

Fixation with the Past or Vision for the Future:

Challenges of land Tenure Reform in Kenya with special focus on Land Rights of the Maasai and Boorana Pastoralists.

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Declaration

I declare that this thesis is my own account of research except where acknowledged and that it has not previously been submitted for any degree at any university.

Signed.....

Dedication

To my Aayoo, Tumeo Doyoo (1934-2007), your love, commitment and sacrifice shall always be remembered and cherished.

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Abstract

The aim of this study is to discuss the challenges facing land tenure reform in Kenya, with special focus on the pastoral Maasai and Boorana communities. The question of land ownership has been one of the major issues in Kenya since the colonial period. The study examines some of the contemporary legal and policy concerns from an historical perspective with a view to understanding current legal and institutional constraints. The colonial land tenure policy that spans a period of over 100 years still endures in spite of the social, political and economic transformation the society has undergone. My main objective is to examine the extent to which land rights of pastoral communities have been and continue to be undermined by inherited statutory land tenure regimes. This study demonstrates that the introduction of the alien notion of land tenure diminishes rather than strengthens the access of communities to land and other land-based natural resources.

The study demonstrates that contrary to widely held views of policy makers and commentators, the conventional approach to land management, centralised statutory legal frameworks have not secured land rights for the pastoralists. The study assesses the effectiveness of this policy as applied by colonial and post-colonial governments. The failure by successive governments to undertake a comprehensive land reform has led to conflicts between communities, resulting in social, economic, and political repercussions. Inappropriate and irrational government policy of land tenure conversion from communal to private holdings has been the source of escalating conflicts, as demonstrated by this study. Finally, the study illustrates simmering new challenges confronting the pastoralists due to increasing encroachment of other land use such as agriculture, mining, oil exploration and ecotourism. It explores alternative policy and legislative reforms that will comprehensively address the unresolved historical and contemporary land grievances.