government agencies and officials have been deeply involved in encouraging and benefitting from subdivision, to the extent that we must doubt the good faith of the Kenyan state regarding the implementation of the ambitious and costly Group Ranch program. It is, however, important to examine how the conditions of potential success were undermined in different ways with respect to different Group Ranches.

### Varieties of dispossession

#### The Effects of Registration on Community Rights

On the basis of what was deemed customary practice, only adult males were registered as group members. It was thought that women and children would gain rights in group holdings through their fathers or husbands, although provision was made in some cases to register widows with minor children, whose husbands would have been eligible had they survived. When young males came of age, through initiation and being issued a national identity card at the age of eighteen, they — with their entire age-set — were entered as full members on the group register, by act of the ranch committee and the consent of the members. This obtained for the age-set formed in the late 1970's (*Irang'irang*) and in the early 1980's (*Ilkipali*). However, by the end of the 1980's pressure towards subdivision had increased and demographic factors had swollen the potential recruits. Whether on the eve of subdivi-

vision members of the age-set formed around 1988 (*Ilmanjeshi*) would be registered became a heated debate in each Group Ranch, leading in some cases to violence and court cases.

Some registered members protested that registering the large group of young men would give an undue advantage to those families which had produced many children at a time everyone is aware that smaller families are being encouraged. Each registrant had gained an equal share at the time the Group Ranch was founded; now, at a time each faced receiving a definitive tract of land through subdivision, that share was diminished each time a member was added, but not in proportion to the original shares. It was argued that these young men, and all children who followed, should inherit their land shares from their fathers rather than gain them directly through registration. With larger families pitted against those with smaller families, the young men equally argued that they were being dispossessed, since even for those from smaller families, their fathers invariably had many other younger sons who would also require shares in the family holdings. Those coming of age argued that by customary law their right to hold and use land was acquired through initiation and by their achieving maturity, that is, via the community rather via their individual families. Moreover, the father, despite his appearance of being trustee of a family share, in fact owned a share outright and legally could both evict and disinherit sons. Thus, the argument goes, their customary rights should not be devolved to those of their fathers, since the latter were not legally bound to recognize or protect their rights.

After discussion, on some Group Ranches it was decided to register members of the new age-set; on others, it

was decided against. On Elang'ata Uas Group Ranch, in Ilodokilani section, the conflict was projected onto age-set relations, as the politically predominant age-set, responsible for making this decision (the Seuri), was also socially responsible for the new age-set, thus charged with ushering the group through the ritual stages of the life cycle. Their decision not to register the new cohort led to a critical breach of peace, with the unthinkable occurring: physical conflict between those in the privileged relation of age-set sponsorship, and cursing of elders by juniors. Every two successive age-sets are consolidated to form a single generation, but in the present case the senior 'right-hand' set was allowed to be registered while the junior 'left-hand' set was not, leading to the question of whether alienation between the two (and with their sponsors) would be too great to allow for consolidating the whole age-set at the appropriate time (yet to come). Elang'ata Uas is currently being brought to court over its decision.

#### The Insinuation of Outsiders

One reason young Maasai resent being denied registration is that on many Group Ranches persons without customary residential claims have been registered as group members. These include non-Maasai who earlier became local residents, non-Maasai who are clearly non-residents, and non-resident Maasai, usually educated and/or politically influential. The presence of non-Maasai within the Maasai region was subject to much discussion and administrative deliberation during the colonial period, when the Maasai reserve was theoretically 'closed' to outsiders. Despite this fact, numerous Kikuyu established personal and family ties with Maasai, many over time becoming "ac-

ceptees". Many such Kikuyus with long residence and ties with Maasai were registered as group members and expect to receive portions of individual land upon subdivision.

However, many non-resident, non-Maasai, in addition to purchasing land made available by individual ranch holders, have sought registration as group members in anticipation of subdivision. This has especially been the case in the Maasai locations closest to Central Province, especially among Kaputie and Keekonyokie Group Ranches, the latter lying immediately southwest of Ngong and Nairobi. Most members of the ranch committee are non-literate and, unfortunately, many have proven corruptible. The Group Representatives Act stipulates that names shall be added to the register with the agreement of two-thirds of the committee, which in practice means six out of the usual ten members. But this has often been done with the signature of one or two if the committee members, namely the chairman and secretary, and there are many cases in which the District Commissioner, the District Officer, or the Director of Lands in the Ministry of Lands and Settlements, add names with neither the agreement nor the knowledge of the local committee. The process of adding new members to the register often circumvents the membership of the committee structures which do exist, as well as directly subverting it through bribery, in other cases. Two of the worst examples will suffice to illustrate the process.<sup>3</sup>

#### *"Land Grabbing" in Mosiro*

The first case is that of Mosiro Group Ranch. This ranch lies in Keekonyokie location, along the banks of the Ewaso Ng'iro river, along the slopes of Osoit le Mosiro, the western escarpment of the Rift Valley. Although situated in the area of the Keekonyokie, it includes

many Maasai from the Purko section, those who always lived there as well as those who have come into the region from neighbouring Narok District during the last thirty years.

In 1991, the committee began the process of subdividing the ranch, and adjudication of individual parcels began. However, with connivance between the Ministry of Lands and the group secretary, a few steps were very quickly and quietly taken to initiate the process. Surveyors were called in, who rapidly befriended the secretary, who was the one literate member of the committee (having had four years of primary schooling), and a brother-in-law of the chairman. By bribing members of the committee, a large number of rich non-Maasai from outside the district, primarily Kikuyu, were introduced into the register, along with their relatives. After being secretly registered, this group exerted pressure on the principal committee members to subdivide quickly, so that they could acquire title deeds. Politicians from the area assisted in keeping the matter secret while the area was subdivided and title deeds surreptitiously prepared, not in the relatively public district land office but in a small, local land building in a region remote from the area in question. Although local Maasai knew nothing of the exercise, rendering the entire process illegal, and although the adjudication was incomplete because many registered members were not taken into account, officials from the Ministry of Lands began to issue title deeds. Of a total of 1,040 parcels of land for which title deeds were to be issued, 371 were non-resident Kikuyu, and some non-resident Maasai, without any legal claims of residency in the area.

The affair, long known to political leaders and officials of the Ministry of Lands but up to then unknown to lo-

cal residents, surfaced when title deeds were being issued to non-Maasai in the District capital of Kajiado. When asked why the crowd was there, one replied, "We are here to get title deeds for land in a place called Mosiro. Do you know where it is?" Alerted, a group of literate Maasai demanded of the District Commissioner that he halt the exercise. The Vice-President of the country, who is also Member of Parliament from this constituency, was approached and he promised an investigation. A large meeting was called at which the Director of Lands, in the presence of the V.P., nullified the entire exercise. The list of illegal registrants included relatives of the Minister of Lands, the Director of Lands, and many other public servants in the Ministry of Lands and the County Council, and local chiefs and politicians. When asked about corruption in the Ministry of Lands, a high official had the brazenness to evoke the Mosiro case as an example of how the process worked correctly, since it had been nullified, failing to mention that of all the officials who had committed illegal and improper acts, none was charged or suffered penalties. Kikuyu registrants, however, feeling that they had "paid" for their land in the form of bribes, brought forward a case challenging the nullification. Although the case was dismissed, it is currently under appeal.<sup>4</sup>

#### *Land Loss at Red Water*

Prior to and running parallel to the Mosiro allocations were comparable illegal exercises in two other Group Ranches in Keekonyokie location: Ilkisumeti and Iloodariak. The Ilkisumeti case was nullified, but the Iloodariak case continued with interesting ramifications.

Iloodariak, the place of 'red water', is situated even closer to Ngong and Nairobi than Mosiro. The area, which

lies on the opposite side of the Rift Valley from Mosiro, about four kilometres from Ngong, stretches from springs and waterfalls along the eastern escarpment to the broken ground descending to the Rift Valley floor. The Group Ranch was declared in 1979 and a committee declared, which then proceeded to register members who resided there. However, today it is claimed that approximately two thousand residents were at that time left off the register, and only by paying members of the committee were other legitimate residents entered. Subsequently, over three hundred and sixty outsiders, including high-level civil servants from the Ministry of Lands and other politically influential persons, were entered on the group register, with or without the permission of committee members. Most of those entered were from Central Province, although a sizeable number of influential Maasai from elsewhere in the district were also included; many of the non-resident registrants were also registered illicitly as members of the Mosiro and Ilkisumeti ranches.

Despite complaints registered at district and national headquarters, subdivision proceeded and title deeds were issued to many of the registrants, especially those of non-resident status. However, when several attempted to visit their sites and to begin to build structures, they were beaten and chased away by local Maasai, many of whom have long occupied and used lands for herding which at that time they were only gradually coming to realize they did and still do not own. A group of young Maasai men from the area who had been denied registration brought the case to court, but the case was dismissed without its merits being considered, since objections were technically raised later than the period allowed for appeal of an adjudication.

The group deliberated on whether to appeal this dismissal of the case. In the meantime the President of Kenya himself was approached and the corruption and irregularities involved in the case set forth. He directed the government to consider the appeal through the courts, rather than issuing a nullification, as had been done in the Mosiro case. Electoral factors may have entered into his decision, since it occurred during the period approaching the last election; with the promise to return the case to court, the complainants were given hope but the title-holders whose claims were being objected to were not rebuffed. However, the appeal must rest on a report of the stages of adjudication which can only be written by officers in the Ministry of Lands; but by preparing such a report, they may well incriminate themselves. After a delay of several years, this report was finally written by an officer not involved in the Loodariak matter and it was delivered to the Attorney General's Office. But since officers at each level of government either have personal interests in the Loodariak allocations or may be susceptible to political pressure, it has proven difficult to have the facts of the matter reviewed or to reveal corrupt practices that were used to add non-residents to the register. Faced with the expense of appealing the case and the possibility that the appeal will fail, either on technical grounds or due to political pressure, the community must decide whether to pursue the case through legal channels or make public appeal for a presidential decree nullifying the adjudication.

### The (com)promise of commonality: factors undermining group ranches

The group concept seemed so promising as a means of maintaining

the social and economic advantages of common holdings at the same time land registration (though not individualization) was opening the door through which would come investment to develop a Maasai ranching industry. Yet in hindsight the Group Ranch program was compromised from the outset; it opened the door not to cooperation and development but to conflict and corruption. Now that some of the shortcomings of agrarian privatization seem clear, and well-conceived designs for systems of common resource management seem worth entertaining (Ostrom 1990; Netting 1993), it is instructive to ask which factors in particular contributed to undermining Group Ranches, especially in Keekonyokie section, and how the program could have been made more successful.

### Open-ended Membership and Non-resident Registrants

What motivates non-residents to seek land in Keekonyokie section, either through purchase or by receiving allotments, usually illicitly, through subdivision? Some surely seek land to settle on, to attempt cultivation despite the arid quality of the region; this is especially so, due to the land pressure experienced in the neighbouring highlands of Central Province. However, many non-residents, Maasai and non-Maasai alike, have no intention of ever occupying or making productive use of the land they acquire. For them, acquiring title deeds will provide them with collateral with which to guarantee bank loans, which many will not bother to repay. With a loan acquired, they will have effectively made liquid whatever asset the land represents, and they will leave it to be foreclosed and seized. Maasai herders may continue to use such land, little aware of the changes of land status



occurring underfoot.

The cases reviewed above illustrate two processes by which the principle of definitive membership has been confounded by the actual implementation of the group program. Firstly, the understanding that local residents would be periodically added to the register when they came of age has made the size of the membership intrinsically expansionary. Before subdivision occurred, this principle rendered membership a continuously decreasing value (as a 'share' decreases with increases in membership); in the face of subdivision, the decrease in the real amount of land any one individual or family would acquire become a tangible and compelling reality. Effectively, insofar as the principle of progressive recruitment did become a community entitlement for males, it implied that family shares, and the holdings each share represented, would inevitably shrink. Secondly, faced with creeping subdivision as favoured members and outsiders were given land out of the common holding, it became clear that what was technically a single, common title was in fact partible; with this, the question was raised not only as to how much each family would receive but whether each would receive anything at all. Thirdly, with non-residents added to the register, the entire principle that groups were constituted out of a community with customary rights of residence was violated.

#### The (In) Security of a Share

The group title theoretically represented a means of ensuring that the rights of the community in a given domain of land were inviolable. Through registration, members were ensured that their rights in equivalent "shares" were recognized. However, with expansion of the number of registered members,

each "share" was in effect diminished in value, a reality made most apparent when the calculus of subdivision was considered. However, another dynamic was at work from the time group ranches were created that further undermined the integrity of the domain and the value of individual "shares". Certain privileged members demanded individual ranches, which were created side-by-side with groups. Subsequently, members of group ranches with special influence, education or position began to stake out parcels of the group domain as their individual holdings, and then they demanded that these parcels be adjudicated as individual holdings and that they receive private title. Ranch committees, with encouragement, often acceded to these demands; in fact, committee members were often foremost in making such demands. However, if individual holdings were refused, members often circumvented the committee altogether, approaching district administrators or land officers to issue individual titles. This members of group ranches not only saw their number of members grow; they also saw their domain shrink. Increasingly members whose economic interests would clearly have lain in maintaining group holdings sought comprehensive subdivision under the assumption that they should claim something now or have nothing later. After the integrity of the group domain had been fractured, there seemed to be no solution other than to give each his rightful share.

#### Abridging the Right of Exclusion

The obverse of establishing a definitive membership is the right to exclude non-members from the group holding. Since Maasai registrants were considered trustees for their families, exclusion was never considered for Maa-

sai community members. But despite the fact that 'groups' attained freehold title, from the perspective of outsiders Group Ranches often appeared to resemble communal holdings, from which exclusion is often difficult. Therefore, with the strictures of the "closed district" eliminated, many outsiders flocked onto group lands, establishing farms and squatter settlements. While some such immigrants were welcomed, they were often followed by numerous friends and relatives, producing crisis situations on certain ranches that lay adjacent to agricultural communities. Some Kaputie ranches were filled by Kamba settlers, some in Kilgoris were sought by Kisii and Kipsigis migrants. Many immigrants ultimately sought and many were given registered status, although many remained as "squatters". But in all cases, these settlers proved very hard to remove, despite the right of exclusion implied by freehold.

In the context of ethnic conflict, preceding and accompanying the 1992 Multi-Party Elections in Kenya, many settlers were removed or expelled from group ranches, most notably Kamba settlers in Kaputie ranches. On other ranches, such as Ewaso on Kidong' and Elang'ata Uas, all non-Maasai registrants were removed (probably illegally) from the group register. These acts were precipitated in part by awareness that substantial amounts of Maasai land were being acquired, usually legally through sale, by non-Maasai. In some areas, it was deemed that only ranch subdivision would provide the legal basis, in individual title, for the removal of squatters from the land. Whether a single individual will have any greater leverage than an entire group may seem doubtful, unless government will support that the right of exclusion exists. Where squatters derive

from the ethnic region of the President, as is the case in western Maasailand where Kipsigis have diffused into range areas, it is doubtful that this should be expected.

## Conclusion

The success of the Group Ranch program depended on several conditions, built into its threefold role as a unit of land holding, of resource management, and of community organization. How has subdivision of groups influenced resource management, the nature of land holding and the organization and identity of the community?

### Individuation, Investment and Productivity

A key question, of theoretical importance, is whether the establishment of individual family holdings under private title, as opposed to group holdings under private title, should lead or has led to increases in productive investment and/or increases in economic productivity. In short, is subdivision and individuation, whether legal or illegal, whether carried out appropriately or through corruption, a sound means of attaining 'development' in range areas?

The question is somewhat circular, since in many cases banks and the agricultural finance corporation have required title deeds as collateral for development loans, thus enforcing linkage between individualization of land and investment. In some cases, loan capital has been used to establish non-pastoral forms of production, in the form of wheat farming or irrigated horticulture. But more often than not, loans have been used for non-productive purposes and have been ineffective in improving the conditions of pastoral or

non-pastoral production. Where loans were acquired by groups as a whole, they were often used for productive investments from which only a part of the membership benefitted, and divergence of economic interests often made it difficult to repay loans taken by the collectivity. But in general it would seem apparent that subdivision, which creates more and smaller units of production, results in loss of economies of scale and the mobility provided when a larger collectivity is able to use a larger domain, enhancing strategies of flexibility and opportunism.

#### Land Holding and Community in the Face of Subdivision

It is somewhat difficult to distinguish when the early process of progressive and informal enclosure, often recognized *ex post facto* by receipt of a title deed, gave way to the later process of formal subdivision, through which the group entity itself was dissolved. A key moment may have been when the President of the Republic publicly called for ranch dissolution, on the ground that citizens of Kenya had the right to own their own land. In the late 1980s and early 1990s, most Group Ranches were initiating formal subdivision; by the end of 1993, faced with massive selling of privatized land and evidence of widespread corruption in land allocations, the process slowed. Yet, the process of subdivision, whether definitively accomplished or not, has dramatically undermined the capacity of group ranches to function as such. This diffuse process of internal enclosure has had a number of largely unplanned and undesirable outcomes: it has rendered group membership indefinite rather than definite; it has undermined confidence in the integrity of group titles and the value of group shares; it has prevented

the necessary process of exclusion from occurring; and it has inhibited investment in group holdings, presumably slowing desirable growth in ranch productivity. In short, the legal and political requisites for the maintenance of the group ranch program have not been maintained, largely through the lack of good will on the part of government and the corruption and acquisitiveness of officers in positions of trusts who have treated the group domain as a "free good" rather than a communal responsibility.

Yet some might argue that corruption and inequity are necessary evils justified by the desideratum of breaking up essentially unwieldy and impractical forms of communal land holding. From this perspective, achieving more flexible forms of individuated tenure, allowing the enterprising to make productive investment securely and increasing land productivity cannot be reconciled fully with customary rights to occupy land and use its resources, here in the rangeland regions of Kenya. But in the case at hand, it is not clear that any of the titular goals of privatization have been realized: many individual titles have provided collateral to acquire ultimately unproductive loans, and much individuated land has in fact been sold, more often as an expression of poverty of essentially "land poor" people rather than for judicious investments in future returns. And in some cases, titles are used for purely speculative purposes, by people who have no productive interests whatsoever in land acquired.

From the point of view of resource maintenance, ecological sustainability, economic productivity, or community well-being, there seems to be little sound justification for subdividing communal and group holdings in arid and semi-arid lands (Monbiot 1994; Scoones 1995). The only advantages may be

those which accrue to any individual who receives a free good; in this case, many seek a parcel of rangeland not to use it per se but to hold it, for speculation or collateral, or to liquidate it. The productivity of rangeland is directly associated with producers achieving economies of scale, making possible the opportunistic movement of herds across scantily distributed grazing and water, and achieving sound management of dryland resources demands coordination and cooperation across a widely dispersed community (Behnke & Scoones 1992; Scoones 1994). Thus, two major aims of privatization are assuredly thwarted rather than served by subdivision of common holdings into smaller, fragmented parcels. Encouraging and securing investment is more complex: clearly individuals will only construct houses, fences, wells and other permanent structures if they enjoy future rights to those improvements; however, long-term planning of and investment in civic assets, such as community water resources, boreholes and tanks, fine-graded bulls, urban amenities, schools, clinics and churches, require that property be held communally, out of fear that, if not, collective improvements may be individually appropriated. Whole-scale subdivision removes the possibility of community groups developing the sort of complex tenurial systems, which combine individual and communal holdings and involve coherent regional planning through zoning, taken for granted in the Western countries supposedly used as a model of privatization (Ostrom 1990; Monbiot 1994).

#### How Groups Might Work: Lessons of Common Property

In most dryland areas, maintaining group or communal holdings, within

mixed tenurial systems, should prove possible, although several lessons should be learned from the Maasai Group Ranch experiment.

Firstly, establish a definite membership and a defined community from which members are drawn and to which they are responsible. Secondly, legally confirm the nonviolability of titles and the non-partibility of shares. Thirdly, provide for reasonable exclusion of non-members and outsiders from the group domain. Fourthly, encourage loans to be taken solely for productive purposes, and ensure that returns on investments are realized by individual families (which does not necessarily require land holdings to be individualized). Fifthly, ensure that group holdings are large enough to maintain flexible allocation of resources, but small enough to maintain internal social cohesion. Sixthly, ensure that bribery and corruption are met not with benefits of land but with legal redress. Seventh, allow individuals to define certain limited areas within the group domain for individual family use, with or without title but without the right of partition, sale or transfer of these holdings.

In most parts of the world, legal alternatives exist which fall between the extremes of communal and individual/private holdings. The Maasai Group Ranch program, a tale whose end has not yet been told, demonstrates most vividly how vulnerable diffuse and non-specific land rights can be in the face of a culture of individual acquisition. The Kenyan case demonstrates not the predicament of strong but of weak government, where officials are able to subvert programs for their own gain, can circumvent law with impunity and can appropriate collective assets without fear of legal retribution. One answer to the vulnerability of collective holdings is individ-

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