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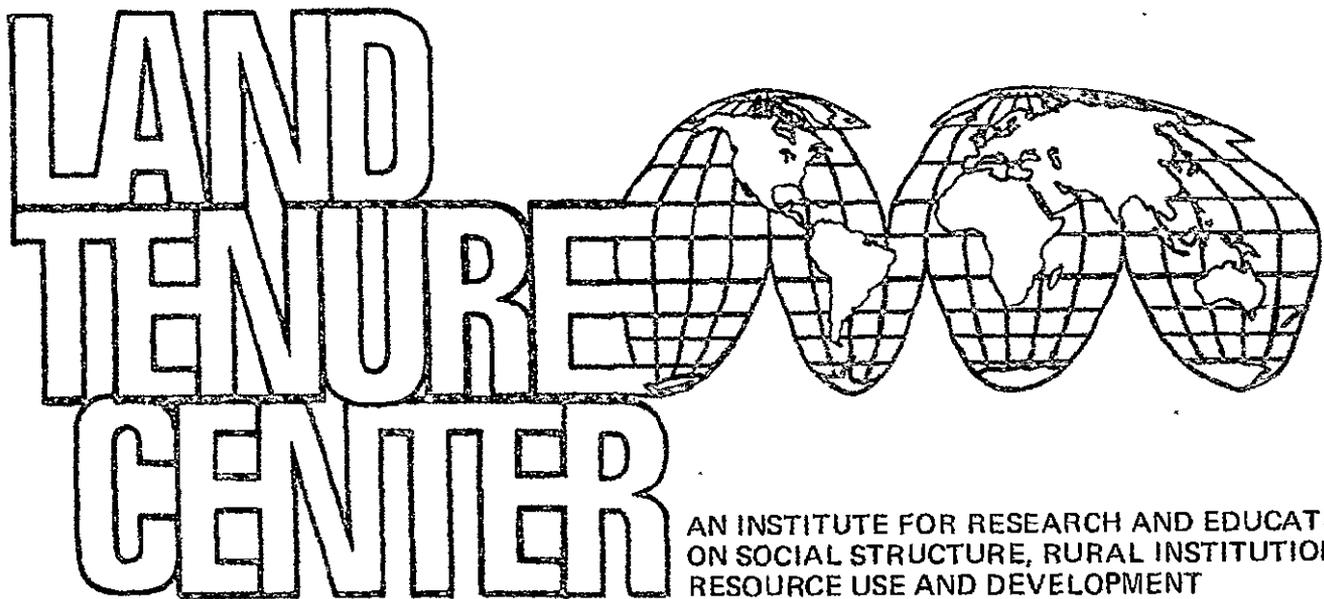
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LAND ADJUDICATION AND ITS IMPLICATIONS
FOR THE SOCIAL ORGANIZATION OF THE MBERE

by
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Enos Hudson Nthia Njeru**

*Based on the author's B.A. dissertation of the same title, presented to the Department of Sociology, University of Nairobi, in 1976.

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All views, interpretations, recommendations, and conclusions expressed in this paper are those of the author and not necessarily those of the supporting or cooperating agencies.

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AUTHOR'S NOTE

This paper is concerned basically with the type of social organization that emerges following land adjudication [i.e., individualization of titles to land formerly in group holdings--Ed.]. It is not a study of the land adjudication process as such. Land adjudication in the area is one among the major events that play a part in eroding traditional values. Very little research has been carried out in Mbere and much of the culture of the area, I note with concern, is dying out before it has gone on the record.

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INTRODUCTION

The Problem

The Mbere (pronounced Mbeere) are a small ethnic group living in the area to the southeast of Mt. Kenya. Numbering just under 50,000, they are much less well known than their related neighbors, the Kikuyu, Embu, Meru, and Kamba. The Mbere live in Mbere Division of Embu District.

My area of study lies geographically in one of the areas of Mbere Division that are already part of the Special Rural Development Programme (SRDP). The development program emphasizes infrastructural improvements, especially in road and water supply, and encourages higher agricultural productivity, stressing the need for cash crops.

Land reform, of which land adjudication is a part, is taken as one of the prerequisites of successful farming, and it is mainly for this reason that land adjudication has been emphasized by the SRDP. It is the system of issuing individual titles to land so as to encourage investment in the land and make it possible to be used as a negotiable asset. Traditional forms of land tenure inhibit this. The adjudication and registration process has been implemented in order to establish a clear and unambiguous ownership by title-deed of a piece of land by an individual or a group of individuals. The title deed is a negotiable instrument and makes it possible for the land to be used as security for mortgage purposes.

Land has been a fundamental issue in Kenya's political history. The alienation of large areas to European settlers aroused passionate opposition among the people in colonial times. At independence (1963), the process of land adjudication and registration had been completed only in Central Province.

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In other parts of the country only small patches here and there had been affected. Land adjudication is regarded as being necessary for development, and the agricultural development strategy pursued during the last few years has laid great emphasis on it. It is hoped that by the end of the 1974-78 Development Plan almost all arable, high potential land will have been adjudicated; adjudication of range land, which so far has proceeded more slowly, will be accelerated to cover larger areas of marginal land.

Due to the fact that Mberere is climatically much less favored in terms of rainfall (low and unreliable) and soils (poor) than the neighboring Embu Division, it has experienced relative deprivation in terms of economic development, which in turn affects social development. Its geographical characteristics make it a relatively poor area and for this reason it was disregarded in colonial development. The colonial government was more interested in the high potential and economically more productive areas. Consequently, the traditional social institutions of the Mberere are very strong and many in fact have remained almost intact.

Mberere land, with few insignificant exceptions, has been owned communally under clan ownership and leadership. Members of a clan owning land had free access to and use of land provided they did not take it as personal property and start selling it or misusing it. Individuals who were not members of a particular landowning clan could still request and be granted permission to use some land. Uses made of land included cultivation (shifting cultivation is practiced, which needs ample land so that one can shift when the plot under cultivation gets exhausted to allow natural regeneration of vegetation), cattle grazing, plus cutting down trees for building purposes and charcoal burning, all of which are popular activities.

When adjudication is complete, all these uses are bound to be affected by the individualization of landownership. The power of the clan, which is rooted in its institutional role as a corporate group with powers over ownership and usage of land, will also be affected. Since the role of the clan has been central to the social organization of the Mberere, many changes can be expected to follow adjudication. The clan settled land disputes, and provided punishment --it has power to take excessive defaulters of its ruling to court--and tried to regulate behavior and reduce conflict. Clan members also contributed to help a poor member of the clan marry (though this practice was already declining prior to adjudication) or to help a financially poor but clever child to take further studies. This is very important because the Mberere never waste such brains, which they regard as "the eyes of the community." One effect of the land adjudication process will be to relieve the clan of some of its powers over its members:

When the clan can no longer arbitrate land disputes because the legal owners can go to court when disputes arise, nor control deviant behavior or social conflict among members of society, things will change. Individualism will be the result. How then do the Mberere people adjust to the individualistic mode of life as a departure from the traditional collective morale, and what problems do they face? If there is economic development, then the question becomes: What adjustments will the Mberere people have to make so as to fit in most satisfactorily with the changed economic condition? This will of necessity affect social life and organization.

SOCIAL ORGANIZATION

The social organization is better understood through analysis of kinship patterns; only in relationship to such kinship patterns can traditional land tenure be clearly understood.

Land tenure normally refers to the "right to hold and use land unchallenged. The concepts of time and space normally go with the granting of the rights to hold and use. Land tenure therefore, generally means the right to hold, use and possess the natural resources found in the land profile from the atmosphere (roof height) to a few meters below the surface."¹ This concept until recently was not so valid in Mbere where collective ownership of land with kinship and clan-dominated authority has long prevailed. If a conflict arose over one individually owned piece of land within a family, the occasion called for arbitration by the clan. Before land adjudication, one could dig up and sell sand (for building or construction purposes) freely. This is no longer the case.

The following then are the basic levels of social groupings.

Mucii (Homestead)

This is where a man lives with his wife, or wives, and children and also at times with other kin, especially brothers. This is what anthropologists would call a minimal lineage. It consists of a group of agnates able to trace their patrilineal ancestry to a named historic forebearer. The plural of Mucii is Micii (homesteads). Each homestead may include a cluster of houses, one each for a man, each of his wives and her small children, married sons and spouses, and unmarried daughters.

The senior male maintains the greatest authority within the homestead, making important decisions about the allocation of gardens and rules of looking after the livestock. He is the link between each of his wives and children. This quotation summarizes the position of the lineage:

The minimal lineage is always numerically smaller and less residentially dispersed than the maximal lineage [explained below]. Interaction between its members is more intense. For assistance in litigation with non-agnates or for advice about land or homestead affairs, a man is more likely to approach the sons of his father and the sons of his father's brothers than others. Although competition, particularly over inheritance, may characterize relationships between brothers, a man initially turns to them for support, material and social.²

1. P. M. Mbithi, Rural Sociology and Rural Development: Its Application in Kenya (East African Literature Bureau, 1974), p. 88.

2. David Brokensha and Jack Glazier, "Land Reform Among the Mbere of Central Kenya," Africa 43 (1973): 187.

Nyumba

This is a lineage of descendants of one man, and is a section of a clan. A nyumba may consist of several Micii (homesteads). Anthropologists call this a maximal lineage. Both the maximal and/or minimal lineage may function as a corporate group in relation to land rights. People of the same mucii and nyumba belong to the same clan, but the clan may have different micii and nyumba in different localities.

. . . although common interests in land are the primary link between the members of a single maximal lineage, an ideology of kinship, mutual support in litigation and general mutual assistance, further bind the maximal lineage. The term for the maximal lineage nyumba (which literally translated means a house) connotes or suggests its supportive solidary characteristics. Geographical proximity of maximal lineage members is an important variable in the extent of mutual support and assistance. For help one is more likely to turn to lineagemates in adjacent homesteads than to those who live many miles away. Those lineagemates living nearby are frequently also members of one's minimal lineage.³

Ituura

This is the basic settlement in Mbere. It is a group of homesteads with between 3 and 500 inhabitants usually from different clans. This has been called a "village" but Mbere, like many other peoples of East Africa, lack nucleated villages; and because an ituura is a dispersed collection of homesteads, it is better translated as a "parish," a collection of scattered homesteads each of which is built on a separate landholding and worked by the family which occupies it. According to this latter definition, a cluster of continuous parishes, as a neighborhood, is usually co-extensive with the administrative sub-location.

Muviriga (Clan)

There are about 50 clans--patrilineal descent groups which claim origin from a common ancestry, many generations back. When people use the term clan, they refer to the different levels of agnatic segmentation within the clan. The clan is only a corporate group at the local neighborhood level, but not at the locational or divisional level. This is because its geographical dispersion throughout Mbere does not allow significant social interaction or the collective ownership of particular rights or property. Thus segments of single clans, either maximal or minimal lineages, are the principal descent groups exercising corporate rights.

3. Ibid.

Muviriga (Moiety)

Although the words are used interchangeably, though having different meanings, this second usage refers to any one of the two major clan divisions or moieties in Mbere, which are called Ndamata and Mururi in Mavuria Location, and Irumbi and Thagana in Evurore Location and parts of Nthawa Location.

The moieties do not form the basis for marriage, as a person can marry from either side. If you marry from your own moiety, however, it should not be from your own (single small) clan. Tension has always existed between the two moieties especially on general Mbere local leadership aspects, though with little or nothing to set the conflict in motion. This conflict potential is portrayed in the quotation below:

. . . the importance of moieties in Mbere lies in their classificatory function, enabling clans to unite ideologically into rather loose on-going alliances. The Mbere say they look for support, in situations of social conflict, from people of the clans within their moiety.⁴

The moieties provide clan alliances for support in land cases. Lineages within each moiety may have land cases against each other, but the most serious cases over the largest parcels of land, and the cases which generate the most bitterness, are those between the people of different moieties. Some of these old disputes have been carried through into the current era of land adjudication, causing even greater conflict than before, as land has risen in value.

Mbere age-sets had important social, ritual, political, and military functions. Elders of senior age-set institutions have been prominent in Mbere traditional dispute settlement. The clan elders formed the local council of elders which heard cases. Age-sets have declined in recent years.

Inheritance

Any piece of land involving corporate ownership was not inherited; it was commonly used, to avoid conflict. If a man who had bought a piece of land had one son, after the man's death his son would inherit the land. If he had several sons, the eldest son was left in charge. All the sons in such a case shared equal rights, but with the superior advice and leadership of the eldest brother.

Before land adjudication in Mbere, it was difficult to talk of strictly individual landownership. The concept of common, though specific, landownership is given further expression in the Kimbeere phrase, which refers to the family piece of land as Mururu-wa-Nja. Mururu means "grain store"; Wa-Nja means "of the compound or of the house garden." The phrase then means the grain store where every grain of the family (thus every member of the family)

4. Ibid., p. 183.

can find accommodation. Thus every member of that family is guaranteed access to that piece of land and he can farm and build there for his family. The piece of land acts as security for all the members to build or cultivate so long as it is there and has not been used to its maximum carrying capacity.

Strangers

Strangers are those people who come either from locations distant from the ones in question, or from Embu Division or even outside Embu District, such as the Kikuyu and the Kamba. A stranger would be accepted and shown a piece of land to settle and cultivate without ownership rights. Such a person was called Muyoi (one who borrows). The preferred Kimbeere term is ndurua (one who is kept by another--meaning that he is living there at the discretion of the host). The ndurua has rights only to cultivate and build a homestead, but no ownership right. This meant that he had strictly to observe the norms of the community around him, and also be friendly to his host, because he could be dismissed any time the clan members complained of his behavior, especially when the piece of land was individually owned by his host. He was usually a man of low social status.

The ndurua did not have to remain permanently a temporary occupant. He could either buy a piece of land for himself or get affiliated to a particular clan through the traditional ritual known as guciarwa (to be adopted). He would then be regarded as a member of the family of the man who agreed to host him.

Kaurugo (The Oath)

The oathing function, which could involve two people in conflict over a piece of land or any other issue, required the slaughtering of a male goat. Its blood would be mixed with soil; the reason for doing this is that soil is taken to be mother of society. Some other substances, such as the sweat of the venerable elders and herbal concoctions made by the traditional herbalists, were added. The soil would then claim back, through death, any participant in the dispute who lied, thus abusing the very soil to which he will finally return by swearing falsely to be the owner of a piece of land.

Although the traditional oath-takers believed very strongly in its effectiveness, it was also said that some offenders had other powers to neutralize the oath and were therefore immune to its disastrous effects. This was the explanation given when none of the conflict parties ever appeared to have been hit by the oath.

Selling of Land

Those who could sell land were mainly the individual owners. Clan members with certain acute problems would also, under certain conditions, be allowed to sell a portion of clan land, and family members would be allowed to sell a portion of family land. Those wishing to sell land of which they were

not individual owners had to consult the clan/family elders or leaders. Even where they were individual owners, they needed to seek advice from the elders. If a member of the clan then wanted to sell a portion of the clan-land, he would call the clan elders and explain to them his problem(s). The elders would try to help him by calling on all the members of the same clan to help him, through donation in cash money or in kind, pay school fees for his son, or otherwise solve whatever the problem was. If collective help was not possible, then the member would be granted permission to sell land.

According to the clan requirements, the seller had to offer the land first to clanmates prior to doing so outside the clan. If none of the clanmates was willing or had enough money to buy--and the seller was expected to be more lenient to his clanmate customers than to those outside the clan--then he was free to sell his piece of land to anybody else. But even this freedom to sell to anybody was not unlimited. The Mbere community was very much opposed to the idea of selling land to the strangers, especially the Kikuyu, whom they regarded as maitha (enemies) for they were thought to be very cunning.

Position of Women

- Women in traditional Mbere society never owned any property. Even if a woman were more industrious than the husband, the property she acquired belonged to the husband. The women could not inherit any land, and even where a man had no sons, the nearest male relative took over the guardianship of that man's property when the latter died. The deceased's widow, however, would still use the property which was virtually in her own hands, but she was expected to cooperate with and seek help and advice from the male in charge.

SITE SELECTION AND METHODOLOGY

Site Description

I did my research in Mbita Sub-Location of Mavuria Location in Mbere Division.⁵ Mbita is now in Gachoka Division, according to recent administrative boundary changes. Mbita Sub-Location was one of the seven Sub-Locations of Mavuria Location.

5. My sample was obtained by combining three techniques. First, I obtained a list of all landholders (adult and minor males) in the Sub-Location. Children were eliminated and from the resulting 158 adult male landholders, I randomly selected 40 for interviewing. Second, I asked the Locational Land Adjudication Officer for the names of key local figures, secured confirmation from residents that these were indeed important, and added them to the sample. Third, I added major local government and tribal officials. This gave me a total of 57 potential respondents, of whom I was actually able to interview 46.

Table 1

Mavuria Location--Its Sub-Locations, Population, Area, and Population Density

Sub-Location	Total Population	Area in Sq. Kms.	Density: Persons per Sq. Km.
Mbita	3,609	52	69
Kirima	3,433	70	49
Kiambere	2,688	149	18
Mavuria	2,722	92	30
Gichiche	1,851	97	19
Kithunthiri	2,655	43	62
Riachina	783	133	6
TOTALS	17,741	636	36

SOURCE: David Brokensha, "Mbere Clans and Land Adjudication," Staff Paper No. 96, Institute for Development Studies, University of Nairobi (March 1971).

A. Physical Characteristics

Rainfall and Altitude: The altitude of the area is around 3,000 feet, with an average rainfall of about 15-20 inches. The incidence of rainfall and the probability of receiving 300 mm. (12") per season increases as one moves from east to west of Mbere Division. According to Dr. Hunt, Mbita Sub-Location gets 300-400 mm. (12-16") of rainfall with a high probability of poor rain.⁶ The rainfall is very erratic; some periods of the year are very dry, such as August to September, and annual acute water shortages are common.

Temperatures: Temperatures are often as high as 90° F., with very low humidity. This means a faster rate of evaporation of whatever water is available and also makes working conditions unbearable in the dry heat.

Soils: In most of Mbita Sub-Location the soils are mainly sandy with a very high rate of capillarity and therefore a fast-drying rate. There are a

6. Diana M. Hunt, "Resource Use in a Medium Potential Area: The Mbere Rural Economy," Working Paper No. 180, Institute for Development Studies, University of Nairobi (August 1974), Map 2.

few areas of loam and black soils. Most soils are unsuitable for cash crops, except for cotton, which does well in these poor, sometimes sandy soils.

Vegetation: The western half of Mbere plus the area around Kiritiri in Mbata Sub-Location is Combretum Savanna and Combretum Acacia. Eastern Mbere is mainly Accacia Commiphora. All these vegetation types--scattered tall trees surrounded by low bushes--are typical of semi-arid areas, a characteristic which is indicated by the conditions discussed above.

Topography: Mbata Sub-Location is characterized by rugged topography which is enhanced by the low resistance of the sandy soils to water, coupled with overgrazing of livestock. The consequent view is that of many gulleys and isolated weathering and erosion-resistant rock and soil outcrops that are left outstanding on the bare white earth.

B. Settlement Patterns

Mbata Sub-Location lacks nucleated settlements or villages. The commonest view is that of dispersed collections of homesteads or scattered homesteads, each of which is built on a separate landholding. The families owning such landholdings and homesteads cultivate the gardens surrounding their homesteads, although they are likely to own individual cultivated patches elsewhere which may be several miles away from the residential area.

C. Development

Development, when it occurs, does so in many directions and for it to produce the desired effects, it must be integrated. While one would take a number of variables such as literacy levels, labor and employment, rural industries, agriculture, etc., to measure the levels of development, I will discuss briefly two of them: literacy level and agriculture.

Table 2

Literacy Level--Mbata Sub-Location

Educational Level	No. of Respondents	%
No formal education	19	41.3
No formal education, but can read and write	5	10.9
Some primary school education	15	32.6
Completed primary school	4	8.7
Some secondary school education and over	3	6.5
TOTALS	46	100.0

Agriculture

The Mbere are mainly a peasant community who depend on subsistence farming. They plant such crops as Katumani maize, sorghum, millet, beans, peas (cow peas and pigeon peas), cassava, and bananas. These crops indicate, by their nature and ecological requirements, that Mbere is a marginal area.

The area lacks cash crops. Sisal, which would have been good for a cash crop, has a fluctuating world market. The only cash crop is cotton. But the prices of cotton, which is a labor-consuming crop, are not attractive. Cotton sells at K.Sh. 2.00 per kg. of top grade and less for lower grades.⁷ The crop takes two seasons before it is ready for sale. It also fails in some seasons, so income from this agricultural activity is unpredictable.

Yet due to the improving health standards and the mobile or circulating child clinics which have recently been introduced in Mbere so as to facilitate access to clinic services by as many women as possible, the population is rapidly increasing. The same low-income adult population is expected to cope with the resultant high dependency ratio. Mbere still have the extended family system, meaning that a single wage-income earner is expected to support not only his immediate family, but also other relatives.

D. The Socio-Economic Mode of Livelihood

A major and recurrent problem which faces many Mbere is that of food shortage. At times of food shortages, some women go to such places as Kirinyaga (a high potential agricultural area in Central Province) to work for food. A woman may work for several farmers and earn about two sacks of maize in a fortnight which she takes home. At such times of the wife's absence, the husband and children take care of all the household duties.

Many economic activities are undertaken by men (e.g., digging up sand for sale, burning charcoal for sale, etc.) and women (e.g., petty trading and selling of foodstuffs in market places). But some men are irresponsible and spend their income on drinking local beer despite their wives' protests.

One effect of individualization of landownership will be to free the hard-working but oppressed women, especially the traders, from the domination of such drunkards, as the women can buy their own land and build houses to live there by themselves. If the husband in such cases wants to be welcome, he will have to change his habits and admit some equality in decision-making, pooling of resources or earnings and how to spend the income reasonably.

7. US\$1.00 = K.Sh. 7.7.

DATA ANALYSIS AND FINDINGS

A. Boundary Markings

This is the initial step in the process of land adjudication. Once Mberere Division was declared a land adjudication area in 1970, clans were required to mark their land boundaries in such a way that aerial photographs could easily be taken and used as a base for land survey and subsequent maps. For this purpose, it was necessary to set up committees on a clan basis since the clan was the major social institution recognized as having vested powers over land.

Clan committees consisted of the chairman, secretary, and treasurer, all with their deputies, plus several other members known for their oratorical abilities and knowledge of the clan-land boundaries and clan affairs. The number of officials was at the discretion of the clans concerned. The role of these clan committees was to organize the work of boundary demarcation. Most relied on clan labor to clear the boundaries. Those who could not turn up in person (e.g., those employed in Nairobi and other areas) were required to make contributions in cash as a substitute for labor. Those who were to work but failed to appear to help were fined. The fines which were fixed by the clan committees varied from clan to clan with an average of about K.Sh. 2.00 per day.

The next and higher committee is the Unity Committee, normally called the Land Adjudication Committee. This is a representative committee consisting of about twenty-five members, drawing only one member from each of the clans in a Sub-Location.

The work of the Adjudication Committee, which chooses its own chairman, is to go around the boundaries of the various clan-lands in the presence of the demarcation and survey officers. After agreement between the Committee and the Government officers is reached, the survey officials draw the maps, showing the boundaries. This Committee also settles the disputes that arise from the various claims made by different individuals from the same or different clans. Boundary marking, as well as being the initial step in the land adjudication process, is also, apparently, the initial stage in the process of social conflict.

As there is no guarantee that all the people and their claims will be satisfied with the judgment of the Adjudication Committee, appeal is possible to the Arbitration Board for Mberere, which is a panel of not less than 6 and not more than 25 members, all appointed by the Provincial Commissioner in consultation with the District Land Adjudication Officer. The current Arbitration Board has a membership of 14. The members come from the District in which the land adjudication is going on, as an attempt to involve those people who are conversant with the local customs.

Anybody wishing to raise further objections following the judgment of the Arbitration Board may appeal to the Minister of Lands and Settlement, under the Land Adjudication Act, Cap. 284, Section 29. When all this process has been finalized, the office of the Chief Land Registrar of Lands Department is consulted for the award of title deeds.

B. Allotment of Land Parcels

Each clan marked its clan-land boundaries according to their knowledge of the boundaries. While marking their boundaries, the various clans and clan committees tried as much as possible to solve any internal differences. When they were unable to come to an agreement, disputes were referred to the Adjudication Committee. At these early stages of dispute settlement, lawyers were not allowed; even at the advanced stages, their presence was discouraged because the practices that are involved in the legal system are not familiar to many of the Mbere. The old men and those who follow their advice concerning landownership are not obsessed with the same logic as the legal profession, but are mainly concerned with the statement of alleged facts and tracing the historical ownership of a particular piece of land to the present.

Use of the traditional oath was also not allowed. Nevertheless, the oath-taking practice, which was very much alive behind the scenes, is believed to have claimed the lives of many, especially the old men who were its major administrators and were in some cases the ones settling disputes before they reached the Adjudication Committee.

Once boundaries were settled, clans were faced with the task of dividing up their land. First, the clan committees considered alleged sales. If a particular sale of land was not considered valid by the clan committee (such cases were very few), the clan divided up the land. All lands either validly sold or individually owned were separated from the clan-land--the land to be divided among the members. Land excluded from the clan-land also included the public grounds, e.g., for schools, expanding markets and places for future town developments, roads, forests or hills, and water drawing places, such as the water reservoirs and wells. The various clans decided whether or not to leave out the shrines and sacred groves. (These are areas used for sacred purposes, such as sacrifice offering in the early days to pay homage to traditional gods.) The rest of the clan-land was then available for sub-division.

The allotment of land parcels to clan members was not haphazard; the following criteria were used: all male clan members were eligible; for those not born in the clan but adopted, their eligibility depended to a large extent on their standing in terms of social connections within the clan. Even when a person was a full clan member by birth, his relationship to the other clan members and his behavior were also taken into account. If he was one who remained apathetic to the clan's activities, this would be a great disadvantage. Such people became the last to be considered, and some ended up getting no land, despite their legal rights to claim land from their clans. If such a person took legal action, however, it would not be a problem to the clan, which could give him the stoniest piece of ground.

Another very important factor in the allotment of land was the level of involvement in the clan's boundary marking and one's contributions. Clan committee members were the most involved; in view of the fact that they were the ones allocating pieces of land to individuals, they were likely to get the land of their choice. As for contributions, the relatively poor people (unless they happened to be on the committee) were at a disadvantage. Subscription to the clan's expenses on disputes is necessary. The cost of these

disputes is met by money paid by those who cannot provide their labor in kind, plus fines, and other contributions. When disputes necessitate more funds, further immediate contributions may be required. In most cases, it is only the relatively rich (about three people in one clan in one particular area) who can afford to pay this money at short notice and, if the case is won, the three will take the lion's share of the piece of land in question on the grounds that they have spent a lot of money on it. Allocation may, therefore, favor the financially better off.

The amount of land allocated to each individual did not necessarily depend on the quality of the land, but on the number of clan members involved. Depending on the amount of land available, all sons of a man might get land, meaning that the families of men with the largest number of sons get more land than those with only one son, not to mention those with no sons. Where the land was not enough for all, they started with one son per man and the man himself.

Having more than one wife was an advantage if they had many sons, but a disadvantage if they had many girls, as the latter are not given any land. A man with no sons finds himself in a very deplorable situation, as the only land going to his family is either his own share or that which he has bought.

There were a few cases in which some unmarried girls had sons. Whether to give land to these boys depended on the wishes of different clans. Some gave them land, others did not. Other girls had married and divorced, returning to their parents with children. Whether the children were boys or girls was immaterial in this case for the father clan assumed that one day the in-law clan might come for their "wife" and "children." If such sons were given land which would be legally registered under their names, the boys would go home with it when their people came for them.

Finally, a member or members of a different nyumba, but same clan, from a different locality could request to be given land. They could do so on the grounds that they failed to get land in their own area, but might be asked such questions as: "Did your people invite us when you were dividing up your land?" Some people may make such rhetorical comments as, "Why should we be the ones to remember them anyway, if they forgot us?" It is, as one can infer from such remarks, a two-way process operating on the principles of reciprocity.

Some people returned, having left Mberé many years earlier. They may find it difficult to speak Kimbeere--the local dialect. All these people came to claim descent among the various clans. Generally speaking, they were not successful since the people who could do something for them have applied the doctrine of "everyone for himself and God for us all," as one elder said. Nobody is ready to keep on recognizing connections which lead to his having more people with whom to share his land.

C. Effects of Land Adjudication on Traditional Land Rights

Before land reform, everybody was relatively free to make any reasonable use of anybody's piece of land. One could, for example, dig up sand for

selling, or cut down trees for burning charcoal or for building poles, without creating problems for himself; provided he never sold the land itself. There were only a very few trees one could not cut freely, and these were mainly the domestic ones such as the mango trees, and the valuable timber tree called mukau (Melia Volkensii). One could cut such a tree with the permission of the owner but without necessarily having to pay.

Table 3

Effects of Land Reform on Former Traditional Rights

Effect	No. of Respondents	Percentage
1. Termination of general land use freedom	38	82.6
2. Quit notices and eviction when no ownership rights	1	2.2
3. Not much change has been observed	4	8.7
4. Assorted replies	3	6.5
TOTALS	46	100.0

One notes that 82.6 percent of the respondents saw termination of general land use freedom as a major effect, but when asked to be more specific on disadvantages, it became clear that most of them had not actually experienced the disadvantages, although they were aware of the implications.

In addition to the information given in the above table, I asked the people whether there has yet been a beginning of a "private-keep-out Mbwa-Kali" ("Mbwa-Kali," a Swahili term for a fierce dog) mentality in the area. Twenty-three respondents (50 percent) said this sort of mentality existed, but was practiced by only very few people. Nineteen people (41.3 percent) were of the opinion that this was being practiced in various hidden forms, as it was too early for such practices to come out openly. Four people (8.7 percent) were not aware of such practices although they would not be surprised, they said, that it would soon be the case.

Table 4 (see following page) shows people's reaction or attitudes toward the above feelings and behavior.

What then were the disadvantages (if any) of land adjudication? While the termination of general land use freedom is clear (see Table 5), the disadvantages of landlessness and loss of lives and money or property may need further clarification. Landlessness means that through the process of land adjudication, some people were not given land, even there they had rights to claim it. Some people spent heavily on the disputes, at times having to bribe

Table 4
 People's Attitude Toward the So-Called Private-Keep-Out
 "Mbwa-Kali" Mentality

Attitude (Response)	No. of Respondents	Percentage
1. Complaints that one is proud, mean, and an enemy of the people	27	58.7
2. Passive disapproval	9	19.6
3. Passive disapproval and acceptance	7	15.2
4. Passive disapproval and feelings that one is conceited and hates people	<u>3</u>	<u>6.5</u>
TOTALS	46	100.0

the leaders, plus feeding the witnesses who would not be of genuine help or sympathetic without being well fed. This often required the selling of one's property, including a portion of land.

Table 5
 Disadvantages of the Land Adjudication

Response	No. of Respondents	Percentage
1. No disadvantages	16	34.8
2. No freedom of general land use	8	17.4
3. Disputes	8	17.4
4. Disputes and loss of lives and land	1	2.2
5. Loss of lives (oath, sorcery, poison)	5	10.9
6. Landlessness	1	2.2
7. Disputes and no general land use freedom	5	10.9
8. Disputes and loss of money and property	1	2.2
9. Loss of lives and no freedom of land use	<u>1</u>	<u>2.2</u>
TOTALS	46	100.2

D. Inequality Following Unequal Distribution

All the 46 respondents felt strongly that adjudication of land resulted in a high inequality in the distribution of land. The rich were able to gain more land since they were able to buy more, in addition to what they received from the adjudication. The rich had better chances of being chosen, say, treasurer because they knew how to keep and care for money. Their property (although this was not openly discussed) was taken as security in case they misused the money entrusted to them. Those without money missed such chances.

Table 6

The Major Beneficiaries of the Land Adjudication Process

Response	No. of Respondents	Percentage
1. Rich, leaders, and influentials	25	54.4
2. Rich, leaders, influentials, and those few clan members with large land areas	11	23.9
3. Clever in handling cases	3	6.5
4. Rich, leaders, influentials, and clever in handling cases	4	8.7
5. Few clan members with large land areas	1	2.2
6. Few clan members with large land areas and clever in handling cases	1	2.2
7. Combination of all the first 3	1	2.2
TOTALS	46	100.1

When the land cases needed to be taken beyond the Adjudication Committee, the leaders and influentials still commanded a fair degree of advantage in terms of respect from the legal authorities. It needed the influentials or the rich and, at times, those more familiar with dealing with official routines than the old men who do not know how to read and/or write. Other advantages mentioned were being clever in dealing with cases (this is where oratory was an advantage), and also being one of a few members in clans with larger areas of land.

Responding to a different question, and as a follow-up to the answers given in Table 6 above, 63 percent of the sample said that the poor, the non-leaders, the non-influentials, and children found the post-adjudication situation worse than the one prior to it. The reasons relate to accessibility of land use rights.

The following two tables (7 and 8) show land distribution. The figures shown, however, should be interpreted with care. It may appear that everybody had received at least one piece of land. In Table 7, the average number of plots per man is 0.9 plots. The mode is 2 plots (16 people--majority--said they had a total of 2 plots after adjudication). In Table 8, the median is 3 sons per man. The implication then, drawn from the two tables, is that each man had more sons than could be comfortably accommodated in his piece of land. Although these are rough estimates, land shortage is an expected result of adjudication.

Tables 7 and 8
Distribution of Landholdings in Relation to the
Number of Sons Who Need the Land

Table 7			Table 8		
No. of Plots Per Man	No. of People	%	No. of Sons Per Man	No. of People	%
1	8	17.4	0	4	8.7
2	16	34.8	1	4	8.7
3	8	17.4	2	6	13.0
4	5	10.9	3	14	30.4
5	3	6.5	4	10	21.7
7	1	2.2	5	3	6.5
8	1	2.2	6	5	10.9
10 and over	4	8.7			
TOTALS	46	100.1	TOTALS	46	99.9

In response to a different question, designed to find out more about the issue of land shortage, 36 people (78.3 percent) of the sample said that if their sons had no land, they would fully and freely depend on their fathers for land. The rest (21.7 percent), however, had no sons (4 people--8.7 percent) and found it difficult to discuss the issue, or had sons (6 people--13 percent) and answered the same as the majority above (78.3 percent), but specifying that this would be a difficult issue and needed other alternatives which they could not foresee.

If one traces the whole line of argument from Table 6 up to this point (Table 9, following page), it is apparent that the people's view was that land adjudication mainly helped those who already had either land or money to buy

more, while those who had no money and had land use rights before, lost both the rights and the land in most cases.

Table 9
Number of Sons Per Man Who Received Allocations
for Their Own Pieces of Land

Response	No. of Respondents	Percentage
Have no sons	4	8.7
None of them received land	13	28.3
Some of them received land	8	17.4
All of them received land	19	41.3
Not yet	2	4.4
TOTALS	46	100.1

E. Landlessness and Land Sales

After land adjudication, individualism increased. Prior to it, most people did not solely control land rights. This situation was reversed after adjudication, as people attained fuller control of land rights. People argued that in practice there was no landlessness before land adjudication. Even those who did not have land or did not have enough land had rights to use land for various purposes. This refutes the official argument that development of the area would not be possible when the landowners held no title deeds which they would show for, say, loan-security considerations. Ironically, it was after adjudication that landlessness began to exist. Among my sample, 35 (76.08 percent) of the respondents said that landlessness had increased following the land adjudication.

Those who were of the view that landlessness had increased said that in addition to those who had no ownership rights before, many others, including some children, were not given any land. Another complementary factor is that many of those who managed to get any land were either lured into selling it by the rich, or decided to sell it for other reasons. It seemed to be easier for a man to sell or to agree to sell his land to a richer man than himself than to a man he considered to be either below or of his own economic status. The reasons for this were partly that the richer could pay slightly more money than the poor and at the same time do so faster, therefore, more conveniently, and not in small installments spread over a long period as might be the case with a man of lower or equal status. In addition, the poor sellers hoped that

by selling their land to the rich rather than the poor, they would establish some useful patron-client relationship from which they might benefit.

Some people thought that landlessness had decreased after adjudication. They answered, not too convincingly, that land adjudication confirmed the rights of those who had land before, while many who could afford to buy for themselves did so if they never before had any land. This latter argument had the most support from the rich and influential. These people, together with the clan committee members and a few others who had a relatively higher acumen in dealing with land cases, have been seen by most as the major beneficiaries of the process.

On the question of land sales after adjudication, 44 people (95.7 percent) said that land selling had increased. As regards the reasons for selling land, the major ones were: school fees, famine, and for the young men's payment of bride wealth. When people had incurred heavy debts and fines, they often sold land.

Many people are known to have sold their land during the acute food shortages to buy food. Before adjudication, people sold livestock to deal with famine. Now many people prefer to sell land rather than livestock. Those without livestock, but with land ended up in parting with most of their land to the rich when they were pressed by such problems as school fees or famine.

Some people have been selling land with prospects of buying better land than that which they sell, but in many cases end up spending all the money without buying any land at all. Many people when confronted with land disputes demanding heavy expenses have sold parts of their land. When they have small pieces of land in different areas, they prefer to sell these to obtain money to finance the disputes involving other larger pieces of land. If a person sold part of a big piece of land to finance a dispute involving the whole of the same piece of land, but lost the case, it would mean a greater loss of both land and money.

There are people who want to sell small pieces of land to buy cattle. Other reasons given are business, i.e., to develop a business plot, to build permanent houses for homestead development, etc. The fact that individuals can no longer be controlled by the clan as far as the use of land is concerned also motivates such individuals to do what they like with their land, as they have the freedom to sell it if they so wish. The market for land is highly competitive as some people see land as a commodity. Those who have money to buy land, and having sensed that land in the future will be much more expensive than it is today, have begun speculating--they buy land to sell it later, at higher prices, with some individuals making up to and more than 100 percent profit. Other speculators prefer to keep their land so that they can sell it later at even greater profits.

Many "outsiders," especially those from Central Province, are buying land at prices which are relatively higher than those offered by local land buyers, and this also lures the poor landowners to sell their land. Some sell not because they have genuine reasons to do so, but because they get attractive offers after which they squander the money and are ultimately worse off, being both poorer and landless. All my informants had heard of cases where people

had sold land and many without good reasons for so doing. Some people had sold all the land they had. Thirty people (65.2 percent) were of the opinion that such people would start starving very soon and would be without clothes to wear or without money to pay school fees for their children, especially those who had sold all their land and were left with nothing left to sell. The rest of my respondents (16 people--34.8 percent) felt that these people would be the troublemakers of both the present and the future.

This selling of land, especially without apparent genuine problems on the part of the sellers, is despised by the local community. Those referred to as greedy people are those who want to get money only to spend it now without caring what their families will do to solve the future problems. The second category--careless and foolish--also carries similar connotations to the first one,

Table 10
People's Opinion Toward Unnecessary Selling of Land

Response	No. of Respondents	Percentage
1. Greedy with no future regard for family	16	34.8
2. Careless and foolish	21	45.7
3. Enemy of the people	9	19.5
TOTALS	46	100.0

of foolishness and shortsightedness barring them from foreseeing the troublesome future that lies ahead for the landless families, especially if they happen to be poor. Category number 3 consists of the "enemies of the people," because they become enemies of their immediate families after selling all the land that would help the latter. They are also enemies of the people because when they sell the land to outsiders, as mentioned before, they are inviting troublesome neighbors. Asked to substantiate this point, many people said, and they believe it here, that when a Kikuyu buys land next to you and, unfortunately for you, your cows go to his farm, he will take you to court and make very heavy compensatory demands. They are accused of closing all the public footpaths passing by or near their farms. This individual ownership rights mentality is spreading very fast and many local people have started displaying it.

Asked what exactly they considered to be bad and good reasons for selling land, many people said that the bad reasons are all those involving waste; and by waste, they meant drinking, buying expensive clothes, and living a generally luxurious and wasteful life. The good reasons for selling land are given in Table 11 below.

Table 11
Good Reasons for Selling Land

Response	No. of Respondents	Percentage
1. School fees	42	35.9
2. Famine relief and food	12	10.2
3. Bride wealth and arrangements	33	28.2
4. Cost of disputes, debts, and fines	4	3.4
5. To buy better land	5	4.3
6. To buy cattle	5	4.3
7. Business or plot development	14	12.0
8. Homestead development	2	1.7
TOTALS	117*	100.0

*Multiple responses.

F. Fragmentation and the Declining Family Unit

When the larger lineage land was not adequate to cater for all the members of the families involved, members of the various families relied on the family land itself. The homestead head in charge of the family land had to divide the land among his sons. In some cases, the land was not adequate and, therefore, not all sons got their share. For this reason, sons were considered on merit, giving priority to the sons who respected and treated the homestead head well as opposed to those who were ready to argue with him or even abuse him and fight him.

As land was considered family property, the sons who obtained no land were not prepared to tolerate what they considered as unfair decision. Some subdivided the land among all the sons into very small and uneconomic units. At times even this was not possible where the sons were too many for the amount of land available, leading to family factions. The sons given land by the father were branded his favorites and were, therefore, together with him, treated as rivals by the others. In such cases, even the mothers of the sons who got no land showed resentment, which aggravated the conflict in the homestead. When some sons are economically better off than others, the latter argue that the family land should be left to them because those who are better off could afford to buy land for themselves. Thus, strong feelings of disagreement, with resentment and jealousy, build up even to such an extent that the old man loses effective control over the members of his family. Each son starts acting independently for his own benefit.

G. Emergent Social Conflict

Among the three major levels of conflict--intra-family, interpersonal, and clan or larger group level--the family level felt the impact of social conflict most deeply. One explanation for this is that in the intimate relationships, such as those of the families where the ties are diffuse and affective, conflicts are likely to be sharper and more violent than among strangers or in groups where the relations are functionally specific and affectively neutral. Secondly, the families, not excluding the extended family unit which in some cases is referred to as the clan, had the greatest control over land. The members of the families in many cases, for the first time perhaps in the kinship history of the Mbere, saw themselves in confrontation against one another. Each tried to fend for himself while faced with the alternative of either getting land or the disappointing consequences of no land at all. Table 12 shows the various forms of conflict resulting from land adjudication.

Table 12

The Nature of Social Conflict in Broad Categories

Response	No. of Responses	Percentage
1. Family quarrels	22	28.6
2. Interpersonal quarrels	27	35.1
3. Inter-clan confrontations	7	9.1
4. Various methods of rivalry and violence	<u>21</u>	<u>27.3</u>
TOTALS	77	100.1

Family factions developed. Interpersonal confrontations outside the family environment also involved members of different clans in cases of conflicting interests over a common piece of land. Where different clans were involved, each clan's members united against the opposing clan. In isolated cases, whether involving the intrafamily, interpersonal, or inter-clan differences, the parties in a conflict displayed a high propensity to harm one another, depending on the intensity of particular conflicts. Table 13 shows the various causes, all stemming from the land issue, for the disputes.

As concerns the eviction of people who formerly owned the land, many cases have been heard of people selling land and being promised by the buyers that the former owners would be allowed to continue living there, or at least would be granted such rights as cutting of trees for charcoal burning and a few other rights, only to be given unconditional eviction notices as soon as the sale was finalized. Others have been accused of making invalid sales of

Table 13
Reasons for the Rise of Various Disputes

Response	No. of Responses	Percentage
1. Father deceased	14	16.6
2. Use of deceptive means to acquire land	33	39.2
3. Struggle over leadership (in disputes)	3	3.5
4. Selfishness (in favor of one's family)	9	10.7
5. Size of contribution	5	5.9
6. Breach of old land sale agreements	1	1.1
7. Buying land and chasing out the selling owner	1	1.1
8. Extending boundary beyond actual limits	11	13.0
9. Individual claims monopolizing group owned land	4	4.7
10. Others, e.g., selling to strangers while land not theirs	3	3.5
TOTALS	84	99.3

land that they do not own, especially to strangers who are quite eager to buy such land at "throw-away" prices in spite of the fact that the strangers are ignorant of who really owns the land.

If individuals or various groups ran into conflict with one another, there were various means open to them in their attempt to come to terms with the situation. Table 14 lists some of the means.

At times old hatreds deriving their potency from land cases find themselves expressed in physical fighting. At drinking places one finds drunkards exchanging physical blows not primarily due to the irrationality that may normally accompany drunkenness, but because of the old grudges they bear one another.

Bribes are alleged to have been used either in money or in kind. A witness can defend a case more authentically when he stands to gain directly from the success of the case, especially if he is promised a piece of the land if the case is won. Some legal authorities settling land cases are not excluded from this, for they have been known to arbitrate over disputes with partiality when they have some interest at stake.

Table 14
The Various Means Used by Parties in Land Case Conflicts
to Defeat One Another

Response	No. of Responses	Percentage
1. Undue and groundless blame and scapegoating of opponents	2	1.4
2. Oath (against the law)	9	6.4
3. Other dangerous plots, e.g., ambush to beat someone physically	19	13.4
4. Bribery--with money, land, etc.	37	26.2
5. Use of witchcraft	25	17.7
6. Use of poison (in food and/or drinks)	22	15.6
7. Use of advocates (to make cases tricky and expensive)	4	2.8
8. Threats (to murder or fight)	9	6.4
9. Collaborating with members of other clans and false witnesses	<u>14</u>	<u>9.9</u>
TOTALS	141	99.8

Witchcraft has commonly been feared. It was mentioned by 25 people (17.7 percent), which makes it second to favoritism and bribery mentioned by 37 people (26.2 percent). In one area, oath-taking and witchcraft were said to have been killing off the male population of the area until the secret oath-taking was stopped. It was, however, difficult to control witchcraft because nobody ever openly admits its use. As can be seen from the table, poison comes third, being mentioned by 22 (15.6 percent), and is said to be used in foods and drinks. It is for this reason that people have developed lack of trust in one another, and many, in fact, have started drinking only in the most familiar company; yet even in such company the elements of suspicion cannot be ruled out, as it is said that your enemies get you most easily through your most intimate friends. The same case applies to eating habits. Various types of threats, including threats to murder or torture, have been made. This is not a straightforward affair, as it is done by some people behind the scenes. Employment of false witnesses, although mentioned by only 14 people (9.9 percent), has been very common. Sometimes the possibility of winning land cases increased or decreased depending on whether you obtained committed witnesses or not. When one was making a false claim to a piece of land, and against one of his clansmen, for example, he might have found it difficult to get another clansman willing to support him against a fellow clansman. In such cases, some individuals used false witnesses from clans outside their own.

Table 15.
The Consequences of Disputes Over Land

Response	No. of Responses	Percentage
1. Reduced or no cooperation	44	80.0
2. Clanism emphasized	3	5.5
3. Relative deprivation	3	5.5
4. Social differentiation and cleavage of friendship movement patterns	2	3.6
5. Landlessness	2	3.6
6. Corruption	1	1.8
TOTALS	55	100.0

Although cooperation has deteriorated greatly, this is especially true at the collective community level. At the higher community level, cooperation has been usurped by cooperation at the clan level, a new type of cooperation which benefits the individuals within such groups. This functional intra-clan and allied inter-clan cooperation is what I have called "clanism" and it harbors great potential for conflict at both inter-clan and moiety levels.

Why the old men (who look more impartial than they have actually turned out to be) should be so particular about this issue that I have referred to as "clanism" is difficult to understand. The people have identified enemies where they do not exist. The old men believe (even where there are no concrete facts on which to base their beliefs) that there is conflict between the two moieties. Especially the old say that a fool from the family is preferable to a genius from outside, which they identify as the enemy side.

As regards relative deprivation, the rich have bought off the poor and taken a greater share of the land. The good and not the poor land has gone to the rich either through sales or other means. Many of the poor realized their predicament when they ended up with no land or after selling their land and spending all the money.

On social differentiation and cleavages of friendship movement patterns, some friendships have broken down when the parties do not belong to the same major clan grouping. Even when they belong together, they are likely to choose associates according to interests, and have such talks as, "Where do you think I can buy some hundred acres or so of good land?" Such talk leaves out the poor man. One often finds a number of poor men discussing how they sold their land, and how conveniently one was paid by his buyer, as they dislike those buyers who take a long time by paying small installments. Frequently

they blame not themselves but their buyers for their irresponsibility, as they say that with such small installments one cannot even buy a cow or a goat, and so end up spending most of the money on drinking. Groups of the relatively wealthy have emerged with high social and financial ratings. Among the higher social status groups belong the shopkeepers and those teachers in the higher income brackets plus a few others who have established themselves with some business after working for a long time as civil servants or for companies in Nairobi and other major urban areas.

Drinking patterns have shown that people drink with their equals. When the rich talk with the poor, it is when the rich are paying the poor for their labor as "shamba boys" or shop assistants, or giving them the work program for the following week, i.e., what work needs to be done in that time period. Very often you see a local influential, a trader for example, asking an old man whether he knows anybody who could sell the trader a piece of land. The relationship between the two exists only in as much as one wants to use the other to one's own specific end or advantage. To use Durkheim's concepts, the social relationships in the area have moved a long way from the purely intimate, kinship-based activities in a homogeneous social environment (his state of mechanical solidarity) to those relationships which are characterized by a contractual and specified purposeful involvement with no reference to the traditional and at times ascriptive order, but emphasizing individual achievement and development that is measurable in monetary terms (which Durkheim called organic solidarity).

Table 16
Effects of the Land Reform on the Role of the Clan

Response	No. of Responses	Percentage
1. Decline in clan authority	18	35.2
2. Reduction of common property ownership	12	23.5
3. Decline in mutual trust and responsibility among clan members	5	9.8
4. Greater integration of clan versus clan	2	3.9
5. Collective clan activities discouraged by individualism	7	13.7
6. Separation and infrequent interaction of clan members	7	13.7
TOTALS	51	99.8

Once landownership is individualized, the clan no longer has any say over it. For other affairs (e.g., social dispute settlements and other problems), the clan derived its powers basically from its control over land use rights, having the sanction to deny somebody's rights if he refused to comply with the normative standards of the clan. This gave people a feeling of loyalty to the clan. Once ownership is individualized, it leads to other effects, all calculated on an individual basis, unless the clan members want to pool their efforts for a specific goal, such as snatching a piece of land from another clan. Such a move will also lead, eventually, to individual motives because the members will have to subdivide the piece of land if they win. The same conflicting relationship existing between the clan groups makes them unite to strengthen themselves against others. This is an integrative function of the social conflict caused by the land issue, and has caused stronger identification with particular groups.

Many people have built settlements for themselves where they have either been given or bought land. This geographical mobility reduces the frequency of interaction and has some impact on the socialization patterns and kinship ties, as well as on the choice of partnerships for joint endeavors of business, in addition to the influence of other factors.

H. The Emerging Picture

To what extent did the consequences of the land reform conform with its major aims?

In Mbita and the surrounding Sub-Locations, many people felt that there was already group cleavage with groups, e.g., the major clans and their constituents uniting against one another. The enmity emanating from such associations led to a low collective spirit due to lack of trust. This may have serious repercussions on the development of the area. Many people also argued that there was a strong inclination toward individualism at all levels leading to social disintegration.

The people's opinion on the fairness or unfairness in the actual carrying out of the exercise was that the official side was unfair. Many seemed hesitant in answering such questions. Others argued that the distribution of land was unfair on both the official side and especially that of the landowners themselves (the clans).

Most were for the process, but in a follow-up question asking them whether they were happy with the amount of land allocated to them, the opposite seemed true. This was intended to assess their degree of satisfaction with the whole process, and the answers are seen in Table 18. Most of the people (69.6 per cent) here said that they were not satisfied with the amount of land allocated to them, while 26.1 percent either said that they were satisfied, or indicated that they had used some unfair means to obtain the land they wanted. Some 4.3 percent were still waiting to solve the disputes involving their land before they could subdivide it.

Table 17
People's Attitude Toward the Land Reform

Responses	No. of Responses	Percentage
1. Good security over use, loans, no future disputes	27	42.8
2. Good--no further moving from place to place	5	7.9
3. Not good--interfered with old land use rights	18	28.5
4. Not good--landlessness (including loss of inherited land)	4	6.3
5. Not good--brought hatred and destroyed the existing social life	<u>9</u>	<u>14.2</u>
TOTALS	63	99.7

Table 18
A Check on Whether or Not the People Were Satisfied with the Amount of Land They Obtained

Response	No. of Responses	Percentage
1. No--poor, small; or not enough in terms of contribution of either money or labor	32	69.6
2. Yes--not because he got enough but felt the committee had done their best	12	26.1
3. Not yet--the land for clan either not yet subdivided or under dispute	<u>2</u>	<u>4.3</u>
TOTALS	46	100.0

People now have to be buried in their own land. Although this was so even before (as one had to be buried where he lived), it seems to have received a greater emphasis. With reference to a person who has sold all his land, they say, "He has sold all land without even leaving a small section where he can be buried when he dies." While land has come to be seen by some people as security for loans, some think, in addition, they can grow trees for wood and building timber or for burning charcoal.

Selling of land has been the most salient characteristic subsequent to individualization of landownership. A common cause of disputes was the selling of land by individuals or groups when ownership was questionable. Although the sellers were supposed to report to the Chief's Office before they sold land, many sold their land secretly for fear that the Chief's Office would frustrate their intentions. Land was bought by both locals and outsiders. The figures given below, in Table 19, are only a few which managed to reach the Chief's Office from the years 1971 to 1975. The percentages are calculated out of 75, which is the total number of sales available for Mavuria Location in that time period. The table serves to indicate that out of the available total of 75 land sales, 56 of them (74.64 percent) were made to locals, while the rest, i.e., 19 (25.32 percent) were made to outsiders.

Table 19
Land Sales for Mavuria Location in the Period 1971-75

Sub-Location	Sales Made to Locals		Sales Made to Outsiders		Total No. of Sales	Total % Sales in Each Sub-Location
	No.	%	No.	%		
Mbita	33	43.99	13	17.33	46	61.32
Kirima	0	0	1	1.33	1	1.33
Gichiche	10	13.33	4	5.33	14	18.66
Kithunthiri	0	0	1	1.33	1	1.33
Kiambere	3	3.99	0	0	3	3.99
Mavuria	10	13.33	0	0	10	13.33
Riachina	-	-	-	-	-	-
TOTALS	56	74.64	19	25.32	75	99.96

The most popular advantage of having a title deed to one's land is the lack of further land disputes, seconded by loan availability. Although 69.9 percent said that their chances of getting aid or loans once they get their title deeds would be better, they found it difficult to clarify what exactly

they meant. The rest, 30.4 percent, either saw no chances and were not interested (15.2 percent) or thought there were chances but not much hope for them (15.2 percent).

Table 20
Chances of Getting Aid or Loans for Development--
The People's Perception

Response	No. of Respondents	Percentage
1. Better	32	69.6
2. Does not see chances and not interested	7	15.2
3. Better but not much hope for him	7	15.2
TOTALS	46	100.0

But I still followed up the 69.6 percent to know what type of aid they had in mind and what agents or organizations they thought they could borrow from, giving them, in addition to their own choices, such others as A.F.C. (Agricultural Finance Corporation), banks, K.F.A. (Kenya Farmers' Association), S.R.D.P. (Special Rural Development Programme), or the government. Apart from a few who I identified as progressives, who knew exactly where they could get aid and how to go about it, all others answered that they could take any aid that came their way. They did not seem to know how it would come to them and what for, although many found it safe to talk of agricultural development, as can be seen in Table 21.

Finally, I considered the position of women, especially in relation to property ownership and family authority. For this, see Table 22. Women can now either buy or inherit land. Now some men are considering whether to leave their land to their wives or sons, which would not have been possible earlier. If a woman, by any chance, bought a piece of land or any other property, the husband was there to boast over its ownership, but today what the woman has bought is hers. Women can act independently of men.

Many women have engaged in petty trading--selling of foodstuffs such as bananas, corn, beans, and the like--in the local markets without harassment from husbands. Some women have made enough money to buy their own land.

Women have also had a chance to demonstrate their abilities in the land disputes. In one case, a man died, leaving his young son to face the clansmen who wanted to steal part of the land. To do this, the clansmen walked around the property with the son, but showed him incorrect boundary lines. The mother of the boy, knowing the correct boundary lines, challenged the kinsmen,

Table 21
The Type of Undertaking Various Individuals
Had in Mind If They Got Some Aid

Response	No. of Respondents	Percentage
1. Agricultural development	17	37.0
2. Business	4	8.7
3. Agricultural development and business	5	10.9
4. Agricultural development and keeping cattle	1	2.2
5. Agricultural development and permanent building	1	2.2
6. Agricultural development and poultry keeping	1	2.2
7. Keeping cattle	4	8.7
8. Not decided and not interested	<u>13</u>	<u>28.3</u>
TOTALS	46	100.2

Table 22
The Present Position of Women in Society

Response	No. of Responses	Percentage
1. Women can buy or inherit land	33	51.6
2. Women independent of men's orders	8	12.5
3. Women have shown craftsmanship in disputes	6	9.4
4. Increase of women's role in decision-making	7	10.9
5. Decentralization of authority has favored women	<u>10</u>	<u>15.6</u>
TOTALS	64	100.0

complained to the survey officer, and recovered the stolen part of land for herself and her son.

In another case, when the men were away, women participated very actively in boundary marking, sending for money from their husbands working in urban areas to make contributions when necessary. If the men were uncooperative, the women exploited the various alternatives open to them and finally managed to get their sons favorably considered for land allocation. In such cases, the husband came home (from Nairobi or elsewhere) to find a hostile woman. If the women went so far as dealing with matters concerning land, then it shows clearly that they are increasingly getting involved in decision-making in family matters. This increasing role in decision-making was helped by long absences of their working husbands. A man gets married to become head of his immediate family. When he is not around, the wife acts as the household head and, therefore, makes important decisions. In matters concerning land, the absent man will not trust his kinsmen, but his wife, which again leads to an increasing tendency for the women to act independently.

Nuclear families attain greater autonomy as the husband, wife, and children try to boost their independent efforts to get land. The overall family authority, especially by the old men, is no longer valid.

CONCLUSION

The government decided to have land adjudication carried out in Mberere mainly for economic reasons. Leaders were consulted, but public opinion was not explicitly sought. Many of the landowners were, therefore, not aware of this decision. Perhaps local participation in the decision-making at the grassroots level might have given a different result. They might, for example, have given more immediate priority to a different project, after which they would have chosen land adjudication. Possible contradiction in terms of necessity and priority is implied.

While land adjudication was seen as a necessary initial step toward development in Mberere, there was a difference in objectives between the Land Adjudication Department of the Ministry of Lands and Settlement, and the Ranching Department of the Ministry of Agriculture. While the former wants to individualize ownership, the latter argues that group ownership should be encouraged so that the Mberere can cooperate and form group ranches, which they believe to be a viable economic possibility. Departmentalization in various ministries may tear apart the goals of a project which could result in delays in developing the area in question as the two departments attempt to achieve their competitive goals.

Land adjudication was expected to benefit rural landowners, in the sense that it would raise agricultural production and promote access to developmental facilities such as loans. It was also expected to promote personal effort necessary for developmental purposes. This personal effort has been achieved, although the sociological disadvantages seem to override the economic advantages. Fragmentation, for example, is necessary to make sure that everybody gets a piece of land where he has a right, but too high a degree of

fragmentation where the holdings get smaller and smaller is not economical. Other negative aspects, such as selfishness, individuality, and corruption, to mention only a few, have characterized the process. With regard to the social conflict, Durkheim's "conscience collective" which had, until then, been very characteristic of the social organization of the Mbera has been killed. Even the rural communal work groups are no longer in operation. The future of many residents in the area looks economically more gloomy than before the change in landownership. The process has benefited only a few individuals, including those who bought most of the land formerly owned by the poor.

Land adjudication has interfered with traditional rights. Those who depended for their income on burning charcoal can no longer do so unless the trees are on their land, or they have permission of the owner. Formerly beehives were indiscriminately placed in any suitable trees. After adjudication, those with beehives in trees not on their land were required to remove them by the new landowners who said they would use their land exclusively. The new owner might complain that the bees were hostile, not allowing him to do his work properly in that area. If the beehive owner did not promptly remove his beehive, there were chances that the landowner would still cut down the tree. Three such cases have been reported to me.

Shifting cultivation has also suffered a similar fate because you either cultivate on your land or with the landowner's permission. Shifting cultivation is a mode of adaptation to the ecological environment, but no one will allow you to use his land without his benefiting from it. The people have already developed a more commercial attitude toward property ownership.

People have already started wondering whether they will be able to keep as many cattle in the future since there will be a shortage of pastureland. One's cattle will not be able to graze just anywhere. There will be either a reduction of livestock or overgrazing where one's land is not adequate. Overgrazing leads to impoverization of soil. A reduction of livestock will affect many things, including the social institution of marriage. By tradition, cattle are required for bridewealth. Without cattle this will have to be settled in pecuniary terms. In settling bridewealth in cash, the difficulty will be to come to a consensus regarding, say, the monetary value of a bull. An element of trade or bargain, therefore, creeps in here as the wife-givers are likely to start arguing that the prices of things have gone up today unlike a few years back when cattle were cheaper, while the wife-takers would want to pay as little as possible per cow or bull.

Many people have said that the old system of land tenure was better. These are mainly the poor people and some of the uneducated who have not benefited from the process. Those with money seemed quite happy---buying enabled them to gain more land.

Land adjudication in Mbera has meant increasing awareness of land value. This awareness grew as outsiders, especially the Kikuyu, flocked into Mbera to buy the cheap land. These people are much more aware of land values (as land reform in Kikuyuland took place many years back) than the Mbera, and were willing to buy land without bargaining as they found it so cheap. This readiness to buy land lured some members to sell clan-land without consulting the others. This was one more source of later misunderstanding. This primary stage of

social conflict formed the background of the breakdown of traditional authority. It led to the decline of the clan as a unifying agent. The role of the family in solving domestic problems similarly declined.

Most of the negative consequences of the land adjudication on the Mbere social organization are seen in the form of social conflict. Even where the actual conflict has passed, hatred still persists and may manifest itself later. Land feuds and old hatreds may interfere with later social activities including politics. Sorrenson has examples of this nature.⁸

With the introduction of the land adjudication process people had to make clan-centered decisions, as the responsibility was left to the various clans to decide how they were going to allocate landholdings to their members. It encouraged some aspects of formal organization as the clans were expected to choose their leaders and form a committee. They also had to register all the members for land allocation, which introduced people to formal organization. This may have helped later, in organizing people for other developmental activities. Lists of people are more complete, for obvious reasons,⁹ and can, if necessary, be used for other purposes to benefit the people involved.

The clan-division mentality crept into local activities, including politics. Some hatreds, though baseless, led to a low level of cooperation. The traditionalists took the division very seriously. Subsequently, the clanish mentality spread to other categories of people. This reasoning based on whom to talk to, to cooperate with, and drink with, has virtually killed the Harambee spirit (cooperation). People can hardly trust one another if they do not belong to the same major clan group, if not the single small clan within each moiety. Others who belong together cannot trust one another, but that is because they have had a dispute over land. One of the partisans may even fail to attend a certain tea party because of his hatred of an opponent. A person may also refuse to attend a meeting even when he might personally benefit, simply because the meeting is being chaired by so and so.

The self-help projects are affected in various ways. The contributions to a Harambee project may be affected by the situation of the particular project. If a school, for example, is likely to benefit the members of one clan group more than the others (due to proximity) then the members of the side that stands to gain nothing may fail to turn up for the Harambee day. If they turn up for the day, they make meager, if any, contributions. Different people have different motives for contributing in Harambee meetings, including dramatization of one's social status and, therefore, reasons affecting the behavior cannot easily be explained. Not all people are equally affected by this mentality, as some individuals are determined to maintain their responsibilities without discrimination.

Recent contributions to promote the local dispensary around Kiritiri into a bigger health center have been carried out on a clan basis. The argument.

8. M.P.K. Sorrenson, Land Reform in Kikuyu Country: A Study in Government Policy (London: Oxford University Press, 1967), p. 100.

9. See my B.A. dissertation passim.

here is that various clans might not have effectively cooperated in the contributions. The leaders, therefore, arranged that the various clans in the area should elect their own committees to go around collecting the money to be contributed from each category of economic group--by occupation, as follows: shopkeepers to pay Sh. 100.00, everybody with income above K.Sh. 400.00 per month to pay K.Sh. 200.00, and so on. The argument was that the size of the contributions would show which clans did not want a bigger health center and were, therefore, enemies of development. The members of such clans would get inferior treatment when the center was completed. In the present situation, this was obviously the most efficient method of collecting the funds, at least so it was thought, but it acted like a formal recognition and reinforcement of such clan groups. As one can see, social solidarity is at stake, and in addition, various selfish patterns of social interaction have emerged. There is a feeling of discomfort, if not insecurity, when one is in the groups with which he does not identify.

Many people have begun aspiring to live separately from other family members once they have their own land. Nuclear families have emerged as opposed to the already existing kinship-based extended families. Family conflicts over land are neither new nor are they peculiar to the Mbere situation as the following example from the Kikuyu land problem shows: ". . . Fort Hall report for 1948 argued the conflict over land was turning family against family, brother against brother, in an individualistic race for more acres . . ."10

Now that the clan has loosened its controls, selling of land has risen fast. There is an official and legal regulation stipulating that the landholdings allocated to children under 18 years of age cannot be dispensed with by their fathers, guardians, or relatives. If this were allowed, many of the young ones would find themselves landless.

Due to increasing individual differences, both socially and economically, enmities and jealousies have developed among neighbors. This has led to a greater respect and fear of interfering with personal property. If A's cattle, while being looked after by A's young son, went into B's farm and ate his corn in the former times B would just beat A's son, and the boy would remember to look after the cattle more carefully the next day. But today this is not so. If a similar thing happens and B beats A's son, he is likely to be sued by A for beating his son. Instead, B has got to go to the courts and sue A for the damage his cattle did in B's farm and hope to be compensated. If B sues A and loses the case, then there is no compensation for B and the two remain in silent conflict, waiting for a time when one will get a chance to punish the other.

The elders used to visit one another, but nowadays this has become unpopular behavior. Appearing early in the morning to say good morning in another compound is now surprising behavior. Formerly children would go around the homesteads in a certain area and eat food. Today the parents do not trust others with their children and have warned children never to eat anything they are given outside their own homesteads as they might be poisoned. This enmity

10. Sorrenson, Land Reform in Kikuyu Country, p. 79.

and lack of trust among the neighbors has also led to closing of the footpaths which pass either through or too near homesteads.

One example of closing the footpaths concerned a man who closed all the footpaths passing through his piece of land, after which he made stepping on his piece of land out of bounds to others. This was unacceptable to the neighbors whose children had to follow these footpaths on their way to school and they decided to retaliate. They used the well, where everybody fetched water, as a weapon. The well belonged to the public, but all the footpaths leading to it passed through somebody else's land. With the knowledge that this cruel man's wife had to fetch water, all the people through whose pieces of land the footpaths passed to the well made stepping on their pieces of land out of bounds to both the man and his wife. If she could fly to the well, they said, they would not object to it because the well belonged to the public. Where this cruel man's children passed through other people's land on their way to school, they were also required to stop and take roundabout ways. The cruel man gave in and re-opened the paths and adjusted the other restrictions. His wife was then allowed to take the footpath to the well to fetch water and his children allowed to follow the convenient footpaths to school.

Local brewing of beer used to be popular. The men would drink beer, especially on Sundays when they had no work to do. This is the way old women, who rarely have other ways of getting income, earned money to buy such necessities as sugar, salt, tobacco, and snuff. Other younger women would also prepare and sell beer to get money, or they flirted with the men who bought the beer and got drunk. Some of these women were rural prostitutes. With the change of drinking habits, people no longer trust one another. One could not drink in the company of a man with whom he had disputed over a piece of land. They feared poisoning. The local brew, Karubu, was purchased by no one. The grandmothers and others who had benefited from it were therefore financially hard hit as their customers resorted to the local market or shopping center for drinking. At the shopping center, where the drinking business is more commercialized, poisoning is believed to be more difficult to accomplish.

Finally, land adjudication has enabled women to own land. Today, if women want to break off from their husbands and they have the money, they just buy land and build their own homes, and the clan no longer has power to intervene. Some women, especially the rebelling ones who trade in minor businesses and are therefore too busy to stay at home have "married" other young women to assist them in household duties. Marrying of women by other women, however, is common only when the one who "marries" and pays bride price for the other has no sons and is wealthy. The sons or children borne by the "wife" belong to the other.

Widows are given land by the clan and have the say over that given to their sons. Land adjudication, therefore, has had positive implications for the Mberé women's position with regard to freedom of activity, participation in decision-making, property ownership, and family authority.

Implications

Formerly people were not used to being organized in formal groups. The fact that they were required to do this has meant a better formal organization introduced into the rural area, as exemplified by the clan committees. This is an aspect that might help where formal group formation is necessary for various types of undertakings, e.g., self-help projects (as they need good and capable leadership--the division of roles facilitates more effective achievement of goals, which would hardly be possible without organized leadership).

Selfishness and identification with particular groups will, besides integrating and strengthening some social groups and relationships, also cause effects that are highly detrimental. It will encourage a form of competition, that is not conducive to economic development of the area. Group self-help participation spirit will be rendered less effective.

Recommendations

1. To protect the poor rural landowners from exploitation by the rich, the Lands Department should set minimum prices in land sales.
2. To check the current rate of land selling, more stringent measures will need to be taken to make sure that people do not sell land without official advice and permission. Unless checked, land selling will cause acute landlessness, leading to other social problems in the future.
3. In terms of the intended economic development, land adjudication does not seem to have made much difference to the individual farmers. An attempt should be made to call frequent meetings of the rural farmers to inform them on developmental issues such as credit availability and how to go about obtaining loans for the small farmer.
4. Although existing clan differences have been exploited where they give positive results, the leaders should try as much as possible, in their organizational efforts, to organize the people in mixed clan groups so as to increase the chances of social interaction on common interests and to reduce the chances of biased clan group reinforcement. Where some self-help contribution funds require collection by committees, such committees should be multi-clan committees elected on a multi-clan basis.

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