



# This side of subdivision: Individualization and collectivization dynamics in a pastoralist group ranch held under collective title



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## ABSTRACT

Many scholars of rangeland institutions have found fertile theoretical and empirical ground in early efforts by the Kenyan government and international development agencies to socially engineer a shift from open range to discrete territories held under collective freehold title. A rich literature on the dynamics of subsequent subdivision of these “Group Ranches” elucidates a complex interplay of exogenous and endogenous drivers. This paper, on the contrary, explores the dynamic tensions between individualization and collectivization of land and related benefit flows in a group ranch that has thus far not undergone formal subdivision. Research was conducted in Koiya Group Ranch, one of 13 group ranches located in Mukogodo Division, on the Laikipia plateau. Drawing on key informant interviews and focus group discussions with those differentially positioned relative to the benefits of *de facto* processes of rangeland enclosure, and household surveys to document trends in participation and perception, we explore how these processes are perceived and governed. Cross-case comparison highlights the suite of factors shaping which forms of enclosure are contested; the diversity of legitimizing tactics that ensue from such contestation; and the balancing act these tactics represent between retention of privilege and restoration of peaceful relations among group ranch members.

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## 1. Introduction

Customary forms of tenure worldwide are being transformed by formal systems of tenure, market dynamics and increasingly ‘intimate’ associations with outside actors (the state, civil society, corporations) (Agrawal, 2005; Fairhead et al., 2012). Initiating in the colonial era and continuing at present, these shifts have often been devised to appropriate rural territories and to stimulate changes in and intensification of rural modes of production (Campbell, 1993; Galaty, 1994; Hughes, 2006). Kenyan rangelands are no exception. Pastoralists were first forceably moved to “native reserves” representing a mere fraction of their former range (Hughes, 2006; Rutten, 1992). Grazing and marketing schemes were subsequently designed to re-make pastoralists in the image of European and colonial farmers. These actions, together with the designation of communal ownership as the root cause of degradation, have had profound effects on pastoralist mobility and customary forms of land use and governance (Galaty, 1994; Veit, 2011). It wasn’t until

1965 that group rather than individual ownership began receiving recognition as an alternative, and potentially more suitable, form of tenure for rangelands. Yet even this strategy represented a compromise between customary and private forms of tenure by designating a discrete group of people as the legitimate owners of specific territories (Galaty, 1994), a distinct shift from customary notions of belonging and territory.

While the dynamics of Group Ranch subdivision have received significant attention by rangeland scholars (Galaty, 1992, 1994; Grandin, 1986; Kimani and Pickard, 1998; Mwangi, 2007; Ntiati, 2002; Thornton et al., 2006), the dynamic tension between individualization and collectivization in group ranches that remain intact are less well studied. Yet lessons from cases of formal subdivision on what ultimately led to a decision to sub-divide are useful in framing observations of the internal dynamics of the remaining group ranches. Perceptions of Group Ranch members of the integrity of the domain (the absence of threats to the shared territory) and the value of individual “shares” of that domain, for example, seem to have been influential in shaping decisions to subdivide (Galaty, 1994). To understand the internal dynamics of a Group Ranch that has thus far not undergone formal subdivision, it

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is therefore important to understand how group ranch members perceive the distribution of costs and benefits associated with the existing suite of institutions through which land access is mediated, and through which related benefit flows are governed. This paper explores these dynamics through an in-depth look at the dynamic tensions between individualized and collectivized rangeland access in Koiya Group Ranch in Laikipia District, Kenya. To do this, the views of those differentially positioned relative to the benefits of four ‘cases’ of *de facto* rangeland privatization or enclosure are explored. While such an analysis has limited predictive power, it can help to elucidate the ongoing tensions and dynamics within an apparently stable communal regime.

## 2. Institutions, property and legitimacy

This paper draws on scholarship from fields of legal anthropology, new institutionalism in the social sciences, and environmental governance. Institutions, defined by Douglas North as “rules of the game” (North, 1990), are understood not as static filters on human behavior but as the product of dynamic negotiations among social actors, and dynamic accommodations among multiple social and legal fields. Or, as stated by Falk Moore (1978: 39), “established rules, customs, and symbolic frameworks exist, but they operate in the presence of areas of indeterminacy, or ambiguity, or uncertainty and manipulability”. This is due to both local bargaining and adjustment (Cleaver, 2012; Knight, 1992), and interactions between local social fields and the “larger social matrix which can, and does, affect and invade it, sometimes at the invitation of persons inside it, sometimes at its own instance” (Falk Moore, 1973: 720; see also Falk Moore, 1978; von Benda-Beckmann, 1981). These complex negotiations imply a fundamental tension between efforts to fix social relationships and rules (processes of “regularization”), and processes of “situational adjustment” – where people exploit areas of indeterminacy, ambiguity, uncertainty and manipulability as it suits their immediate purposes (Falk Moore, 1978; see also Sikor and Lund, 2009). The regularities in social organizing and behavior that we observe is therefore as much a product of “the forces at play in the field” as it is a manifestation of common norms (Nuijten, 2003: 12).

Similar dynamics are at play in the case of access and property (Ribot and Peluso, 2003; Sikor and Lund, 2009). While property is often thought of as a thing, the institutional scholarship tends to define it in relational terms – rights only as secure as the corresponding duties of other actors (North, 1990), or socially legitimized claims (Sikor and Lund, 2009). Its social character in turn imbues property with a complex multi-dimensionality: differentially defined in overlapping social and legal fields (Falk Moore, 2001; Schmidt, 1990; von Benda-Beckmann and von Benda-Beckmann, 2006); rights of different degrees (Schlager and Ostrom, 1992); and with variable degrees of stabilization, formalization and legitimation (Falk Moore, 1978; Sikor and Lund, 2009). The recognition of all that lies outside of stabilized and legitimated rights has led to a renewed theoretical interest in the notion of access (Ribot and Peluso, 2003; Robbins et al., 2009), which in turn highlights the role of power relations in the constitution of property and institutional authority (Sikor and Lund, 2009). Access is defined by Ribot and Peluso as “the ability to benefit from things.” Access may be achieved through socially acknowledged and supported claims or rights, or through illicit means – and may be reinforced by structural or relational mechanisms. Structural mechanisms help to position individuals favorably with respect to access by empowering them with knowledge, technology, labor or other crucial resources. Relational mechanisms, on the other hand, emphasize more negotiated forms of access that occur through social relationships “of friendship, trust, reciprocity, patronage,

dependence, and obligation” (Ribot and Peluso, 2003: 172; see also Berry, 1989).

With the difference between access and property lying in the legitimation of an actor’s claims (Sikor and Lund, 2009), it is important to center the notion of legitimacy in this discussion. Legitimacy is often thought of as a fixed entity against which actual conduct can be measured. Suchman thus defines it as “a generalised perception or assumption that the actions of an entity are desirable, proper or appropriate within some socially constructed system of norms, values, beliefs and definitions” (Suchman, 1995: 574). Yet there is growing recognition that legitimacy is in fact processual – something that is established through conflict and negotiation, or processes of “legitimation” (Fortmann, 1995; Lentz, 1998; Moore, 1988). Thus, actors wishing to have their access legitimated will employ legitimation tactics – discursive strategies aiming to establish a practice’s social acceptability. While multiple forms of legitimacy and bases of legitimation are recognized in the literature, three are identified here: (1) *substantive* legitimacy (also known as pragmatic or consequential legitimacy) rests on the actual consequences of an institution or behavior; (2) *procedural* legitimacy, in which legitimacy is garnered through the use of socially accepted techniques and procedures; and (3) *moral-normative* legitimacy, in which institutions or behaviors are evaluated based on established norms (is it “the right thing to do?”) or their inevitability based on taken-for-granted cultural assumptions (Suchman, 1995; see also Berger et al., 1973; Meyer and Rowan, 1991; Scott, 1976). These same distinctions may be used to evaluate the basis upon which other actors recognize or contest the legitimacy of these actions. Scholarship on legitimacy highlights how certain forms of legitimacy can justify the absence of other forms (Suchman, 1995), and show that the forms that discourses gravitate towards is often strategic (von Benda-Beckmann, 1981).

Drawing theoretical linkages between these literatures and the scholarship of pastoralism provides fertile ground for advancing our understanding of the dynamics of property. By acknowledging the multi-dimensionality, relationality and dynamic constitution of access and property, we are able not only to recognize reversals in previous subdivisions with the “new pastoral commons” (Bollig and Lesorogol, 2016; Galaty, 2016), but to explore the everyday processes through which property is simultaneously collectivized and privatized. It also enables us to study the tactics through which uneven access to pastoral commons understood by law to be governed by norms of collective and proportional ownership is informally legitimated and contested.

## 3. History and privatization dynamics of pastoralist group ranches

Kenya’s Group Ranches came into being in 1968 through two successive Acts of Parliament (German et al., 2016; Mwangi, 2007). The Group Ranch was conceived as a response to the failure of colonial era interventions aiming to limit stocking densities, reverse environmental degradation and enhance livestock productivity in Kenyan rangeland (Rutten, 1992). Whereas communal ownership of rangeland was viewed by the colonial regime as the root cause of degradation, a government-commissioned inquiry into land tenure in 1965 (the so-called “Lawrence Report”) recommended group registration of land as the more relevant land tenure regime for Kenya’s rangelands (Galaty, 1999). This became the official basis for group ranch establishment under the Land Adjudication Act of 1968, effectively converting previously open range into smaller units with clear membership under collective freehold title (Mwangi, 2007). The Land (Group Representative) Act of 1968 then established the statutory requirements for group representation under the law. These include a meeting to adopt a

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