

**ARE WE MORTGAGING OUR LIVES?
The Politics of Trusteeship and Development of Mwea Irrigation Scheme**

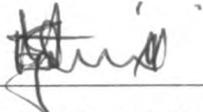
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**A Project Paper Submitted to the Institute for Development Studies in Partial
Fulfillment for the Requirement of the Degree of Master of Arts in Development
Studies, University of Nairobi**

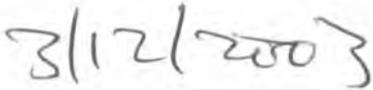
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DECLARATION

I, Sebastian Gatimu, do hereby declare that this project paper is my original work and has not been, and is not currently being, submitted for a degree in any other university

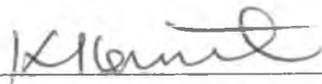


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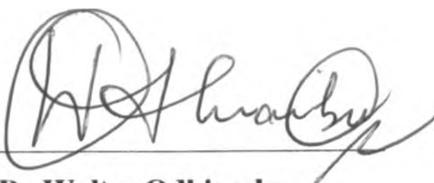


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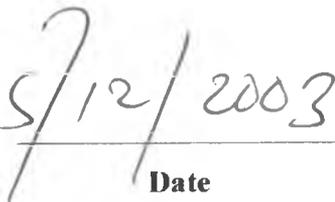


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Second Supervisor, Institute for Development Studies

DEDICATION

This project paper is dedicated to my mother Priscilla Muthoni for her moral and material support all through and for being around when it counted most.

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This project paper would not have been a reality were it not from the support and encouragement I got from several people. First and foremost I am grateful to the Danish International Agency for Development (DANIDA) for generously awarding me a scholarship that enabled me to undertake this study.

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Finally and not the least, I am greatly indebted to my brothers Landslous, Paul, and Peter and to my sisters Teresa and Zipporah. Thanks John Murimi for the support you gave during fieldwork and to anybody else who contributed in other ways towards completion of this study. May God bless you all.

ABSTRACT

This study is about the politics of trusteeship in local development. As a concept, trusteeship means the intent expressed by one source of agency to develop the capacity of another. On account of trusteeship, one agency is entrusted with acting on behalf of another to try to ensure development of the other. However, these interventions sometimes result into serving the economic interests of the agency itself, rather than delivering development for the benefit of the targeted community. Relatedly, beneficiaries begin to view the development initiatives by the agency as uncalled for and carrying with them a hidden agenda - to exploit and oppress them. As a result, the development project by the trustee fails to be sustained because of failing to meet the local peoples' expectations. This study looks at the legitimacy of the trustee and the reasons why development agencies have the intent of developing other actors. The main research question guiding this study is why do development agencies have the intent of developing other actors? Consequently, whose interests do development agencies represent and to what extent do they involve the beneficiaries in their development projects?

The study was carried out in Mwea Irrigation Scheme in Kirinyaga District. The data for this study was collected during the month of June and July 2003. Data collection was carried out using structured and unstructured questionnaires. 100 respondents were interviewed by use of the structured questionnaires. The unstructured questionnaires, on the other hand, were administered to ten key informants who included: three National Irrigation Board official in Mwea, two officials of the Mwea Rice Growers Multipurpose Co-operative, the Chairman of Mwea Rice Farmers SACCO Bank, Chairman of Mwea Rice Growers Multipurpose Co-operative Society, a local councilor, and two former members of the National Irrigation Board Advisory Committee in Mwea. The data was analyzed using both qualitative and quantitative methods. Quantitative analysis involved calculation of frequency distributions and cross tabulations while qualitative analysis involved content analysis of the emerging relations, themes and patterns of trusteeship and local development in relation to the hypothesized variables.

The findings show that the failure of the trustee to involve the beneficiaries in their development initiatives leads to the later distancing themselves from the activities of the former. The local community begin to view the trustee as the beneficiary of its initiatives and serving the interests of its own and that of its master. The relationship between the two then becomes increasingly troubled as the beneficiaries develop negative perception towards the trustee. As a result, the development initiatives by a trustee fail to be sustainable.

By not encouraging popular participation in local development, the beneficiaries begin to show dissatisfaction with development initiatives by the trustee as they withdraw their popular support from it. Trustees need to legitimize their development activities at the local level through encouraging popular participation. This is the only way that can make their development initiatives sustainable as the beneficiaries continue to own their projects and to associate themselves with their development activities. The future of trusteeship therefore lies in a situation where the trustee and the beneficiaries sit and discuss on the way forward and the necessary interventions to be made. The trustee must engage itself in the promotion and protection of the interests of the local community, as this will ensure the beneficiaries' support for its development initiatives.

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ACRONYMS

ADC	African District Council
ALDEV	African Land Development Organization
COMESA	Common Market for Eastern and Southern Africa
JICA	Japanese International Co-operation Agency
KHRC	Kenya Human Right Commission Report
KANU	Kenya African National Union
MRGM	Mwea Rice growers Multipurpose
MRM	Mwea Rice Mills
MOA	Ministry of Agriculture
MOCD	Ministry of Co-operative Development
MOWRMD	Ministry of Water Resources Management and Development
MP	Member of Parliament
MIS	Mwea Irrigation Scheme
MISB	Mwea Irrigation Scheme Board
MISDA	Mwea Irrigation Scheme Development Authority
NARC	National Rainbow Coalition
NIB	National Irrigation Board
NCPB	National Cereals and Produce Board
SACCO	Savings and Credit Co-operative
WUA	Water Users Association

CHAPTER ONE

INTRODUCTION, RESEARCH PROBLEM AND METHODOLOGY

1.1 Introduction

As a concept, trusteeship means “the intent that is expressed by one source of agency to develop the capacity of another. It is what binds the process of development to the intent of development” (Cowen and Shenton, 1996: x). “Trusteeship bears its origin in the doctrine of development, which embodies the intent to develop. In trusteeship, one agency such as an individual, organization or a group is entrusted with acting on behalf of another, to try to ensure development of the other” (Allen and Thomas, 2000: 189). In this regard, “an intention to develop becomes a doctrine of development when it is attached, or when it is pleaded that it be attached, to the agency of state to become an expression of state policy” (Cowen and Shenton, 1996: ix). Those who consider themselves to be developed could act to determine the process of development for those who were deemed to be less developed.

The notion of trusteeship is helpful in examining trends in development especially in the third world countries where development problems continue to deepen in spite of intervention by a wide array of development agencies. Referring to the actions of individuals or groups and their capacities to influence events on behalf of others, the agencies of development dominated the development space especially in Africa. Trusteeship became an alternative through which rapid development could be achieved. Agencies such as the state, Non Governmental Organizations (NGOs), private sector and United Nation bodies have had a long period of presence in Africa. There has been an assumption that it is the state (colonial, metropolitan or post colonial), which is the agency best able to take on this trusteeship role.

The state, through parastatals, became the main development actor. Consequently, the economy was dominated by large public enterprises as agents of development. The state,

through agencies, engaged in social and economic development of its citizens. By late 1970s and 1980s, these agencies had managed to take over most of the sectors of the economy bringing economic growth to state planning and control. Agricultural sector featured more in this as the state intervened in agricultural production and marketing with a view to promote development of this sector as well as protect the farmers from the vagaries of the market. However, in some cases, there is no much that has been achieved in terms of development by a trustee. To some extent, Trusteeship failed to become the panacea to local development as development problems including poverty and food security continued to be felt. Some of the trustees failed miserably while others counted success. The question before us now is, what went wrong with the state as a trustee? In other words, what is it that prevents some trustees from promoting sustainable development of other actors?

In Kenya, trusteeship has its origins in the colonial period. The colonial government devised ways and means to develop colonial settler economy with a view to, among other things, generating wealth to support the colonial administration. Several marketing boards, public financial enterprises, development corporations, and public utilities were established to serve the interests of the state, white settlers and the metropolitan economy in Britain. At independent in 1963, the Kenyan government inherited colonial economic institutions without significant alterations in their structure. The state also created other new institutions to complement those in operation. The postcolonial Kenyan economy became dominated by public enterprises, as the state became the trustee, the main agency of Kenya's development just as was the case during the colonial state.

Despite Kenya being a mixed economy (planning versus free market), most of development issues were to be planned and controlled by the state while the private sector played a minimal role. Some of the state agencies however, could not ensure local development as expected by the local community. The National Irrigation Board in Mwea Irrigation Scheme was not an exception as farmers continued to feel oppressed rather than developed especially because of the bad rules and regulations that governed the Scheme.

1.2 Problem Statement

After independence in 1963, the state as a trustee of development became visible in all sectors of economy and everywhere in Kenya. The country, being an agrarian economy, saw the state increase its intervention in the agricultural sector. Irrigation schemes, as will be argued later, became important intervention strategies in the agricultural sector. These schemes became the central component of trusteeship in Kenya's development. As a result, the National Irrigation Board was established in 1966 with a purpose of developing these Schemes. In spite of this, the local communities served by irrigation schemes continued to experience development problems. Some of these problems include lack of access to basic needs such as: food, education, health care, clothing, and access to clean drinking water among others.

Mwea Irrigation scheme, a rice-growing scheme, came under the National Irrigation Board in 1966, an agent of the state, which was supposed to enhance its development. The Board, despite being a legitimate agency of development in Mwea rested on bad laws, the Irrigation Act Cap 347. The National Irrigation Board, in line with the Irrigation Act, had no room for farmers' involvement in decision making over growing, marketing or consumption of the rice they produced. The farmers remained tenants as they were in colonial period cultivating their fields under the mercy of the National Irrigation Board. Immediately they harvested the rice, the state alienated the produce from them.

Any attempt to assert themselves meant an instant expulsion from the Scheme by the National Irrigation Board. The colonial based legislation, the Irrigation Act, was used to effect state control over the farmers and their produce. According to Kenya Human Rights Commission Report (2000) "the National Irrigation Board and the provincial administration through District Commissioners and District Officers, Chiefs, Assistant Chiefs and Administration Police officers, as in the days of colonialism, were employed to oversee and enforce these oppressive rules and regulations" (Kenya Human Rights Commission, 2000: 40). As a result, the farmers said that the trusteeship had failed to foster development as development problems continued to be felt throughout the Scheme.

They noted that the Board was behind their poverty and food insecurity. The farmers, nonetheless, continued to complain about economic repression by the National Irrigation Board as the state continued to exert its grip over them.

In 1998, using the imagery of the relationship between a slave and a master, the Mwea farmers mobilized a large protest against the National Irrigation Board to demand justice and rights over their rice. They termed the National Irrigation Board exploitative and oppressive and behind their development problems. In 1999, the farmers expressed strong dissatisfaction against the National Irrigation Board and instead opted to manage the scheme by themselves through their co-operative, the Mwea Rice Growers Multipurpose Co-operative Society. These disagreements between the National Irrigation Board and the farmers turned violent. Farmers were beaten, harassed and arrested while others lost their farms. Two of them were killed while others were seriously gun-wounded by the police. The angry farmers also destroyed the National Irrigation Board's properties while the entire Scheme was grinded to a halt. The farmers looted the National Irrigation Board's reception stores. A tractor and a lorry were also among the Board's properties that were burned into a shell by the farmers.

These struggles and conflicts between a state agency, the National Irrigation Board, as a trustee of development in Mwea, and the Mwea farmers raises important issues concerning trusteeship and the role of state agencies in local development. Some of these issues include the legitimacy of development agencies to act as trustees, the capacity of the trustee to deliver development at the local level in line with the local actors' aspirations and the intentions behind the trustee's development initiatives. People's participation in local development activities under agency also remains an issue in development theories but not in practice. On this accord, the interests served by these development agencies calls for attention especially when the local actors demands the withdrawal of the agency in question from development activities within its locality.

In some instances, the agencies of development make interventions in the name of developing others. However, these interventions result in serving the economic interests

of the agency itself, rather than deliver development for the benefit of the local actors. This in turn leads to unsustainable development as well as to erosion of legitimacy of the trustee. By not allowing the local actors participation in the development projects, on the other hand, leads to lack of popular support to the agency and its development initiatives.

Several studies have been carried out on the area of trusteeship and development (Cowen and Shenton, 1996; Allen and Thomas, 2000). However, our knowledge of the role of trusteeship in local development remains scant and patchy. Previous studies have not adequately addressed the question of the legitimacy of the development agencies acting on behalf of other actors at the local level. This study seeks to fill gaps existing in our theoretical knowledge of trusteeship and development. This study further seeks to link theory and practice in the area of trusteeship as well as inform the policy makers on the best ways through which development agencies can better play their role in local development in a more viable, efficient and effective manner.

The purpose of this study is to generate adequate knowledge on these issues and fill the gaps on the literature on trusteeship. This study does so by analyzing the extent to which the National Irrigation Board, as the agency of development in Mwea Irrigation Scheme, intervened to develop the Scheme. The study also examines the extent to which this intervention was in line with the aspirations of the local communities. The main research question guiding this study is why do development agencies have the intent of developing other actors? Is the intention legitimate? Relatedly, whose interests do development agencies represent when they are carrying out their development activities? To what extent do development agencies involve the local communities in their development projects?

1.3 The Study Objectives

The main objective of this study is to examine the extent to which a development agency can develop another actor(s) in line with the actor's aspirations. The specific objectives are to:

1. Find out the extent to which development agencies have legitimacy to act on behalf of others;
2. Find out whose interests development agencies represent when they carry out development activities;
3. Find out the extent to which the development agencies involve the local actors in their development projects.

1.3 Justification of the Study

Mwea Irrigation Scheme was selected for this study mainly because of its historical significance. Mwea is an old irrigation scheme and was established for purposes of providing former Mau Mau fighters with land and for purposes of developing the area. Its origin offers a good context for studies on trusteeship. Furthermore, despite the protests by farmers in other irrigation schemes like Ahero, Mwea Irrigation Scheme remains the only irrigation scheme where farmers, openly expressed strong dissatisfaction with the operations of a state agency, the National Irrigation Board boycotting its services and flouting its regulations. Mwea thus became a living example of a people protesting and seceding from trusteeship. They seceded from the framework of the state development programme and proceeded to manage their own development. This action provides an appropriate context of appreciating problems of trusteeship in local development.

1.5 Hypotheses

1. If the beneficiaries perceive a development agency as a legitimate actor in development process, then the beneficiaries would comply with its developmental initiatives.
2. If development agencies serve the interests of the local communities, then its development initiatives would be sustainable.
3. If development agencies encourage popular participation in their development projects, then they will enjoy popular support from the local communities.

1.6 Methodology

1.6.1 The Study Site

Data for this study was collected in Mwea Irrigation Scheme in the period between June and July 2003. The Scheme is situated approximately 100 kilometres North East of Nairobi on the foothills of Mt. Kenya. The Scheme is in Kirinyaga District of Central Province. The scheme covers an area of about 12,140 hectares out of which 6,041 hectares is dedicated to growing rice. There are about 3,392 farmers with their families settled in the scheme, each growing rice on a holding of 1.6 hectares (4 acres), all living in 36 villages. The scheme is divided into five sections: Tebere, Mwea, Thiba, Wamumu and Karaba. The five sections were started at different times. The first one was Tebere section, which began as an experimental farm on rice growing in early 1950s. The Scheme produces about 70 per cent of the total country's rice. It obtains water through gravity from River Thiba and Nyamindi.

Within Mwea Irrigation Scheme, there is a proliferation of farmers outside the designated rice farming areas commonly known as the *Juakali* farmers and the out-growers (farmers outside the scheme but using the Scheme water) with approximately 4000 hectares, which competes for resources with scheme farmers. These have emerged without government planning and permission. They are designed and planned by the local people. The government perceives them as illegal holdings.

The tenant farmers who are licensees live in over 36 villages, which are congested with closely spaced houses. Most of the houses are temporary, mud walled, iron roofed and old dating back to 1950s and 1970s. Their little income from their rice farming does not enable them to construct new houses.

1.6.2 Sampling Procedures

In sampling design, both probability and non-probability sampling methods were combined. Multi-stage sampling was undertaken to arrive at a sample of 100 respondents. All of the five sections were included in the sample so as to give a representative data. The first stage was to select 10 villages from the five sections. This was randomly done using a list of all villages in the Scheme. Random sampling method - a non-deliberate sampling process that gives each element in a population an equal chance of being selected – was used to select two villages from each section. The second stage was to select the respondents who were rice farmers in Mwea Scheme. A random sampling of the farmers was done using a list of all farmers in each village. 10 farmers were randomly selected from each of the ten villages. The study interviewed a total of 100 farmers using a structured questionnaire, 20 from each section and 10 from each of the selected village. Among these, other 10 key informants were purposively selected and interviewed. The total sample was therefore 110 respondents.

1.6.3 Data Collection and Analysis

The study used both primary and secondary data. The primary data was obtained through structured questionnaires and unstructured interviews. The structured questionnaires were administered to a sample of 100 rice farmers. The unstructured interviews, on the other hand, were administered to 10 key informants who included: 3 National Irrigation Board officials at the Scheme, 2 Mwea Rice Growers Multipurpose Co-operative officials, Chairman of the Mwea Rice Growers Multipurpose Co-operative, Chairman of the Mwea Rice Farmers' SACCO bank, the area councilor, and 2 former Advisory Committee members (rice farmers in Mwea) with the National Irrigation Board. The secondary data was obtained through review of different sets of literature, which included the literature on previous research carried out in the area, records, policy documents and newspaper reports.

Analysis of the quantitative information collected was carried out using the SPSS statistical package. This assisted in running the frequencies and cross tabulations to show the emerging relationships. For the qualitative data, content analysis was undertaken to reduce the data to a more manageable and intelligible set of observations which was then categorized and appropriately coded. An analysis of the emerging patterns, themes and relations was then done trying to deduce information and meaning that they conveyed in a more proper and organized manner.

1.7 The Main Challenges in Data Collection

During the period of this study, farmers were busy preparing their rice fields. Most farmers were therefore out of the villages and to their rice fields that are far away from their homes. This made it difficult for the researcher to access the sampled farmers. This made the researcher to visit each village several times to get the full sample. Secondly, those who were available claimed to be in a hurry for the day's work. Rice growing is

labour intensive and requires daily supervision and attendance. This made the researcher to make several visits in a particular village to attain the required sample.

The questions for interviews also seemed sensitive to the Mwea farmers. As a result, the farmers demanded to know the intentions of the study. In some cases, some respondents terminated the interview half way on the mention of the National Irrigation Board. To some, the mention of the Board made the study suspect. Some suspected this to be a study commissioned by the Board and therefore were afraid of the consequences. In a number of instances, the researcher was compelled by the farmers to explain in public the purpose of the study and the use of the findings to them.

1.8 Organization of the paper

Chapter two covers the literature review and theoretical framework. Different sets of literature were reviewed with a view to identify a gap that this study fills. These included previous works on trusteeship and the role of agencies in development, previous works on Mwea, existing records and policy documents among others. The study is conceptualized in line with trusteeship and bio-power politics theory. This theory enables this study to capture the reality on the ground expressed by the agencies of development.

Chapter three examines the evolution of trusteeship in Mwea Irrigation Scheme. The birth of the National Irrigation Board has also been discussed. The construction of the Scheme started in 1950s when the colonial government was looking for ways and means to contain the problems of landlessness that came about as a result of land alienation. Top in the agenda was the containment of the Mau Mau uprising, which agitated for freedom and human rights. Land was central. The Scheme, under the management of the African Land Development Unit (ALDEV) was converted into camps to accommodate the Mau Mau. After independence, the management of the Scheme was transferred to the Ministry of Agriculture. Later in 1966, the management was transferred to the National Irrigation Board. The Board therefore became the trustee to oversee the Scheme development.

Chapter four looks at the relationship between the trustees and beneficiaries. This is specifically in regard to relationship between the Mwea farmers and the National Irrigation Board. The farmers' perception of the National Irrigational Board is also discussed. The farmers uprising of 1999 is also looked at as well as the factors behind the uprising and the aftermath. The relationship between the farmers and the National Irrigation Board after the uprising is also examined.

Chapter five examines the level of local actors participation in development initiatives by the agencies of development. The chapter also looks at the interests that development agencies represent and serve with regard to National Irrigation Board. The expectations, interests and the concerns of the Mwea farmers are discussed. The farmers' opinion over the role of development agencies in the Scheme is also looked at. The agencies of preference by the farmers including the National Irrigation Board is also discussed and analyzed.

Chapter six discusses the summary and conclusion of the study as well as the policy recommendations. The future of trusteeship is also discussed. The conclusion and recommendations are arrived at in line with the study findings. This chapter also proposes further research with regard to trusteeship and local development.

CHAPTER TWO

LITERATURE REVIEW AND THEORETICAL FRAMEWORK

2.1 Introduction

The previous chapter has shown that the notion of trusteeship in Kenya's development evolved during the colonial period. It was then inherited wholesomely by the post-colonial Kenya, which, like its predecessor, continued to dominate over the country's economy. Several problems of development – poverty, food insecurity, unemployment, etc - continued to increase as the state continued to intervene and to become the main actor in the development arena through parastatals. These parastatals became the agents of state for delivering development and for ensuring improvement in living standards of all Kenyan's.

Corruption and lack of transparency characterized these parastatals as looting became the norm. The political goodwill that was there during their establishment was abused as the ruling elites used these organizations to enrich themselves at the expense of local development they were meant to deliver. By late 1970s and early 1980s, it was evident that the state through its agencies, the parastatals, had failed to register success in providing development. It is then that the World Bank and IMF came up with Structural Adjustment Programmes (SAPs), whose main theme was to roll back the state from service delivery and instead create an enabling environment for other development agencies.

The purpose of this chapter is to review literature on the politics of trusteeship in local development with special reference to the role of agencies in development. The relationship between trusteeship, development and agencies will be discussed and critically analyzed using trusteeship and bio-power theoretical approaches.

2.2 State, Trusteeship and Development

Each state claims the right to regulate affairs within the boundaries of its own territory. The state also has a monopoly over the use of force, which enable it to institute binding rules. The state sustains relationships with other agents within the society co-existing and interacting with families, economic enterprises and civil society among others. In other words, “the state participates directly in the process of productive capital formation through providing social and physical infrastructure necessary for development. It also affects private sector resource allocation through monetary and fiscal policies. The state as a set of organizations or an ensemble of political, social and economic institutions requires bureaucracy for operation” (Allen and Thomas, 2000: 190). It is these features that make the state an extremely powerful actor in the development space.

For a long period development was synonymous with the functions of the state. The state had a monopoly over various activities within its boundaries. However, lack of alternatives did not mean the state was always a true force for development. The idea of state as the legitimate agency of development remained dominant in development thinking throughout the 1960s and most of the 1970s. It only began to be questioned seriously from the early 1980s, with the shift towards neo-liberalism.

According to Allen and Thomas (2000), the roles of state in development are three-fold: “the state is a primary agent for development initiatives in society; it can provide an enabling structure for development by other agencies; and the state can also be a structural obstacle to development resulting in development efforts through collective struggles against the state” (Allen and Thomas, 2000: 191). The state is the trustee entrusted with the social, political and economic development of the general citizenry. As a result, it is within the rights of a citizen, as the taxpayers, to demand development and to comment on various developmental issues. Rather than engage directly in the development arena as an investor, the state can also become a facilitator of development through provision of a conducive structure for participation in development by other

agencies. This can be done through instituting an enabling environment with laws that do not discourage private players in development space.

With regard to the third role of the state in development as observed above, “the workers and the peasants may perceive the state and its allies as maintaining forms of exploitation and oppression that block any genuine development from which they might benefit. Development for them can only begin with collective struggles against further exploitation and oppression” (Allen and Thomas, 2000: 192). In such cases, the state is neither the main agent of development nor does it provide infrastructural support for development by others. Instead, it becomes the central point to the problem of development because it does not allow for development to occur.

Development is multi-dimension. It therefore seems to defy definition. According to Cowen and Shenton (1996), any attempt to define the word embrace the task of conveying some essential meaning of development. However, some people have gone ahead to try and give some meaning to this concept of development. To chambers (1997), development means just “good change” while Allen and Thomas (2000) equates development to development of living organisms, which implies “moving towards the fulfillment of a potential”. Cowen and Shenton (1996) views development as a process of enlarging peoples choices; of enlarging participatory process and the ability of people to have a say in the decisions that shape their lives; of providing human beings with the opportunity to develop their fullest potential; of enabling the poor, women and free independent peasants to organize for themselves and work together. “Development is the means to carry out a nation’s development goals’ and of promoting economic growth, equity and national self reliance” (Cowen and Shenton, 1996: 1). Development is therefore the means whereby the goal of universal human improvement can be attained.

Allen and Thomas (2000) give three views of development. One, development is progress, implying continual improvement reaching higher and higher levels perhaps without limits. Two, development is immanent. It is a spontaneous and ‘natural’ process of growing from within. This usually entails destruction of the old in order to achieve the

new. Third, development can be intentional which implies deliberate efforts to achieve higher levels in terms of set objectives.

Development therefore involves the movement towards the realization of a potential in terms of set objectives. "It implies increased living standards, improved health and well being for all, and the achievement of whatever is regarded as a general good for the society" (Allen and Thomas, 2000: 17). Development connotes a vision of a desirable society as well as a historical process of social change in which societies are transformed over long periods. This study however conceptualizes development as consisting of deliberate efforts by a trustee aimed at improvement on the part of various agencies including the governments, all kinds of organizations and social movements.

The state views development as intentional. Development results from deliberate efforts by the government on behalf of its citizens through destruction of the old to create new opportunities. "Most intentions to develop are themselves responses to what are deemed to be the undesirable effects-unemployment, impoverishment-of process of development" (Cowen and Shenton, 1996: ix). Development rested upon the intent to develop through the exercise of trusteeship by the government over society. However, to intend to develop does not necessarily mean that development will result from any particular action undertaken by the agency in the name of development, as is the case in Africa.

Trusteeship according to Cowen and Shenton (1996) is the deliberate efforts by a trustee or an agency to ensure development on behalf of the beneficiaries. "Those who view themselves to be developed can act to determine the process of development for those who are deemed to be less developed. "Trusteeship, the intent of one to act on behalf of another, has been a powerful force in the formation of development doctrine" (Cowen and Shenton, 1996: x). However, despite claims for new orthodoxy, trusteeship remains central to increasingly perverse theories of alternative development. Originally, as Allen and Thomas (2000) observes, trusteeship was generally exercised by states on behalf of their societies or by colonial states on behalf of their colonized.

The state in Kenya, in line with trusteeship, took over a dominant role in economic development. Several public enterprises were established in line with various sectors in the economy to initiate, control and manage their development. Most of them were established during the colonial period. A good number of them were agricultural marketing and regulatory boards. Examples of these include: the Coffee Board of Kenya (CBK) established in 1933 by the colonial government to control production, distribution and marketing of coffee. Others were established after independence like the National Cereals and Produce Board (1979) with a view to regulate, organize and control the marketing of cereals as well as stabilize their prices. The National Irrigation Board on the other hand was established in 1966 to manage and control development in all irrigation schemes in which the government had an interest. The performance of these parastatals later became questionable because of increasing poverty amidst their existence. The local communities began to associate the poverty and underdevelopment with the functionaries of these parastatals. This completely changed their attitudes and perceptions towards these agencies especially after economic liberalization took place.

The relationship between the state, trusteeship and development in Africa including Kenya became clear immediately after independence. As argued by Hyden (1983), independence meant little unless development capital was brought under state control. In pursuance of this view, countries like Kenya focused on public enterprises to play a central role in development. Through the sessional paper No. 10 of 1965 on *African socialism and its application to planning in Kenya*, the state became a leading trustee of development. Under African socialism whose principles were mutual social responsibility and democracy, the power to control resource use resided within the state. State control and planning, it was concluded, were to ensure that productive assets were used for the benefit of society (Republic of Kenya, 1965). Development was to be planned and controlled and in the words of Cowen and Shenton:

The need to consolidate an effective trusteeship position saw the state formulate and implement several policies. One of these was the Africanisation program, which paved way to indigenous capitalism. The intention here was to give order to a particular process of development, the development of capitalism (Cowen and Shenton, 1996: 327).

This capitalistic move brought about the emergence of the rich and the poor with the rich, the ruling class, becoming the trustees of the state and therefore taking the responsibility to promote the affairs of the poor citizens. As a result, the local people through harambee (pooling together) funds and projects were rendered passive participant in the development arena as the urban-based bourgeoisie aspired to meet the development needs of the poor (Cowen and Shenton, 1996: 328). Trusteeship was therefore seen as an extended help to the citizens especially the unemployed and the poor.

African socialism, on the other hand, gave trusteeship a historical depth in Africa. “To some people, traditional leaders were regarded as trustees whose influence was circumscribed both in customary laws and religion” (Cowen and Shenton, 1996: 325). This was to be reflected in the post-independence Kenya, as the state became the trustee of Kenyan development. The government exercised greater control of the economy through the systematic and properly planned nationalization of all major enterprises in the economy through its own agencies. However, rather than being used to accumulate funds for the citizens, the agencies were increasingly used to impose taxes upon them, serving the interests of the ruling class and not of the ordinary citizens.

In line with trusteeship, Kenya is a case in which the state as an agency of development remains in question. The main challenges of the state as trustee have been that of ethnicity, class, dependency, corruption and lack of transparency. Today, the logical sleight of hand that justified entrusting the means of development to developers is no longer convincing. As a doctrine, trusteeship stand condemned as Eurocentricism, an imperial vestige of the post-1945 attempt to improve living standards of poor colonies and poor nations through state administration. To Cowen and Shenton (1996), development, when interpreted through the screen of trusteeship, is taken to have no meaning for third world countries and continents of mass poverty; it has had its time and has failed as an idea and a practice.

The case of the Mwea farmers under the National Irrigation Board as the trustee has brought into fore several issues that need to be addressed for trusteeship to bear the intended fruits of sustainable development. Related to this is the perception of the trustee by the beneficiaries. As is the case of Mwea, the original perception of the National Irrigation Board was positive as the farmers viewed the Board as a development partner rather than an exploiter. Most of the farmers especially those who came later, despite having no alternative place to settle, opted to take up rice farming based on the perceived benefits and the leadership of the Board. This perception however changed with liberalization when the farmers began to gauge themselves with the rest of the world. This was again heightened with the re-introduction of the multi-party politics, which democratized the political space. The farmers began to feel disadvantaged, as the Board did not comply with the tenets of a liberalized economy especially in rice processing and marketing. Farmers wanted to have a say in the marketing process but the Board refused to open up leaving farmers with a lot of suspicion against it over the rice selling prices and the expected returns.

2.3 Trusteeship, Bio Power Politics and Local Development

According to Cowen and Shenton (1996), “In attempt to reconcile the moral, the intellectual and material qualities of progress with social order, Saint-Simonians argued for property to be placed in the hands of ‘trustees’ who would be chosen on the basis of their capacity to decide where and how society’s resources should be invested. Banks and bankers were to be made fit for trusteeship. List’s case of special pleading, on the other hand, was for the state to become the external authority of development with bourgeoisie as its trustee. However, for Marx, no such authority was possible. Trusteeship made an external authority dominate over the internal process of development cementing the doctrine of development over the idea of development whose principle could only be found in the expanded domain. It was for Marx where the intent to develop subsumed the process of development within such a restricted sense, that it negated the possibility of

freedom as may be contained within the process of development” (Cowen and Shenton, 1996: ix).

Cowen and Shenton (1996) identified the problem of the development as one of trusteeship, who will take on the task of acting on behalf of others to promote improvements? To develop them? Trusteeship may be taken on by an agency on other's behalf without the other asking to be developed or even being aware of the intention to develop them. But whose development?

Originally, as Alan and Thomas (2000) observes, trusteeship was generally exercised by states on behalf of their societies or by colonial states on behalf of the colonized. Since attaining independence, many post-colonial states continued to assume trusteeship over the development of their people with the idea of the state as the sole legitimate agency of development. Kenya followed this idea as the state took over the control of the economy. Statism ensued as the state intervened far more in the economy with a comprehensive command. The state became the main agency of development through public enterprises.

Trusteeship is the condition that makes the intent of development practicable. “Development implementation under trusteeship is carried out by agencies” (Allen and Thomas, 2000: 189). This has greatly influenced development aid from West to Africa through international agencies like United Nations. The role of the state also changed as the state became the trustee to oversee development. However, lying underneath the initiatives of these agencies of development are certain interests that are not seen. They have their hidden interests and not necessarily those they claim to serve.

As observed by Triantafillou (1998), Bio-power, just like in trusteeship, is the power that is deployed by an intentional subject to obscure, distort or misrepresent things as they really are in order to legitimize either particular political interests or the functioning of a specific social system. As Triantafillou puts it:

Specific mechanisms and instruments are made available to both state and non-state institutions, the agencies of development, so as to shape, normalize and instrumentize the conduct, thought, decisions and aspirations of others in order to achieve objectives they consider desirable. The state brings together and arranges men and things in relation to each other for easier accessibility by the agencies (Triantafillou, 1998: 23).

According to Foucault (1990), the new mode of governing life, bio-power, involving new forms of knowledge and new technique of governance dealing with life, started to take form around the eighteenth century. In Foucault's words:

This kind of power is exercised on the body and it carries a specific anatomical aspect. It is exercised over members of a population so that their sexuality and individuality are constituted in certain ways that are connected with issues of national policy, including the machinery of production. In this way population can be adjusted in accordance with economic processes. The functioning of this new mode of power was no longer to take life or let live, but to foster life or disallow it, not to kill but to invest life through and through. Power in this case was a right of seizure of things, time, bodies and ultimately life itself. It culminated in the privilege to seize hold of life in order to suppress it (Foucault, 1990: 31).

The power over life evolved around two basic forms of techniques linked together by a complex set of relations: the discipline of the body and the regulations of the populations. "With the disciplines of the individual human body, procedures were established which centered on the body as a machine: its disciplining, the optimization of its capabilities, the extortion of its forces, the parallel increase of its usefulness and its docility, and its integration into systems of efficient and economic controls" (Foucault, 1990: 33). These were aimed at instigating a much more efficient utilization of the individual's productive faculties. The second technique, the regulation of the population, dealt with the mechanism of life and biological processes, what Marshall (1995), referred to as the conduct of conduct, a form of activity which aims at the conduct of persons; attempts to shape, to guide, or to affect not only the conduct of the people, but also the attempts to constitute people in such a way that they can be governed.

It was taking charge of life, more than the threat of death that gave power its access to the body. As Marshall (1995) observes, this domination act on the body was meant to

classify and objectify individuals in order to constitute them. This is the typical situation in Mwea Irrigation Scheme where the National Irrigation Board, provincial administration, administration police, the judiciary and the representatives of other government organs worked hand in hand to 'constitute' these people. They were then turned into mere machines working for the state. "Poverty was instituted in this area. Mwea, as shown later, represents the horror of a planned economic deprivation of citizens by the state. Rice is produced under conditions of squalor, and taken away by the force of the gun and the threat of the law" (Kenya Human Rights Commission, 2000: 40).

The trusteeship and Bio-power politics enable us to capture in details the role of the agencies in development and the interests they serve. At its inception, the Mwea Irrigation Scheme was supposed to be a holding ground for the landless, the Mau Mau detainees and the unemployed who posed a threat to the colonial government. Its originality was therefore political rather than economic. It was meant to contain the Africans uprisings. The Scheme was more or less like a prison where the farmers, the former Mau Mau fighters were to be rehabilitated and disciplined before their release by the colonial government. The beneficiaries of this project were the colonial government.

In this regard, the National Irrigation Board, a state agency was entrusted with development of Mwea Irrigation Scheme. The tenants, just as in the colonial state, were converted into slaves as the National Irrigation Board took the role of a master. With total support from the government, the Board ensured maximum utilization of the tenants potential geared towards raising government revenue rather than tenant's standard of living.

With time, the Mwea farmers became increasingly unable to succumb to these rules and regulations. They began to agitate for their rights, a situation that brought about tension in the Scheme. The National Irrigational Board refused to listen to the farmers' grievances who then resulted in protests against the Board. It was in 1999 that the wrangles between the two heightened leading to violent confrontations with the police. The police killed two farmers while several others were seriously injured. This situation brought into fore

questions regarding the legitimacy of development agencies and the interests that the agencies serve. The level of local people's participation in the agency's development initiatives is also discussed in line with the National Irrigation Board and the Mwea farmers.

2.4 Summary and Conclusion

From the colonial periods, the state has continued to intervene far deep in the economic development of this country. It took the role of an investor, facilitator and initiator of development. The state dominated the development scene through centralized planning. Later, the state failed to deliver development as the initial political will continue to be eroded. Corruption and lack of transparency became the norm dominating in all parastatals.

Trusteeship and bio-power politics will help identify the nature of relationship between the state agencies and local development. The state using its agencies like the National Irrigation Board constituted certain population in the country and engaged them in production system for revenue generation. What mattered most to the ruling elite was what was being appropriated and made accessible to their pockets rather than what the local community enjoyed. The next chapter looks at the birth of trusteeship in Mwea Irrigation Scheme. The evolution of the National Irrigation Board and the Mwea Irrigation Scheme is clearly documented and well analyzed. The perception of the local community towards the National Irrigation Board and the relationship between the two is also looked upon.

CHAPTER THREE

EVOLUTION OF TRUSTEESHIP: THE BIRTH OF NATIONAL IRRIGATION BOARD AND MWEA IRRIGATION SCHEME

3.1 Introduction

As discussed in the previous chapter, the agencies of local development in Kenya evolved over time with some vested interests rather than the development of the local community. Many a times, they tend to serve the interests of the ruling elites at the expense of that of the local actors. As is the case of bio-power, the agencies in collaboration with the state machinery tends to 'constitute' a section of the population in the name of beneficiaries of development, and vigorously, using the powers of the state, engage these people into a productive system to benefit those in power. The citizen are in the process turned into prisoners of circumstance, and like slaves, complies with the exploitation and oppressive orders of the agency in question. This chapter discusses the birth of the Mwea Irrigation Scheme. The chapter also discusses the evolution of trusteeship in Mwea with a special focus on the establishment and evolution of the National Irrigation Board as the legitimate trustee of the Scheme.

The birth of the Mwea Scheme in 1950s was political rather than economic. It was meant to serve the interests of the colonial government at the expense of the colonized. At these early ages of the colonial times of the Scheme, its management was under the Africa Land Development Organization (ALDEV). With independence in 1963, the management of the Scheme was transferred to the Ministry of Agriculture, which, later in 1966, through an Act of Parliament, transferred the management of all major irrigation schemes to the National Irrigation Board (NIB).

During this time, the farmers remained tenants who worked at the mercy of the National Irrigation Board, which could evict them out of the Scheme if the farmers underperformed. The Government, through the National Irrigation Board, its agency in Mwea, just like the colonial government, continued to utilize the colonial agrarian rules under the Irrigation Act chapter 347 of the laws of Kenya, to run the Scheme. The farmers had no say over the running of the Scheme, as they remained just licensees and not the owners of the fields they cultivated. Tension therefore mounted between the farmers and the Board with the farmers questioning the legitimacy of the National Irrigation Board.

3.2 Evolution of Mwea Irrigation Scheme

The history of Settlement Schemes in Kenya is dialectically related to the history of the establishment and expansion of the settler economy. The settler agriculture was highly dependent on the African labour without which it was unsustainable. The colonial government introduced a wide range of extra-economic measures to ensure the continued supply of this cheap labour. One of these strategies was to drive Africans into the National Reserves. This would compel the Africans to sell their labour cheaply to the settlers. Land alienation was key to this.

As Wanjohi (1976) observes, the land alienated marked the end of an age of general African egalitarianism and communalism and the beginning of an age of exploitation and oppression of the African people by the European settlers. It was in the Central province where the effects of land alienation were felt more than any other part in the country. As Odhiambo-Mbai (1981) puts it, this resulted into the so-called Mau Mau uprising, a movement which represented both the poor peasant and the proletarianized agricultural labourers in the European farms to whom life had been made unbearable by the colonial capitalist system. As KHRC (2000) observes:

In 1953 the Kikuyu reserves were overcrowded with people repatriated from the Rift Valley where many of them had been working on European farms. The colonial officials were then seeking a long-term solution to the problems, which these people posed. With the alienation, Kikuyus found themselves edged into marginal areas and into the reserves (KHRC, 2000: 6).

Many of them were landless and had to be accommodated in camps commonly known as *Mathamirio* (camps). The struggle for independence therefore became not just a war for political independence but also a quest for basic survival and restoration of their dignity as human beings. Land was central to all this.

At the turn of the century, the part of Kenya known as the Mwea was largely unoccupied territory. The word *Mwea* means an extensive desolate region. As Chambers (1969) observes, human settlement was discouraged by tse tse flies, low rainfall, dangerous game animals and intermittent raids by the Maasai. It was an inhabitable area of bush and high grasses with permanent water only in a few rivers. The area was originally unoccupied.

According to Kanyinga (1999), after the state of emergency, some of the ex-freedom fighters claimed that they had no other land to go to. In the words of Kanyinga, “The government, intent on ‘softening’ the Mau Mau and afraid that if they went back to the villages, they will ‘incite’ others, decided to apportion them the arid mosquito and tse tse fly infested area of Mwea” (Kanyinga, 1999: 31).

The scheme was therefore conceived as a settlement area for the Mau Mau, dispossessed of their land by the British settlement. “From then onwards, the Scheme’s development was geared more towards the administrative need to keep thousands of detainees occupied rather than towards any explicit economic rationale” (Chambers and Morris, 1973: 69).

The construction of Mwea Irrigation Scheme started in 1954 by the colonial government under the management of the African Land Development Organization (ALDEV). While its flatness made it suitable for an irrigation project, its desolation made it ideal as a camp for Mau Mau detainees. Seven camps were built in Mwea to accommodate the repatriated Kikuyus and the Mau Mau detainees. They included the Mwea camp, Tebere camp, Kandongu camp, Thiba camp, Wamumu camp, Karaba camp, and the Gathigiriri camp later to become Gathigiriri prison (Chambers, 1969). Wamumu camp was converted to an

approved school. It was from these camps that the five sections in Mwea today were born-Tebera, Mwea, Thiba, Wamumu, and Karaba.

These colonial development interventions in Mwea have continued to have negative consequences for popular participation as the main pre-occupation was setting up new physical infrastructure as opposed to the social infrastructure. The scheme was started to serve as a punishment ground for those in detention. As a matter of fact, to the Settlers, the scheme did not appear to differ much from an open prison. In effect, there was no freedom of choice to either belong or not to belong to these schemes. As noted by Ruigu and Rukuni, (1987) “the voluntary spirit which if natured could have generated commitment and hence full involvement in the scheme’s affairs was lacking” (Ruigu and Rukuni, 1987: 87). The idea of conservation and control earlier applied to land were now being applied to people. A new mode of governing life, the bio-power, involving new forms of knowledge and new techniques of government dealing with life started to take form. Men came without their wives and families, lived in a camp and ate communally. The prison warders first supervised their work. There was a muster call twice daily and although they were allowed to move within seven miles radius, they had to be back by 4.00 PM each day.

The emergence of the camp was not primarily to punish, but to discipline the Mau Mau criminals through normalizing detention. The primary intention was to rehabilitate and reform the alleged criminals of the Mau Mau war of independence so that they could become fit to re-enter the society as law abiding and productive citizens. In line with bio-power theoretical approach to governability, the disciplinary techniques sought to produce both docile and productive bodies that would suit the moral and economic needs of the modern society.

The people in the camps provided unpaid labour constructing the irrigation infrastructure and the rice fields in the Scheme. They cleared the land and dug the canals. When eventually the detainees were released in 1956/57, they discovered that land demarcation in Central Kenya had already taken place in their absence following the implementation

of the Swynerton Plan of 1952. They were now landless. They were hopeless with nowhere else to go. “With no other land to settle, they became specimen for the colonialists’ experiment in rice farming in the semi-arid foot of Mt. Kenya” (KHRC, 2000: 6). Later they were given land there.

It was in 1957 when the settlement began. “During this period, the Scheme was being transformed from prisons and labour camps into settled communities” (Chambers, 1973: 69). Despite new arrivals, the total number of settlers and tenants in the Scheme dropped from 1418 at the end of 1956 to 910 at the end 1957 and to 577 at the end of 1958 (Chambers, 1969). This was because, some tenants and settlers decided against taking up tenancy and wished to go back to their reserves instead (Chambers, 1969). But those who had nowhere else to go, the majority were released and given the holdings as tenants in the Scheme: “they set up the first settlement in Mathangauta, Murubara, Gathigiriri and Nguka village” (KHRC, 2000: 7). “Many freedom fighters were arrested and taken to ‘concentration camps’ in Mwea. Those arrested from the neighboring Kiambu, Murang’a, Nyeri, Embu and Meru districts-or where the struggles for decolonization concentrated-were shuttled to the Mwea camps among others” (Kanyinga, 1999: 31). Mwea Irrigation Scheme therefore, is a home for people from different places of the country. For instance, from the sample of 100 respondents for this study, there were respondents from at least 6 areas of the country as shown below:

Table 3.1 **The previous home**

No.	Previous home	Frequency	Percentage
1	Kirinyaga	77	77
2	Nyeri	6	6
3	Murang’a	2	2
4	Kiambu	5	5
5	Detention camps	4	4
6	White Settlers Highlands	6	6
Total		100	100

Source: Survey data, 2003

Further, majority of the respondents, about seventy seven per cent, came from Kirinyaga District-Ndia, Gichugu and Mwea. Six per cent of them came from Nyeri, two per cent

from Murang'a, and five per cent from Kiambu. Some of these people came from Mau Mau detention camps and the White Highlands of the Rift valley where they were providing labour.

The administration procedures in the Scheme were authoritarian and the use of coercive measures was the rule rather than exception. Instead of healing the past wounds inflicted by the colonial government, the post-colonial government inherited the colonial oppressive rules and regulations that governed the Scheme during the colonial period. This brought about tension between the two actors. The farmers accused the Board of alleged corruption, poor undemocratic management style, poor rice producer prices, strict rules and regulations and delayed payment among others. It is thus a typical case of external intervention into the local system without explanations regarding an innovation that often ends up with disastrous results, as is the case of Mwea.

3.3 The Birth of National Irrigation Board (NIB)

The National Irrigation Board was established in 1966 through the Irrigation Act (Cap 347) of the laws of Kenya. "National Irrigation Board's corporate character is primarily determined by the Irrigation Act, which specifies the functions and powers of the National Irrigation Board, its governance structure and financial provisions. The National Irrigation Board is incorporated as a non-revenue generating corporate organization in the Ministry of Agriculture. As a parastatal, the National Irrigation Board is subject to the State Corporations Act, which guides all state agencies" (National Irrigation Board, 2003: 2). According to the National Irrigation Board Corporate Plan (2003-2007):

On being established, the National Irrigation Board took over the Mwea, Hola and Perkerra irrigation schemes that were initiated by the colonial government. Thereafter, the National Irrigation Board developed Ahero, West Kano, Bunyala and Bura irrigation schemes and also expanded Mwea and Hola schemes. Presently, the Board is in charge of six (6) national irrigation schemes including four rice schemes, Mwea, Ahero, West Kano and Bunyala (National Irrigation Board, 2003: 3).

According to the Irrigation Act, the pillars upon which the National Irrigation Board was established, the Board, was mandated to own and operate the existing schemes and any new ones in which the government has a substantial interest (Kenya, 1966). The National Irrigation Board therefore became the trustee of the Mwea Irrigation Scheme and other national irrigation schemes, controlling any development within them.

The following is the legal mandate of National Irrigation Board as derived from the Irrigation Act;

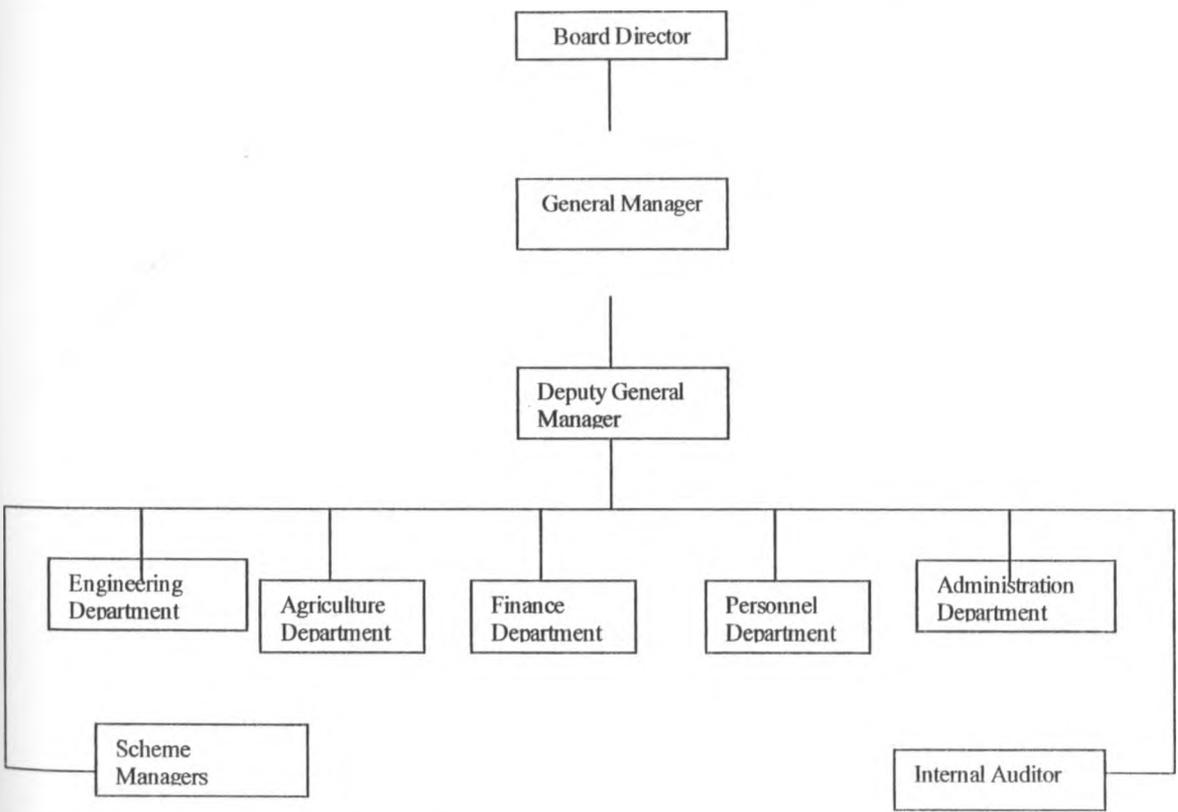
- (i) Controlling and improving national irrigation schemes in the country;
- (ii) Conducting research and investigation into the establishment of national irrigation schemes;
- (iii) Designing, constructing, supervising and administering irrigation schemes;
- (iv) Coordinating and planning settlement on national irrigation schemes;
- (v) Determining the number of settlers to be accommodated in national irrigation schemes;
- (vi) Promoting marketing of crops and produce grown or produced in national irrigational schemes in liaison with organizations responsible for marketing of agricultural produce; and
- (vii) Formulating and executing policy regarding national irrigation schemes in conjunction with the Water Resource Authority (NIB, 2003: 3).

3.4 Organizational Structure of the National Irrigation Board

The NIB organizational structure comprises the Head office in Nairobi, and offices at the Mwea Irrigation Scheme, Western Kenya regional office at Ahero, Ahero Irrigation Scheme, West Kano Irrigation Scheme, Bunyala Irrigation Scheme, Perkerra Irrigation Scheme, Tana Irrigation Scheme, Ahero Irrigation Research Station and the Mwea Irrigation Agriculture Development Centre (MIAD). "A General Manager who is the Chief Executive of the Board heads the National Irrigation Board. The Irrigation Act

(Cap 347) stipulates that the General Manager shall be appointed by the Board subject to the approval of the minister responsible for agriculture. The General Manager is responsible for the day-to-day activities of the Board. A Deputy General Manager deputizes the General Manager. The Departments of Engineering, Agriculture, Administration, Personnel and Finance are answerable to the General Manager through the Deputy Manager” (National Irrigation Board, 2003: 3). The Audit section and scheme managers are directly answerable to the General Manager as shown below:

Figure1: Organizational chart of the National Irrigation Board



Source: National Irrigation Board Corporate Plan, 2003: 4

The Board is highly hierarchical and/or bureaucratized. “The Scheme Manager is assisted by a field staff consisting of a senior irrigation officer, irrigation officers, headwater guards, water guards and cultivators” (Veen, 1973: 120). There is no direct link between the National Irrigation Board management and the farmers. The Advisory Committee, on

the other hand, was not an active player in decision-making process. An interview with some former Advisory Committee members revealed that, the members of the committee were just rubber-stamping on decisions made by the Board. As a result, there was no room for possible participation by the farmers in the Scheme management as shown in the table below:

Table 3.2 Co-operation Models between the Farmers and the NIB

Farmer's Obligations	NIB Obligations
(a) infield water control	(a) guarantee of water supply
(b) nursery establishment	(b) provision of mechanized land preparation at cost
(c) field leveling	(c) supply of crop inputs (fertilizers, pesticides etc)
(d) provision of all labour for cultivation, weeding and harvesting	(d) crop marketing
	(e) overall management and extension services

Source: Kimani, 1992

Kimani (1992) showed that the farmers had no control over the running of the Scheme. The farmers are turned into just consumers of decisions made from above. The farmers were reduced to labourers in the Scheme managing on-farm activities and providing labour only as the Board took over the Scheme management role.

The farmers were made voiceless by the Irrigation Act, as they could not even comment over issues that directly affected their own lives in fear of the Board's reaction. The Act gave overwhelming powers on the National Irrigation Board manager at the expense of the farmers. It stipulate that, the manager shall have power to order the destruction of any crops planted in contravention of his instruction and to recover the expenses incurred from the licensee. As Ruigu (1988) observes, the rules also gave the managers right to enforce discipline, impose fines, confiscate properties and cause their imprisonment.

According to the Act, the farmers are also prohibited from hiring any stock or machinery other than the Scheme's. The licensee is also required to deliver all paddy harvested to

the manager at the collection station and not keep on his holding any stock other than those specified in his licence. The licensee is also required by the Act to declare to the manager annually the natural increase in such stock and shall comply with any instructions issued by the manager as to their disposal (see appendix III). “The dependants and/or children over 18 years were not allowed to remain in the same holding with the parents. They were required to move out either into towns or elsewhere” (Kanyinga, 1999: 31).

However, currently, the National Irrigation Board has relaxed on the enforcement of some rules as spelt out in the Irrigation Act. For example, the farmers can now keep any number of stocks that they can manage without reporting to the Board’s manager on their increase as before. Children over the age of 18 years are never victimized to leave the Scheme and instead, they have been given plots to settle on. In writing, however, the Irrigation Act remains unchanged, a situation that create suspicion on the side of the farmers that these laws might one time be enforced to their disadvantage.

According to Kanyinga (1999), the settlement conditions were quite restrictive. One had to remain tenant without secure land rights in the Scheme. The tenants are strictly speaking licensees who do not own the land that they cultivate but who operate it under a licence that is renewable from year to year subject to satisfactory performance. Failure to utilize the holding would lead to dispossession of the holding by the Board and be given to someone else. The Postcolonial Kenya Government believed that, the Irrigation Schemes such as Mwea couldn’t be successful under a freehold system. However, “examples from India and Sri Lanka indicate that it is possible to have successful irrigation farming under the free hold tenure systems. Farmers are given land title and a pre-determined amount of water and left to grow their crops on their own” (Ruigu, 1988: 87).

These rules under the custodian of the National Irrigation Board, just like the bio-power, were meant to constitute the Mwea farmers and use their productive capacities for economic gain by the state. The rules were viewed by many as providing for an

extremely authoritarian system that gives the managers nearly total control over the labour power of the tenants and their families. It is the state that created a conducive environment for the Board to constitute, discipline and punish the Mwea farmers in line with the bio-power theory. As KHRC (2000) observes, “The NIB and the Provincial Administration through District Commissioners and District Officers, Chiefs, Assistance Chiefs and administration police officers, as in the days of colonialism were employed to oversee and enforce this agrarian tyranny for continued revenue generation” (KHRC, 2000: 40).

The National Irrigation Board did not change with demands of the farmers. Enforcing the rules and regulations that were established during the colonial times and imported in postcolonial Kenya was an indication that the Board lacked moral legitimacy from the people. “It was evident from the very beginning that farmers in Mwea had no illusions about the import of the rules and regulations under which they were settled. The Mwea farmers were opposed to the rules from the very day they were introduced. In 1962, for example, the Land Irrigation Rules, the predecessor to the rules under the 1966 Irrigation Act were introduced and the farmers refused to sign them” (KHRC, 2000: 11). “The National Irrigation Board therefore was just a replication of the paternalism of the colonial system in which Africans were to be guided and closely supervised into civilization” (KHRC, 2000: 2).

This study found that, the farmers were not aware of how the National Irrigation Board was established. To them, the Board was just but an imposition by the post-colonial government to oppress and exploit them. According to the study findings, 55 percent of the respondents were not aware of how the National Irrigation Board was established. However, the 45 percent who claimed to know its establishment only gave a historical overview of various agencies that had in one way or another been involved in rice farming. These were the colonial government, the African Land Development Unit (ALDEV), the Ministry of Agriculture, the National Cereals and Produce Board (Marketing), and later, the National Irrigation Board.

With the euphoria of independence, in 1963, the Mwea farmers like all other Kenyans hoped for a change, an economic take off. It never happened. They instead witnessed a continuity of the colonial serfdom, now under African government. The farmers were not happy about this. They expressed strong dissatisfaction and disillusionment with the National Irrigation Board rules and regulations since its inception in 1966. As a result, the 1970s and 80s was characterized by protests, fear and dissatisfaction by the farmers towards the Board. For example, “in 1984 the rice farmers went on strike over paddy prices. They demanded to know the cost of inputs, because they suspected the National Irrigation Board was inflating the prices. They barred the Board from ploughing their land demanding an address from the Board management. A tug of war ensued between the two as the tenants stood to their demands. It is the Provincial Commissioner who came with police to save the situation” (KHRC, 2000: 23). The Board silenced the farmers by threatening to take their fields. From then henceforth, any one who spoke of the National Irrigation Board’s oppression, was labeled a ‘dissident’ and was threatened with termination of licence and instant dismissal from the Scheme. Several farmers lost their farms as their licences were terminated in the process.

As expected, the Board refused to listen to the farmers’ grievances and remained static and unmoved by the farmers’ demands. In January 12, 1999, more than 3,000 farmers protested against the Board demanding its immediate withdrawal from the management of the Scheme. They boycotted the services of the Board and flouted the scheme’s regulations. They accused the National Irrigation Board of exploitation and oppression, some arguing, “even Egypt was better for Israelite under Pharaoh than Mwea under the Board”.

The Board was not ready to listen to the farmers’ demands. The Provincial Administration, administration police officers, the courts and other government department joined hands to force compliance in the Scheme. The farmers were beaten, harassed and arrested by the police. “Two of them were shot dead while several others were seriously injured” (KHRC, 2000: 22). With the Mau Mau war in mind, the killing of their colleagues was just but a reminder of how tough liberation can be. The farmers had

already made their minds and there was no turning back. Instead they disaffiliated from the National Irrigation Board. They decided to strengthen their society, the Mwea Rice Growers Multi-purpose (MRGM) Co-operative Society, to undertake roles initially played by the National Irrigation Board. After several confrontations, the government, under pressure from the tenants' sympathizers all over the world pulled back and withdrew all its services from the Scheme.

3.5 Summary and Conclusion

The evolution of Mwea Irrigation Scheme was political rather than economic and meant to serve the interests of the colonial government through silencing the Mau Mau uprising. Later after independence, the National Irrigation Board was born. The birth of the National Irrigation Board in Mwea Irrigation Scheme remained a mystery to many farmers up to date. They were not involved in its establishment. Its evolution over time since its inception in 1966 made a painful bite to the farmers. The relationship between the Board and the farmers was bleak. "The farmers generally view their relation with the Board as that of a slave and the master as they were deliberately denied freedom of control in spite of the fact that they labour all year round" (Kanyinga, 1999: 31). They were denied land rights. They were tenants whose life in the scheme was under the mercy of the Board. They lived in fear.

The relationship between the agency of development and the local actors should therefore be evaluated and carefully handled if development is really to be realized. In the case of the National Irrigation Board and the Mwea farmers, the Board increasingly distanced itself from the farmers aspirations as the people continued to doubt its commitment to deliver development in the Scheme. As a result, the people detached themselves from the functionaries of the National Irrigation Board as the Board increasingly reduced them into passive participants rather than partners in the Scheme's development arena - they were turned into policy consumers. "Patronage took the center stage as the maverick local leaders were silenced through favours" (Kanyinga, 1999: 33). The elites from Mwea do

not look back to the Scheme. This is as a result of the political environment and the bad laws being enforced by a state agency.

The National Irrigation Board failed to ensure development as expected. Instead, poverty was promoted and cultivated in Mwea. As Bates (1989) observes, though created for reasons of efficiency, economic institutions provide the locus for looting. The farmers are incapacitated even to reproduce themselves while the state becomes merely apparatus for oiling the wheels of capitalism through surplus appropriation. The National Irrigation Board was the agency of the Central Government that was meant to appropriate farmers' surplus and enforce compliance through the force of law rather than deliver development. This did not auger well with the farmers who resorted to protests against the National Irrigation Board agitating for their rights. These problems and the insensitivity of the Board towards the plight of the tenants were instrumental in struggles by the farmers to disengage the Board. This led to the National Irrigation Board-Farmers crisis of 1999 as elaborated in the following chapter.

It is evident that the National Irrigation Board is a legal entity and a legitimate agency of development in Mwea established in accordance with the laws of the land. The National Irrigation Board however stood on and evolved along bad laws that were not in line with people's demands. The 1999 uprising against the Board by the farmers brings into fore questions regarding the role of the Board as a trustee of Mwea development. Trusteeship in Mwea under the Board has therefore failed to bear fruits. The issue of entrusting local development to agencies is a position that therefore calls for re-thinking.

The trustee should be accessible to the beneficiaries at all times as its development initiatives continue to reflect the local people's aspirations. Peoples' participation should be encouraged and their indigenous knowledge on local development should be sought and respected by the trustee. No agency can claim to be an expert in other people's way of living. The problems at local level are well known to the local community than to the trustee, which is an external partner in development.

CHAPTER FOUR

TRUSTEESHIP AND BENEFICIARIES: A TROUBLED RELATIONSHIP

4.1 Introduction

Discussion in the previous chapter centred on the birth and evolution of both the National Irrigation Board and the Mwea Irrigation Scheme. The politics of trusteeship in local development was discussed with regard to the National Irrigation Board in the Scheme. This raised several questions over the role of the National Irrigation Board as a trustee of development in Mwea. The discussion noted that, idea of development stands like a ruin in the Scheme's landscape despite the presence of the National Irrigation Board. Further, the Mwea farmers were not satisfied with the Board since its inception because it rested on colonial rules in a post-colonial country. They expressed strong dissatisfaction with the Irrigation Act that governed the Scheme. The Act had no room for farmers' participation in decision-making process.

The failure of the Irrigation Act to involve farmers in the Scheme activities portrayed the true picture of what the Act was – anti - tenants. The denial and abuse of their rights by the Act left the farmers with more questions than answers towards it. The farmers were reduced to passive participants in the Scheme development by the Irrigation Act thereby relinquishing their influence on matters pertaining to rice production and marketing. This did not go well with the farmers who resorted to protests against the National Irrigation Board, the agency that enforced the Act, calling for its withdrawal from the management of the Scheme. These problems and the insensitivity of the Board towards their plight and poverty led to farmers organizing to disengage from the Board. They sought to manage their rice farming under a co-operative society (Mwea Rice Growers Multipurpose Co-operative Society) on the assumption that this co-operative would involve them in decision-making.

The purpose of this chapter is to discuss the relationship between a trustee and the beneficiaries of the trustee's development initiatives. In this regard, the chapter looks at the relationship between the National Irrigation Board, as a trustee, and the farmers in Mwea Irrigation Scheme, as the beneficiaries. The factors that led to the farmers rebellion against the National Irrigation Board are also discussed. It also looks at the Mwea Scheme after the uprising and the changing roles between the farmers and the Board.

4.2 Perception of a Trustee by the Beneficiaries: The Mwea Farmers and the National Irrigation Board

The perception of the farmers towards the National Irrigation Board varied greatly. Some farmers, thirteen percent, saw the National Irrigation Board as a good institution while others viewed it as a bad one. This study found that majority of the respondents, eighty seven percent, has a negative attitude towards the Board. They believe that the National Irrigation Board is bad citing various reasons. Some of these include bad rules and regulations. Their major complaint was the insensitivity of the National Irrigation Board to their plight and problems.

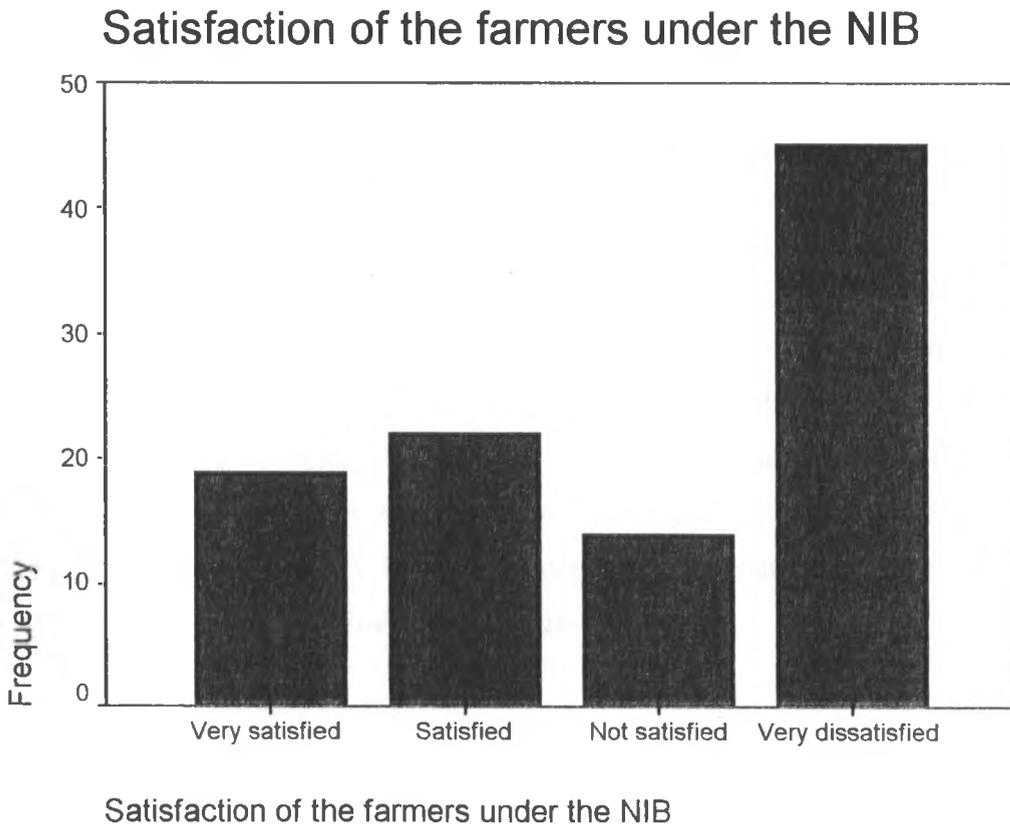
The farmers seemed to hold different opinions over the purpose that led to the establishment of the National Irrigation Board. Majority of the respondents believed that the National Irrigation Board was supposed to assist in rice farming. Some believed that the Board was meant to develop the scheme. At the same time, the respondents had a mixed reaction over whether the National Irrigation Board lived for the purpose it was meant to serve. This study observed that majority of the respondents, eighty three percent, believe that the Board did not live to its purpose while seventeen percent said it did. Many of them believe that the Board failed in its purpose as a result of its strict rules and regulations, some of which lacked a human face.

This study, however, has found that, the farmers were not even aware of how the National Irrigation Board was established. It is evident that the farmers were not involved

in establishing the National Irrigation Board. In this regard, fifty five percent of the respondents were not aware of how the National Irrigation Board was established. However, the forty five percent who claimed to know its establishment only gave a historical overview of various agencies that had in one way or another been involved in rice farming. These were the colonial government, the African Land Development Unit (ALDEV), the Ministry of Agriculture, the National Cereals and Produce Board (Marketing), and the National Irrigation Board.

Asked whether they were satisfied and ready to work with the National Irrigation Board, some of them, 59 percent, said they were strictly opposed to its resumption.

Figure 4.1: Satisfaction Of The Farmers Under The National Irrigation Board



As shown in figure 4.1 above, majority of the respondents expressed strong dissatisfaction with the National Irrigation Board. Forty five percent consented to the fact

that they were very dissatisfied to work under the National Irrigation Board. Some of them indeed opted to quit rice farming if the National Irrigation Board resumes. Fourteen percent of them said they were not satisfied at all with the National Irrigation Board while twenty two percent said they were satisfied. Nineteen percent however, said they were very satisfied to work with the National Irrigation Board and promised strong support and allegiance under it.

The relationship between the farmers and the National Irrigation Board at the time of the study seemed to be negative. Some of the respondents, eighty eight percent, said the relationship between them and the National Irrigation Board was characterized by oppression of the former by the latter. Others, twelve percent, praised the National Irrigation Board saying the relationship was quite good and positive working for the betterment of the Scheme and the farmers. These responses are a clear indication of the erosion of trust and faith in the Board.

4.3 Trusteeship Rules versus Popular Expectations

The dissatisfaction of the farmers towards the National Irrigation Board started immediately after it was established. This is evidenced in the fact that the farmers were opposed to the 1962 Land Irrigation Rules, the predecessor to the rules under the 1966 Irrigation Act. The farmers refused to sign against these rules. Later, in 1966, these rules were imported to the Irrigation Act under the enforcement of the National Irrigation Board (see appendix III and IV). The farmers continued to succumb to these restrictive laws that were out of tune with realities on the ground.

The farmers accused the Irrigation Act of being behind their problems. Eighty nine percent of the respondents were of the view that, the Act, which the National Irrigation Board was enforcing, was the main source of friction between the two parties. The Board management was characterized by an autocratic management style and a general lack of farmers concerns as spelt out in the Act. They termed these rules colonial and oppressive.

The farmers blamed the Irrigation Act of denying them their rights and freedom. They complained about lack of land rights, as they are just tenants under the National Irrigation Board management. The management main concern, however, had been the performance of the Scheme and not the well being of the farmers per se. Those perceived as under performing had their rights withdrawn and they were thrown out of the Scheme. This instilled fear in other tenants. The farmers complained that the National Irrigation Board was using excessive force towards them. They cited the use of police and the Court of Law in conjunction with Provincial Administration to harass, punish and arrest them as evidence.

The payment for the rice delivered was not made immediately after the delivery of the paddy to the National Irrigation Board. The farmers blamed the National Irrigation Board of delaying their dues from December to September yet the Board never intervened to assist them out of their problems and poverty.

The farmers also blamed the National Irrigation Board of poor leadership and governance style of the Scheme. The absence of involvement by the farmers provided an opportunity for rumours and dissatisfaction based on a lack of knowledge and commitment. Other farmers complained of lack of transparency and alleged corruption by the National Irrigation Board management.

By late 1990s, with economic liberalization, the Irrigation Act began to take a painful bite. The farmers wanted to join the rest of the world with liberalization while the government continued to resist their demands. Despite other sectors like the coffee sector being liberalized, rice sector continued to be increasingly under the state control. This led to the rice farmers in Mwea to question the factors behind this discrimination in liberalization. Majority of them viewed this continued intervention by the state through the National Irrigation Board as having some hidden agenda – to continue reaping from the farmers.

The farmers also complained of use of police surveillance in the rice fields during harvesting. Several armed administration police officers were sent to patrol the fields during harvesting to ensure farmers do not smuggle home even a grain of rice. The patrols by the police sometimes extended beyond the field and harvest time. Women were worst hit, as they are the ones who look for food for their families. However, they were innovative. They began to use water containers and their clothes to ferry rice home for an evening meal. This led the National Irrigation Board management and the police to get into villages to flush out those cooking rice.

Beyond the harvest period the patrol continued. "The National Irrigation Board management and the administration police knew exactly how long the 12 bags given to each farmers for household consumption could last bearing in mind the size of the family, mainly 3 months. They would then visit houses to again flush out those cooking rice after this period" (KHRC, 2000: 15). This instilled fear among the farmers as the Irrigation Act propagated and promoted poverty in the Scheme.

In addition to being prevented from using their own rice, farmers were also concerned about poor prices and National Irrigation Board's services. Many of the respondents complained that the National Irrigation Board had failed to review producer prices. "By 1998, the National Irrigation Board was buying pishori variety from the farmers at Kshs. 17.00 per kilogramme when the market price was Kshs. 32.00" (KHRC, 2000:14). The farmers demanded an addition in prices of at least Kshs. 8.00 per kilogramme to Ksh 25.00 per kg. The Board turned down this request.

In March 1998 a meeting between the Farmers Advisory Committee and the National Irrigation Board was held to discuss and resolve the issues of rice pricing. The meeting did not bear any fruit, as the National Irrigation Board was not even willing to pay Kshs. 20.00 per kilogramme as a compromise between the farmers demand of Kshs. 25.00 and National Irrigation Board offer of Kshs. 17.00 per kilogramme. The National Irrigation Board management maintained its rigidity and refused to meet the farmers' demands. The General Manager convened a meeting with farmers and issued a stern warning to

those agitating for price review. Following this, farmers held a demonstration against the National Irrigation Board demanding instant withdrawal of the National Irrigation Board from running affairs of the scheme.

At the same time, the National Irrigation Board began to tighten its grip on the farmers even further. It used to set specific rice delivery targets depending on the order of the manager, mainly, 60 bags of pishori rice or 100 bags for sindano variety per 4 acres. These bags of rice were meant just to pay for the services offered. Every farmer had to meet this target or risk losing the tenancy or services of the National Irrigation Board. This led to some farmers parting with even the little rice they had kept for food rather than risk termination of their licences. The rules were very clear as spelt in the Irrigation Act, “a licensee shall not hire, cause to be hired or employ stock or machinery for cultural operations, other than stock and machinery owned by the organization without prior approval in writing from the National Irrigation Board” (Irrigation Act, 1966: 20).

The farmers were in a serious dilemma. Those denied services by the National Irrigation Board were not supposed to undertake any farming activities within their holding. The field was to remain so while waiting for final decision from the National Irrigation Board management. No time frame was placed on this.

4.4 The 1999 Farmers Rebellion against the National Irrigation Board

In September 1998 the Manager announced that 850 farmers who had failed to meet the set target of rice production would not benefit from the National Irrigation Board services. Fear and shock reigned over the scheme. Rumours were all over that the 850 farmers were in the process of dismissal. The farmers strongly objected to this. In unity of purpose, the farmers joined hands and started making plans on how their society, the Mwea Rice Growers Multipurpose (MRGM) Co-operative Society could purchase tractors and offer services to their colleagues.

The National Irrigation Board, following the Irrigation Act, objected to the plan. However, the farmers went ahead and bought a fleet of 20 tractors. An attempt by these tractors to rotavate the fields that National Irrigation Board had left was met with severe resistance both from National Irrigation Board and the provincial administration. The provincial administration issued a stern warning to Mwea Rice Growers Multipurpose Co-operative ordering them to keep off from rotavation services. The farmers ignored the warning and the District Commissioner responded by sending several administration police officers to confiscate the tractors. This was met with high resistance from the farmers and a fight ensued at the fields where the Society tractors were rotavating. To the farmers, the message was clear. The government was not on their side. Following this move, the farmers pulled out of their negotiations with the National Irrigation Board and in unison, they said no to the Board.

Following these disagreements, the farmers demanded the withdrawal of the National Irrigation Board from the Scheme affairs. In November, the farmers resolved to stop marketing their rice through the Board but through their Society, the Mwea Rice Growers Multipurpose. It was in December 1998, the harvesting time, when these disagreements turned violent.

In December 12 1998, at Unit K.3 of Karaba Section, the police and the Board officials seized a lorry that was ferrying farmer's rice to the Society's makeshift store. This was followed by confrontations between the police and the angry farmers who opposed the move. In the process, the farmers attempted to burn the Board's vehicle that had ferried the police to the site. Several roadblocks were put but the vehicle managed to pass through and went back the police station for reinforcement. In the process, the vehicle ran over a schoolboy killing him instantly. Learning of the incident, the angry farmers became wild. They burned a tractor belonging to the Board into a shel. It was around 8:00 PM in the night when more police came abode police land rovers. The farmers remained unmoved as confrontations ensued. In the process, the police seriously wounded four farmers. Seeing the excessive force the police had used on them, the farmers went away.

At the same time, the battle was going on in the courts with the Board trying to obtain an injunction restraining the Society from collecting farmers rice. The farmers ignored the order. The confrontation heightened when a National Irrigation Board lorry was set ablaze by the farmers as it was ferrying rice to the Board's store. An attempt by the government officials to resolve the stalemate yielded no fruits.

On January 12, 1999, over 3000 farmers held a peaceful protest at Wang'uru market. The farmers, singing protest songs and shouting anti-National Irrigation Board slogans held on to their ground and vowed to take over the National Irrigation Board's offices and the Mwea Rice Mills Limited. A tour of the Scheme by a team led by Permanent Secretary in the Ministry of Agriculture was met with hostility by the angry farmers who pelted stones at the team. Sensing more danger, the police shot at the farmers. Two farmers were killed while several others were seriously injured.

The fight for their rights did not stop at this point. To the farmers, it was history that was repeating itself. "Grand children and great grand children were paying with their lives and blood for land and freedom in the same way their ancestors did under colonialism" (KHRC, 2000: 22). On their way home, the angry youth looted the National Irrigation Board Reception Stores. Several bags of rice belonging to the Board were stolen.

As a result of this unrest especially at Karaba section, several policemen including general service unit were brought in to ensure calm. Farmers were harassed, beaten and arrested as they fled for their lives at the neighboring Mbeere District. Men, women and children alike took refuge at this place far away from their homes to avoid the wrath of policemen. Here, they went without food. The villages, especially Ciagiini, were deserted. Police officers broke into these deserted homes and took all rice allegedly stolen from the Board's store. Several homes were affected.

After several weeks, the police went back to their respective stations. The farmers then came back to their homes to meet empty stores. However, with pressure from human

right activists over abuse of human rights in the Scheme, the Government pulled off leaving the farmers on their own.

With all trust from the farmers, the Mwea Rice Growers Multipurpose was mandated to take over all of the initial National Irrigation Board roles. As Kanyinga (1999) observes, the farmers resolved to punish those who delivered paddy to the Board. They threatened to use the social sanctions against their rivals viewing them with suspicion. In the words of Kanyinga:

The farmers constructed a whole regime of regulations on social norms and collective values. Customary practices and norms were reactivated and used as laws to govern the new social order. As a result, the statutory laws enforced by the modern institutions were put on hold for a while, as they seemed to favour the NIB (Kanyinga, 1999: 29).

Deducing from the above observation, the failure of a trustee to ensure local development in line with local peoples' aspiration leads to tension between the two parties. In the process, the agency in question tends to lose popular support from the local actors who begin to view it as an imposition and out of place. This in turn leads to the local actors demanding the withdrawal of the trustee from the local development. Failure to obey these local peoples' demands, on the other hand, leads to their protests against the agency. Trusteeship therefore should be a symbiotic partnership relationship where all actors, trustee and beneficiaries, engage in consultative forum to decide on the right path to local development. The trustee should respect the local community's ideas on development and accord them the necessary dignity that they deserve to achieve a sustainable development.

Despite having a legal legitimacy, the trustee must move in to ensure moral legitimacy from the beneficiaries. This is so because the legitimacy based in law and practice sometimes rests on bad laws like that of the National Irrigation Board. The rules and regulations in the Irrigation Act were seen by the farmers as a move by the government to distance them from the development of the Scheme. The rules constituted the farmers into objects of control with no say in the Scheme management. When the farmers

expressed concerns over these rules and regulations, the Board would have moved faster to repeal them in line with the farmers' interests. This would have brought calm in the Scheme thereby quelling down the rebellion.

4.5 Relationship Between the Farmers and the National Irrigation Board after Rebellion

According to North (1990), institutions are dynamic rather than static. "Their change actually shapes the way societies evolve through time and hence is the key to understanding historical change" (North, 1990: 11). The National Irrigation Board failed to recognize this fact that institutions grow and change. It is this conservative attitude of the Board towards change that plunged it into collision with the farmers. At this point, the Mwea farmers seemed to have recognized the need for change in line with the tenets of liberalization.

The Mwea Rice Growers Multipurpose (MRGM) Co-operative Society, learning from what was happening between the farmers and the National Irrigation Board took the opportunity and became a temporary solution to the farmers' dilemma. The Co-operative restructured its core roles to accommodate the new challenge. From consumer retailing shop, the society took over rice production and marketing. In the process, the Mwea Rice Growers Multipurpose introduced itself as a new trustee in the Scheme, taking over from the Board.

After sometime, various splinter groups came up and claimed to overshadow the Mwea Rice Growers Multipurpose Co-operative (MRGM). The society, because of funds shortage and mismanagement, could not adequately fulfill the farmers' expectations. Total confusion dominated Mwea and in response, some farmers, allied to the National Irrigation Board (NIB) opted to form SACCO B, some remained in Mwea Rice Growers Multipurpose Co-operative while others remained non-aligned.

Table 4.1 **The institutions of affiliation**

No.	Institution of affiliation	Frequency	Percentage
1	NIB	3	3
2	Co-operative Society	57	57
3	NIB & Co-operative Society	2	2
4	None	38	38
Total		100	100

Source: Survey data, 2003

Data from the field survey show that many farmers had moved away from the National Irrigation Board. For instance, from a sample of 100 respondents, only three percent were still allied to the Board. The Mwea Rice Growers Multipurpose had majority members, fifty seven percent. Thirty eight percent of the respondents opted to be non-aligned from the Scheme organizations being members to none of the farmers' institutions. Two percent of the respondents decided to join both the National Irrigation Board and the society to maximize on resource utilization from both institutions.

Legally, however, the National Irrigation Board remained the only agency of development in Mwea even after the farmers rebellion. Any other upcoming agency claiming to be the trustee of the Scheme like Mwea Rice Growers Multipurpose lacked the government support and recognition.

Asked about the role that the National Irrigation Board was performing in the Scheme after the rebellion, the farmers had varying responses. Thirty nine percent of the respondents were of the view that the National Irrigation Board was left with nothing to do in the scheme. They were surprised that the National Irrigation Board personnel still existed in the scheme yet there was no role they were playing. The Senior Scheme Manager agreed to this and said the farmers made it extremely difficult for the Board's staff to work in the Scheme.

Accusation and counter accusation between farmers and the National Irrigation Board was found. Twenty two percent of the respondents blamed the National Irrigation Board of initiating and promoting divisions among them. This brought about severe wrangles between the farmers who formally were under the Mwea Rice Growers Multipurpose Co-

operative after the uprising. In the process SACCO B, opposed to the take-over by the Mwea Rice Growers Multipurpose and who instead preferred the return of the National Irrigation Board as the management agent, was formed (Care, 2002). With aid from the National Irrigation Board, these farmers transformed into a registered company under the name SACCO B with the aim of providing dividends to their members generated from commercial activities. It has its own 9 committee members with offices at the National Irrigation Board premises. The intentions of SACCO B were not clear. However, many farmers believed it was a tool for National Irrigation Board to assist in dismantling Mwea Rice Growers Multipurpose and hence pave a way for Board's resumption.

Tension mounted all over the scheme with each side pointing fingers at each other. Several other splinter groups came about each claiming to be responsible for the management of the Scheme. Politically instigated pressure groups and the Shareholders Association who claimed ownership of Mwea Rice Mills Limited (MRM) and Mwea Rice Growers Multipurpose among others are an example. The National Irrigation Board did not remain neutral. Some of the respondents accused the Board of frustrating farmers' efforts of getting the Scheme back to normalcy. This, the respondents said, was through supporting non-Scheme farmers who were competing with Scheme farmers for water resources.

Several unplanned rice fields came up. The out-growers, Ndekia (Nderwa, Kiarukungu, Kiorugari, Kimbimbi, Kiamanyeki, Mwea Prison and Marura) and Curukia (Kandongu, Mugaa, Cumbiri and Kiandegwa) and *Juakali* rice fields quickly came up with approximately 4,000 hectares under rice. Following this, the overall demand for water rose by 188 percent (Care, 2002). The *juakali* farmers and the out-growers claimed to hold inalienable right over water resources.

Serious conflicts over the resource arose as the infrastructure that was designed for only 6,600 hectares was now catering for over 10,000 hectares resulting into massive water shortage (Care, 2002). The out-growers were mainly strategically located at the upper part of the Scheme making it easy for them to access irrigation water at the expense of

the Scheme farmers. Ndekia for example is at the upper side of the scheme. It diverted all waters from link canal one, which was constructed by the Japanese International Corporation Agency (JICA) to add the water volume from River Nyamidi to River Thiba. This was meant to solve the water crisis that had severely affected Karaba Section, which is on the extreme lower side of the scheme. As a result of this diversion, in Karaba and Wamumu section, severe water shortage was felt. Rice productivity declined.

4.6 Mwea Farmers under new Trusteeship, the Mwea Rice Growers Multipurpose Co-Operative Society

After receiving services and inputs for the 1998/99 crop, Mwea farmers refused to deliver their crop to the Board and instead delivered their produce to their cooperative society, the Mwea Multipurpose Cooperative Society. As a result, the National Irrigation Board failed to recover credit advanced to the farmers and has since been unable to continue offering services in the Scheme. This development severely affected the activities of the National Irrigation Board in all the other schemes and at its headquarters in Nairobi. The two farmers institutions that were instrumental in the take over from the National Irrigation Board were the Mwea Rice Growers Multipurpose Co-operative and the Mwea Rice Farmers SACCO bank. The SACCO, however, continued its banking operations as before while the Mwea Rice Growers Multipurpose Co-operative (MRGM) was transformed to take over the management functions of the Scheme, which were previously under the National Irrigation Board.

The Mwea Rice Growers Multipurpose took over from the Board: water supply, control and management; provision of mechanized land preparation; supply of crop inputs; storage, processing and marketing of rice and its by-products; provision of technical advice to farmers; operation and maintenance of irrigation infrastructure; research and extension; and the overall scheme management among others.

As discussed in the previous section, rice farming is labour demanding. The cost of production is quite high as rice cultivation is a capital-intensive production system. The labour days necessary for a farmer especially who grows Basmati of 4 acres according to Tsuruuchi (1995) are 640 days, 160 days an acre. Most of the labour activities have to be completed within a narrow time-span and are carried out by hired casual labourers. These include transplanting, weeding and harvesting where the family labour is marginal and not enough to ensure timely completion of the exercise.

Table 4.2 Cost of rice production

Item	Sindano	Pishori
	Ksh per acre	Ksh per acre
Inputs (fertilizer, seeds, bags, agro chemicals)	6,652	4,452
Labour cost	8,475	8,475
Traction	4,100	4,100
Water & infrastructure service charge	2,000	2,000
Total	21,227	19,027

Source: Care, 2002

The traction services consist of rotavation, leveling and transport charges. The gross benefits for rice production according to Care (2002) amount to a Ksh 45,000 per acre. The essential costs are then subtracted from this level of benefits to give the gross margin of profit to the farmer for growing rice. This comes to a total of Ksh 23,973 per year per acre. The net cost of production then amounts to about Ksh. 21,000 per acre. During the National Irrigation Board tenure, the Board catered for some of these costs. The loans were then deducted from the rice delivered to the Board. After the farmers denounced the Board, they were supposed to shoulder all the cost of production including that of management. This high cost of production later became the main source of problems to the new trustee. The Mwea Rice Growers Multipurpose Co-operative became increasingly unable to manage the production cost as the National Irrigation Board was doing.

However, the respondents claimed to have benefited a lot from the Board's withdrawal in the Scheme. They said that they now enjoy freedom over rice farming and disposition of

their produce at their will in line with the tenets of liberalized market. Farmers can now retain any amount of rice that the family require for consumption and dispose the rest to the market of one's choice. The paddy prices shot up after the take over. Compared with the National Irrigation Board prices of Kshs. 17.00 per kg, the society was offering between Kshs. 25.00 and Kshs. 30.00 per kg. As a result, to many respondents, food insecurity and poverty greatly reduced. The income of most farmers therefore rose drastically.

The scheme management automatically changed from authoritarian to a democratic one. The farmers were in total control over the institutions that were now dealing with rice production and marketing. The fear over licence termination and dismissal from the Scheme, which every farmer had during the National Irrigation Board, was now over. If a farmer lacks capacity to cultivate his/her land, he/she can lease the holding to someone else or share crop, a situation that was unheard of during National Irrigation Board tenure.

The respondents did not hesitate to mention the emergence of new rice fields both within and outside the scheme. After the rebellion, several informal rice fields (*juakali* and out-growers) emerged. During the era of the National Irrigation Board, no individual informal rice fields were allowed. Despite constraining the irrigation infrastructure, some respondents termed the mushrooming of unplanned rice fields as a success and a development towards the right direction. The *juakali* and out-growers have not only absorbed the rapid increasing population by offering an alternative place to farm but has also helped raise the income levels of the youth and hence leading to a decline in crime. The rate of dependency by the youth to their parents has also declined as they have carved their own economic niche in the out-growers and the *juakali* fields.

However, despite the farmers enjoying several benefits, the new trusteeship was experiencing several difficulties. Firstly, there was poor maintenance of irrigation infrastructure. The maintenance of the irrigation infrastructure has been given very little attention by the Mwea Rice Growers Multipurpose Co-operative. The regime witnessed

massive deploration of the irrigation structures. The state of canals and roads in Mwea was worrying. Siltation of these canals and drains was so much that it greatly reduces their carrying capacity.

Secondly, there was poor management of water distribution. The Society's efforts in water control, however, were thwarted by the rising water conflicts, both within and outside the scheme. In its entirety, the co-operative lacked government support to ensure compliance in terms of water management and distribution. The Society has also been unable to implement and enforce appropriate cropping patterns to match the water supply and demand within the Scheme.

Thirdly, there is an inadequate paddy handling, processing and marketing arrangements in the Scheme. Rice was being stored, processed and marketed by a joint Committee that brought together Mwea Rice Growers Multipurpose Co-operative and Mwea Rice Farmers SACCO committee members. Majority of the respondents laid their blames on the government for encouraging cheap rice imports into the country and not bothering about the locally produced one. The liberalization of the Kenyan market and the increased competition within the Common Market for Eastern and Southern Africa (COMESA) region especially from Egypt has brought new challenges to the market for the locally produced rice. The farmers are in the process unable to market themselves or to look for wider markets and new profitable alternatives.

The respondents also blamed the Mwea Rice Growers Multipurpose of having poor management and leadership. The farmers are not actively involved in the management of the Co-operative as the management is left on the hands of the 10 elected committee members, 2 from each section. Due to this low involvement and participation in management by the farmers, suspicion and negative rumour mongering overshadowed the Scheme. The respondents accused the society of lack of transparency, corruption and not reporting to the farmers on how the money are used. The society, they said, also lacked qualified personnel especially in the field of agriculture who could ensure proper

management of the scheme activities. This led to lack of staff capacity and technical ability to effectively deliver the wide scope of services required in the Scheme.

Some of the farmers accused the Mwea Rice Growers Multipurpose (MRGM) of not paying them for rice delivered. The Mwea Rice Growers Multipurpose, due to lack of market and stiff competition from outside became increasingly unable to exhaust its rice as per the agreed time and price with the farmers. This forced the Society not to honour the agreed price, a situation that disabled it to pay promptly.

The new trusteeship became increasingly troubled as it encountered several stumbling blocks both within and without. During its tenure, the Scheme productivity declined. By the year 2003, the Scheme was on the verge of collapse. The Co-operative management committee, in attempt to sustain rice farming in Mwea instituted several consultations with the former trustee, the National Irrigation Board. Their agenda, however, lied on the sharing of the management roles touching on rice production and marketing between the farmers through the Society and the Board. This was a clear indication over the relevance of a state agency in local development. The state trusteeship therefore remains very important in the development space especially in the developing world and any revolt against it leads to additional trouble in local development. However, what is needed in the relationship between the trustee and the beneficiaries is an acceptance and recognition of each other as an important player in development initiatives. Popular participation should be the key to avoid suspicion.

4.7 Coping Mechanisms

This study observed that the farmers have instituted some coping mechanisms in a bid to overcome the problems that beset them in the Scheme. Firstly, the respondents pointed out that farmers have intensified communal work. Communal work featured more in canals and drainage maintenance and in roads and structures repair among others. It is usually compulsory. The farmers usually announce for a communal labour day, for

example, to desilt and clear the canals. Sanctions are put in place for those who fail to turn out. These range from a fine to a denial of the services in question.

Secondly, the farmers lease out their field to earn income. They lease out the whole or part of their holding so as to get funds to cultivate the rest of the holding. Relatedly, the respondents noted that, in times of financial crisis, the farmers mortgage their rice. The farmers are given Kshs. 1,000 in loan in exchange of 1 bag of Basmati rice that cost between Kshs. 2,500.00-3,000.00 at the market rate. With lack of alternative for loans, the farmers have no option other than mortgage their rice.

Thirdly, the respondents observed that several conflicts used to emerge out of competition over resources. Water was the main source of conflict. In absence of a legal framework in place, the farmers used to work even during the night to access water.

Fourthly, majority of the farmers retains more rice both for household consumption and for sale. This is partly because of the inability of their society to give them loans at times of need. They therefore deliver few bags of rice to the society and retain much of it. The retained rice serves as a safety net for school fees, medical bills and all family expenses including food.

4.8 Summary and Conclusion

From the outset, the rules and regulations that governed the Mwea Irrigation Scheme under the National Irrigation Board were undemocratic. These rules and regulations constrained the farmers' role in decision making over the running of the Scheme. There was no room for farmers' participation. The Board was not ready to listen to the farmers' grievances and neither to manage the Scheme in line with their aspirations. In the process, the relationship between the National Irrigation Board and the farmers turned out to be a troubled one as the farmers increasingly became economically oppressed by the Board.

The perception of the farmers towards the Board remained negative as the policy formulation continued to be top-down. This angered the farmers who resulted to protests against the Board. They succeeded to take over the Scheme from the Board and through their society, the Mwea Rice Growers Multipurpose (MRGM) Co-operative, took over the management of the Scheme. Despite enjoying some benefits after the take over, the farmers continued to experience several problems to the extent that, some wished to go back to the Board. The society became increasingly unable to run the Scheme to the ideal state of affairs in line with the farmers' demands due to politicization by the local leaders. To some extent, this was also attributed to the government's disentanglement from the affairs of the Scheme especially where application of rule of law in the Scheme activities counted most. Lack of a recognized legal centralized authority in the Scheme exacerbated the situation.

In this regard, there is a need for partnership between the trustee and the local community. If the beneficiaries perceive a development agency as a legitimate actor in development process, the beneficiaries would comply with its development initiatives. By encouraging popular participation in development projects, the local community shapes the development initiatives by a trustee to fit their line of expectations and aspirations. Legally however, the National Irrigation Board remained the legal and the only recognized legitimate agency of development in the Scheme despite farmers protest against it. The Co-operative, on the other hand, was seen as an illegal and illegitimate institution by the government, encroaching the role of the National Irrigation Board.

Some trustee like the National Irrigation Board, despite being legitimate actors in development, rests on bad laws. This calls for repealing of such laws through intensive consultations with all the stakeholders. It is only through this attempt to legitimize an agency that can lead to popular support from the local actors and their compliance with the trustee's development initiatives for sustainable development. This democratization process of the trustee would also change the negative perception of the local community towards the agency in question to positive.

CHAPTER FIVE

TRUSTEESHIP AND POPULAR PARTICIPATION IN LOCAL DEVELOPMENT

5.1 Introduction

Discussions in the previous chapter dealt with the beneficiaries' (Mwea farmers) perceptions towards a trustee (National Irrigation Board). The perception of the farmers towards the National Irrigation Board was negative as the relationship between the two reflected that of the oppressed and the oppressor. The trustee, despite being a legitimate agency of development, rested on a bad law, the Irrigation Act. According to the Act, the farmers had no say over production and marketing of their rice. The farmers continued to suffer, as they were alienated from rice that they produced. The postcolonial Kenya imported these laws as it continued to use them for continued revenue generation. There was no room for participation by the beneficiaries. Their attempt to have the trustee listen to their grievances never yielded anything.

As a result, trusteeship became increasingly troubled as the beneficiaries looked at the trustee with suspicion. This culminated into a rebellion by the beneficiaries against the trustee, the National Irrigation Board. The 1999 farmers uprising and the factors, which were responsible for it, were also discussed. The negative relationship between the farmers and the Board led to the former expressing strong dissatisfaction over the later. The Board in return, as a trustee, ignored the farmers' capacity to agitate for a change and instead remained confined to the controversial Irrigation Act, which was a source of friction between the two. This conservative stance by the Board did not auger well with the farmers who organized for a protest against the Board demanding its withdrawal from the affairs of the Scheme.

There has been a general assumption that the agencies of development (trustee) functions in line with the local actors' aspirations and interests. However, many times, the agencies initiate a development project to serve the interests of the trustee. Some agencies therefore implement their development policies to serve certain ends. These interests sometime fail to be in line with the local actors expectations. This has been so common especially in African where myriads of agencies have come up in pretence to ensure development but what they put on the ground is insignificant if not underdevelopment. Lack of beneficiaries' participation in the trustee's development initiatives leads to erosion of the moral legitimacy on the part of the agency in question. This in return impacts negatively on the agency's development initiatives.

People's participation in local development is a popular theme in development circles. "Popular participation has become a buzz-word in the development community in the recent years as more and more actors realize that improvement in living conditions are not brought about from above by some benign agency but by the beneficiaries themselves taking an active part in the process of bringing about the change" (Bergdall, 1993: 2).

Development at the local level has to be addressed and solved by the local communities themselves with a guided and controlled support from a developmental agency, the trustee. The trustee must have capacity and legitimacy to ensure development in line with the local's aspirations. The purpose of this chapter is to discuss the level of beneficiaries' participation in activities by a trustee. In this case, the chapter discusses the level of Mwea farmers' participation in the Scheme's operations under the National Irrigation Board and the interests that the Board promotes and protects in its development initiatives if any. The expectations, aspirations and the concerns of the Mwea farmers are also discussed.

5.2 Expectations and Concerns of the Mwea Farmers

As seen from the previous chapters, the Scheme was established with a view to serve the interests of the colonial government. The post-colonial Kenya, instead of deviating from the colonial order, seemed to stand by them enforcing them for continued revenue generation. In essence, the Mwea farmers had no problem with the National Irrigation Board but the bad rules that it promoted and protected in the name of Irrigation Act. After the uprising, the farmers voice took to the center stage in the Scheme development affairs. None of the respondents wished to witness the collapse of the scheme. Majority of the respondents preferred to see rice farming becoming a profitable activity and one that is beneficial to the farmers.

Some of the respondents wished to have a more productive rice farming activity in the Scheme. To them, the farmers should be able to access all farming/production services such as fertilizers, chemicals, credit and a reliable water supply among others from the trustee. On the other hand, some of the respondents talked of a sustainable rice farming activity. To them, rice farming should not only be an activity for the current generation but for generations to come.

Others said they want to see a better Mwea that they have never seen before. This is in all aspects of rice farming including production and marketing where farmers play the leading role. This can only be realized if the concerns of the Mwea farmers are properly addressed in a dignified manner. It is clear that the farmers do not want the Scheme to collapse as it means life to them. They don't have alternative land to settle and rice farming is the only source of their livelihood.

Majority of the respondents observed that the National Irrigation Board could not adequately address their concerns. Over half of them, fifty nine percent, termed the National Irrigation Board as a failure in its development initiatives and blamed the government of imposing it on them without even consulting them. They observed that, from experience, for over 32 years (1966-1998), the National Irrigation Board operated in

Mwea, there was no amicable development in commensurate to their productivity. They strongly protested against its resumption accusing it of oppression. As a result, they drew an analogy between themselves and the biblical story of Israelites in Egypt. Like in the Bible story, farmers observed that they couldn't go back to the National Irrigation Board because it was like the biblical Egypt where the Israelites faced oppression. As a result, the respondents noted that, if the National Irrigation Board was to come back to the Scheme under the same rules and regulations, then Mwea would never develop and the disputes between it and the farmers will intensify.

It is not all the respondents who were opposed to the National Irrigation Board. To some, forty one percent, the National Irrigation Board remains the only alternative to Mwea development, as it is the only legitimate agency in the scheme entrusted with its development, management and control. The Board also has the capacity both in terms of facilities and funding from the government. These respondents vowed to fight for the National Irrigation Board and ensure its resumption despite the existence of strong resistance from majority of the farmers. Some respondents believed that the National Irrigation Board could be engaged in rehabilitating, maintaining and managing the dilapidated irrigation infrastructure.

In general therefore, opinion over importance and relevance of the National Irrigation Board was divided. Some preferred to have National Irrigation Board (41 percent) while others (59 percent) did not trust the National Irrigation Board as an agent of local development. Rather than ensure development, the majority of the respondents remained skeptical over the National Irrigation Board (NIB) questioning the kind of miracles that can transform it overnight and make it farmers based agency. This brought into questioning the legitimacy of the National Irrigation Board as a trustee in Mwea development.

5.3 Trusteeship and Participation in Mwea Irrigation Scheme under the National Irrigation Board

Farmers complained over not being involved by the National Irrigation Board (NIB) at all in all the Scheme activities. Indeed, they accused the National Irrigation Board of using excessive force to ensure compliance rather than diplomacy and negotiation with the farmers.

Ninety five percent of the respondents lamented that they were not involved at all by the National Irrigation Board prior to 1999 uprising. National Irrigation Board controlled everything in the scheme. It formulated policies and made decisions over the running of scheme without duly involving the farmers. The farmers were automatically turned into policy consumers and passive participants over decisions affecting rice production and marketing. They began to see themselves as passive objects of the Scheme development activities rather than active players in the development process. The Board has not been accessible to the farmers. The farmers live as squatters at the mercy of the National Irrigation Board, which at its behest may terminate their licences. They therefore live in fear. This never augured well with the farmers who became suspicious over National Irrigation Board operations in the scheme.

Against this pall of enforced unanimity of political opinion, the Mwea farmers had quietly carried on their struggles on their backs. The farmers had no voice in the decision making process despite there having a provision for an Advisory Committee. The Board management always manipulated the election of representatives to the Advisory Committee in favour of those who support it. These leaders were then compromised and were turned into rubber stamps signing against decisions they were not party to. The few meetings by the farmers with the National Irrigation Board management were only to sensitize them on the newly arrived at decisions by the Board. The Board's decision was final. In most of these meetings they talked about clearing drains and feeders, about roads, fertilizers, transplanting and harvesting times, proper on farm management and paddy theft during harvest.

After the uprising, the trustee held talks with the beneficiaries on its possibilities to resume its duties in the Scheme. These negotiations were intensified in the year 2003 after the Mwea Irrigation Scheme Steering Committee (MISSC) was formed. The Committee was an outcome of a visit to the Mwea Irrigation Scheme by the Minister for Co-operative Development in January 2003. The visit by the Minister was triggered by the fact that the Scheme was on the verge of collapse. His mission was therefore to ensure the revival the Scheme. The Minister directed that a Steering Committee comprising of all Mwea stakeholders be established.

The terms of reference for the Steering Committee were as follows:

- a) “To hold open consultations with farmers so as to identify the roles the farmers want to undertake, those the National Irrigation Board should play and those to be left to private sector.
- b) Work out modalities of making immediate use of National Irrigation Board assets such as plant and machinery, reception centres, stores and rice mills.
- c) Recommend ways of re-establishing orderliness in the scheme.
- d) Establish a cordial working relationship between farmers and the government.
- e) Analyze the costs and suggest how and when the farmers are to pay for services offered to them either by farmers organizations or the National Irrigation Board.
- f) Recommend how the National Irrigation Board can recover debts withheld by Mwea farmers and how farmers can be paid or pay debts belonging to Mwea Rice Growers Multipurpose.
- g) Make other recommendations” (MISSC Report, 2003).

The Committee’s terms of reference revolved around the National Irrigation Board and not any other agency of farmers’ preference, as this study has done.

Most farmers are, however, not happy with the National Irrigation Board especially because of its previous negative attitudes towards them. They accused the Board of taking sides with a section of farmers opposed to the Mwea Rice Growers Multipurpose

Co-operative, with a view of bringing it down to pave way for the resumption of the National Irrigation Board. The farmers expressed strong discontent towards the National Irrigation Board on this matter. By taking sides, the message was very clear to the farmers that the National Irrigation Board was not a neutral agency as they purported it to be.

However, from an interview with the National Irrigation Board officials in the Scheme, the Board is very willing to work with the farmers in a manner that they deem right. The repealing of the controversial Irrigation Act was at the core of the discussions where the officials supported its amendment to reflect the realities on the ground. Farmers' participation in the Scheme development has been given more weight than before as the Board is increasingly becoming democratic. The farmers are now in control. The National Irrigation Board has accepted to distance itself from rice processing and marketing, which was the source of tension between the two. In line with the farmers' expectation over sustainable development, the Board has therefore decided to take over operation and maintenance, research and extension services, and water supply up to the branch canals. All other services have been left to the farmers to seek the best agency of their choice to work with.

The new National Irrigation Board's plan is to involve the farmers in the Scheme activities as much as possible. In this regard, the Board has facilitated the establishment of the Water Users Associations (WUAs) to enable farmers to participate in water management as well as take responsibilities over the Scheme's irrigation infrastructure.

The National Irrigation Board therefore repealed its vision, mission and values to be in line with the farmers' expectations. According to the National Irrigation Board's Corporate Plan (2003-2007), the vision of the Board changed to:

“Be a leader in irrigation and drainage development in Kenya and in the sub-Saharan region as a whole. Sustaining this vision requires a unique combination of a number of key values:

- ❑ **Quality service:** The National Irrigation Board will endeavor to provide the best services at the best value to farmers at all times and in all its areas of operation.
- ❑ **Leadership:** The National Irrigation Board will endeavor to provide and foster leadership in the irrigation and drainage sub-sector in Kenya.
- ❑ **Care and respect:** The National Irrigation Board will endeavor to provide responsive services and foster a sense of belonging and ownership in irrigation and drainage development.
- ❑ **Accountability:** The National Irrigation Board will ensure the highest standards in public accountability and responsiveness through honesty and open relationship with all stakeholders.
- ❑ **Partnerships:** The National Irrigation Board will create partnerships by consultation and communication with all stakeholders in order to achieve its goals” (National Irrigation Board, 2003: 6).

After examining the past, the achievements and challenges of the Board, and the current socio- economic realities in Kenya, and having consulted widely with stakeholders in the sub-sector, the mission of the National Irrigation Board changed from that of developing, controlling and improving national irrigation schemes to:

“Develop, promote and improve irrigated agriculture through sustainable exploitation of available irrigation and drainage potential in Kenya in order to ensure food security, create employment and thereby improve the living standards of the rural populations” (National Irrigation Board, 2003: 7).

This is a clear indication that the National Irrigation Board has begun to change and to wear a human face. The farmers plight have been prioritized as their voice increasingly dominates the Board’s development activities in the Scheme. This is a step to the right direction. However, the Irrigation Act, despite being silence in practice, still remains in writing. The next move therefore should be the amendment of the Act itself, as the management such Schemes as Mwea cannot function without rules and regulations.

5.4 The Mwea Farmers and their Preferred Agencies of Development

Other than the initial agencies involved in rice farming, the farmers mentioned other agencies of their preference that they thought befits the Scheme's development. First, the rice farming services were identified, then the farmers were asked to name the agency they thought could offer these services to their satisfaction.

The reasons behind farmers' preferences to other agencies of development came as a result of the dissatisfaction by the farmers over the National Irrigation Board's rules and regulations. They expressed a strong doubt on whether the National Irrigation Board could deliver development in the Scheme citing decades of underdevelopment during its tenure.

Table 5.1 Preferred agencies of development

No.	SERVICES	PREFERRED AGENCIES						TOT %
		NIB %	MOA %	MISB %	NCPB %	GOVT %	FARMER %	
1	Water management	41	45	6	1	7	0	100
2	Irrigation infrastructure	41	45	6	1	7	0	100
3	Research& ext	35	51	5	2	7	0	100
4	Rotavation	16.8	25.2	5.6	0.9	2.8	52	100
5	Input supply	17.6	26.5	5.9	1	2	47.1	100
6	Processing and marketing	12.1	18.1	3.4	3.4	13.8	49.1	100

Source: Survey data, 2003

According to the table above, majority of the farmers were against the resumption of the National Irrigation Board. Instead, they opted for other agencies. Majority of the respondents preferred the ministry of Agriculture to undertake water supply and management services, research and extension and irrigation infrastructure maintenance and repair services. The respondents claimed that the Ministry used to have a human face and it listened to their problems well prior to the establishment of the National Irrigation Board. They cited their experience under the Ministry of Agriculture during the 1963-1966 period. To them, under the Ministry of Agriculture, they used to enjoy freedom over

their produce and the strict colonial rules that came with National Irrigation Board in 1966 were not in force by then.

This was a clear indication that the farmers were not aware as to whether the National Irrigation Board was an agency of the Ministry of Agriculture. To them, these are two distinct institutions. However, the message was very clear, that eighty six percent (41 and 45 percent in support of the Board and the Ministry respectively) were in support of state trusteeship. This came as a result of the failure of their Co-operative, a situation that would have led to a total collapse of the Scheme. They realized that an agency that is legitimate with Government support was necessary for the Scheme development. The form of trusteeship that they preferred, however, was one where the farmer's voice is listened to as his/her problems are attended to in a dignified manner. The trustee should be democratic, as popular participation becomes the norm rather than exception.

Table 5.2 Summary of the preferred agencies of development

No.	SERVICES	AGENCIES
1	Water supply distribution	Ministry of agriculture
2	Irrigation infrastructure maintenance	Ministry of agriculture
3	Research and extension	Ministry of Agriculture
4	Land preparation	Private sector
5	Processing and marketing	Private sector
6	Input Supply	Private sector

Source: Survey data, 2003

5.5 Summary and Conclusion

The reasons behind the establishment of the Mwea Scheme were not economic but rather political, meant to quell down the Mau Mau uprisings as well as deal with the problem of landlessness and unemployment in the country before independence. Its initiation was therefore meant to serve the colonial government's interests. However, its predecessor, with minimal reforms inherited this colonial serfdom and utilized it to serve its own ends.

The farmers were compelled to work throughout the year but they got nothing out of their hard work.

The local actors participation is the key to any development. It encourages local initiatives and responsibilities as people feel a greater sense of commitment through the ownership of a plan. It builds teamwork and a common context for decision-making, communication and problem solving. However, while People's participation in local development remains a popular theme in the development circles, it often remains elusive in the realm of practice. No development agency claims to discourage popular participation including the National Irrigation Board, which according to this study findings, never used to involve the farmers in the Scheme management. Decision-making by the Board continued to be top-down in line with its tradition of centralized planning and administrative control. However, if development agencies encourage popular participation in their development projects, they stand to enjoy popular support from the beneficiaries. Failure to do this, the local actors disengages themselves from the activities of the trustee impacting negatively on the project and its sustainability.

“The local actors should be treated as experts as they have a wealth of latent knowledge gained through years of practical experience” (Bergdall, 1993: 23). Trustee should provide beneficiaries of development with an opportunity to participate actively in decision-making process that touches on their social, political and economic affairs, as this is the only way to sustainable development. The trustee should therefore solicit opinions and ideas of the beneficiaries. The participants are then guided through a structured process to dig insights out of their accumulated wisdom. As a result, the local actors feels part and parcel of the development process and in return reciprocate by offering popular support to the agency in charge. People tend to own the development initiatives and they try as much as possible to identify themselves with it. Popular participation is therefore necessary for development initiatives by a trustee to prosper and become sustainable.

This is exactly what is lacking in Mwea Irrigation Scheme under the National Irrigation Board. As a result, the Board, as a trustee, lacks popular support and a backing from the farmers. This greatly contributed to the 1999 uprising as the farmers looked at themselves as strangers in the Scheme activities. The Board never recognized the farmers' capacity to ideologically contribute to their own development. This never augured well with the farmers who believed could manage the development of the Scheme by themselves even better than the Board. The lack of popular participation of the local actors by the agencies of development therefore led to denial of popular support on the part of the trustee by the beneficiaries. This culminated in the farmers attempt to take over the roles of the trustee by force.

CHAPTER SIX

SUMMARY, CONCLUSION AND POLICY RECOMMENDATIONS

6.1 Summary

We have noted in chapter one that trusteeship in Kenya has its roots in the colonial situation. The colonial state emerged as the trustee to develop the colony. Several state agencies were established especially in the agricultural sector to manage and control development. After independence, the situation did not change. The postcolonial state continued to intervene in the economy through state agencies - the parastatals. It is in 1966 that the rice sector came under the National Irrigation Board, a state agency that was entrusted with controlling development in all public irrigation schemes in the country. As a result of this, the Mwea Irrigation Scheme, a rice growing irrigation project, came under the National Irrigation Board. The Board, however, adapted rules and regulations that were crafted during the colonial period. These rules, and the legislation in particular, were enacted to foster exploitation and economic repression of the African population. This resulted into farmers questioning the legitimacy of the National Irrigation Board as a trustee in Mwea development, the interests that it was serving and the level of Mwea farmers' participation in its development initiatives.

In chapter two, literature on state, trusteeship and development was reviewed. Trusteeship and bio-power theoretical approaches were used to shed light on this study. From the literature, it is clear that the state's dominant role in development space did not sufficiently address the problems of development. Poverty continued to deepen in spite of development interventions by the state – the trustee. It is this situation that led to the questioning of the capacity of a trustee to deliver development in line with the local actors' aspiration. Such phenomenon has led to increasing doubts on the role of trusteeship with regard to local development.

Discussions in chapter three centred on the evolution and challenges of trusteeship. The colonial government, with a view to containing the Mau Mau uprising, initiated the Mwea Irrigation Scheme. The Scheme became the camping ground in which the Mau Mau freedom fighters were detained. Using state power, the detainees were constituted by the colonial government in such a way that they would engage in a production system that benefited the colonial government. During this period, the management of the Scheme was under the African Land Development Unit (ALDEV). Immediately after independence, the management of the Scheme was transferred to the Ministry of Agriculture, which later in 1966, through an Act of Parliament, transferred the Scheme's management to the National Irrigation Board. The rules and regulations that were used during the colonial period were, however, adapted with minimal alterations. Consequently, they became the source of conflict between the trustee (National Irrigation Board) and the local farmers.

As shown in chapter four, the relationship between the two increasingly became troubled when the trustee – the National Irrigation Board – failed to meet the local farmers expectations. An attempt by the beneficiaries to have the trustee meet their expectations never yielded fruits as the Board remained rigid. The farmers rebelled against the National Irrigation Board and went to the Mwea Rice Growers Multipurpose Co-operative Society. The later evolved as another trustee of Mwea development. However, the Society became increasingly unable to deliver development as expected by the local farmers. The Society became politicized to a point where the farmers began to view it as a political entity rather than a development agency.

Finally, the discussion in chapter five concerned the trusteeship and popular participation in local development. Lack of popular participation in an agency's development project culminates in lack of support for its development initiatives. This in turn works against sustainability of the trustee's development initiatives. On account of field findings, the rules and regulations as spelt out in the Irrigation Act did not allow farmers to participate in decision-making process touching on Mwea development. As a result, the farmers

distanced themselves from the development initiatives of their trustee, looking at it with suspicion.

6.2 General Observation and Conclusion

Despite trusteeship being legitimized by law, the perception of the beneficiaries towards it matters a lot. As a result of this, once the beneficiaries perceive a development agency as a legitimate actor in development process, they ensure compliance and identify themselves with its developmental initiatives. On account of field findings, the National Irrigation Board, despite being legally established and being a legitimate agency of development, it lacked moral legitimacy. Resting on a bad law, the farmers felt oppressed and deprived by the Board. In the process, the farmers refused to comply with the initiatives of the National Irrigation Board and instead expressed strong dissatisfaction with it. As a result of this, the Board's development initiatives in Mwea failed to be sustainable. The perception of the farmers towards the Board was negative. Initially, this perception was suppressed by the Irrigation Act, which instituted fear in every tenant.

The Mwea farmers perceived the National Irrigation Board as illegitimate agency and therefore they failed to comply with its development activities in the Scheme. To the Mwea farmers, the Board was resting on bad laws that were not in line with realities on the ground as well as their aspirations.

For development by a trustee to be sustainable, the trustee must engage in promotion and protection of the beneficiaries' interests. The development initiatives by the trustee must therefore be in line with the local community's aspirations and/or expectations. This study, however, found that the National Irrigation Board was not serving the interests of the Mwea farmers. The Irrigation Act prevented the farmers from participating in decision-making process. The Act saw the farmers as licensees who had no rights over the fields they cultivated. Instead, the ownership of the Mwea Irrigation Scheme was under the National Irrigation Board, which acted as the Landlord. The farmers had no say

over the management of the Scheme, as the Landlord's decisions were final. Any attempt to express discontent with a decision arrived at from above meant an instant licence termination followed by immediate expulsion from the Scheme. This meant that the Board never knew the farmers' expectations, as there was no mechanism in place for expression of their interests. On account of this, the farmers rose up to demand their voice to be heard, but the Board remained unmoved.

The failure by the Board to discuss with the farmers the way forward after they expressed discontent with its operations led to the farmers demands for withdrawal of the National Irrigation Board from the Scheme. However, the Board, in line with the Irrigation Act opted to use the state machinery to enforce compliance and sustain the project. While the Board turned to the use of police force against the farmers rather than dialogue, the farmers clung to their demands and vowed never to look back. The message was, however, very clear that the Board was not willing to deliver development in the interests of the farmers. Confrontations between the two actors ensued. The farmers stood to their ground and later, the Board withdrew from the Scheme's operations. The farmers took over the running of the Scheme and crippled the development initiatives by the Board. By not fulfilling the beneficiaries' expectations, the trustee's development activities turned out not to be sustainable. Popular participation is therefore key to sustainable development.

Popular participation in local development by a trustee is the only means through which the beneficiaries can ensure popular support to the trustee's development initiatives. "Participation is a voluntary contribution by the local actors to local development programs by agencies supposed to contribute to local development. It involves sensitizing people to increase their control over development initiatives and activities by agencies that touches on their lives" (Bergdall, 1993: 2). The development initiative should evolve from the local actors and not the agency per se. The local communities should be involved in the management and execution of the development project especially in decision-making tables over the running of the project. With regard to this study finding, the National Irrigation Board, as the trustee of Mwea development, did not encourage

farmers' participation. The Irrigation Act did not give room for farmers' participation and neither did it create a mechanism for the same. Popular participation was discouraged as the Board moved on to enforce the Irrigation Act that saw the farmers as just tenants with no rights over the fields in which they were cultivating. The National Irrigation Board therefore became increasingly out of reach by the beneficiaries.

This undemocratic governance by the Board forced the farmers to disengage and to distance themselves from its activities. As a result, they failed to own the irrigation project in Mwea under the Board and instead began to view it as Board's project. To them, the project was an imposition by the government and was meant to punish them rather than develop them. This departicipation by the farmers became the source of tension between the farmers and the Board. The farmers began to see the Board as the beneficiary of the development initiatives. They began to question the role of the Board and the intentions behind its activities in the Scheme. Rising up to demand their rights in 1999 became a treasonable offence in the eyes of the government. They were beaten, arrested, while some of them were killed. Others lost their fields as their licences were terminated. This excessive use of force made it clear that, the National Irrigation Board was not encouraging popular participation and neither was it promoting the farmers' needs but 'others'.

The entrenchment of state control over the activities of individuals in Mwea Scheme through the National Irrigation Board infringed on people's entitlements. As Cowen and Shenton (1996) observes, "through entitlements, 'the alternative commodity bundle that a person can command given the limits of his or her endowment', commodities are converted into capabilities. To Sen, the process of economic development is best seen as expansion of these people's capabilities" (Cowen and Shenton 1996: 452).

Every one is free to choose from potentially infinite set of activities or 'functionings' without being forced to do so. It is the extent of capability, the absolute value of development, which serves as both a goal of agency's development initiatives and criterion for evaluation of the process of development itself. In the case of the National

Irrigation Board in Mwea, instead of expanding people's capabilities, it reduced them to an insignificant level. Following the Irrigation Act, the Board reduced the farmers into passive participants in development arena turning them into policy consumers. This in turn contravened the basic tenets of development as seen by Sen's argument on development as freedom. The farmers wanted a situation where their capacities are expanded to a point of alleviating poverty in the Scheme. The National Irrigation Board should therefore learn from the farmers and adjust accordingly to accommodate their views on the Scheme development.

For trusteeship to prosper, there must be compliance on the part of the local community. Local participation or involvement of the beneficiaries in development activities by a trustee is the key to this. All development problems at local level have to be addressed and solved by the local actors themselves and not by an agency. The agencies endowed with local development must therefore involve the local people in all decision-making processes affecting the running of development that touches on their lives. The agency coming in to assist in development must recognize the locals as unique and wise beings and accord them the respect they deserve. The beneficiaries should be treated as experts on the development of their locality as bestowed to them from their practical experience. As a result, their opinions and ideas should be respected and honoured. Their local institutions should also be strengthened rather than weakened while participatory partnership should be the case rather than exception.

According to the field findings of this study, the politics of trusteeship in local development need to be accommodated rather than dismissed. The trustee and the beneficiaries should intensively discuss any dissatisfaction arising from either side as a means of coming up with a lasting solution to the problem at hand. The opinions of the local community should be respected and handled in a dignified manner that they deserve. The use of force, as was the case of the National Irrigation Board in Mwea in 1999, to quell down the local community's demands does not solve anything but adds more problems. It is only through dialogue and accommodation that trusteeship can

prosper in local development. Failure to do this leads to the local community perceiving the trustee as carrying a hidden agenda, to exploit and oppress them.

The choice of the agency should rest on the local actors and should not be imposed on them by any authority including the Government itself. The trustee must demonstrate to the local community that it is worthy and has capacity to deliver the promised development. It is on this ground that the beneficiaries either consent to or refuse the intervention by the agency in question. The beneficiaries' decision should be the final as it is them alone who are the experts over their development needs. The use of force to buy compliance, as was the case of the National Irrigation Board in Mwea, is just but a waste of time and abuse of human right.

The National Irrigation Board, as the legitimate agency of development in Mwea, should respect and protect the interests of the farmers. The Irrigation Act should be repealed in consultations with the farmers and other stakeholders. The rules should therefore reflect the interests and aspirations of the Mwea farmers for sustainable development.

6.3 Policy Recommendations

This study found that for trusteeship to prosper in local development, the trustee must be in a position to encourage popular participation in its development initiatives. The beneficiaries must be intensively involved in deciding and pointing out the direction they want to follow in terms of development. The trustee must also be democratic and ready to promote the development interests of the local community as well as legitimize itself at the local level through consent from the beneficiaries on its intended intervention. The following are some of the policy recommendations on trusteeship and development:

1. In spite of being a legal agency of development, the beneficiaries have to perceive the trustee as legitimate entity with a moral responsibility to ensure local development. The trustee must stand on good laws that are morally acceptable to

the beneficiaries and in line with their aspirations. However, according to findings of this study, the National Irrigation Board, despite being a legitimate agency of development in Mwea Irrigation Scheme, stands on a bad law. The rules and regulations governing the Scheme were crafted during the colonial period by the colonial government. As a result, this law lacks moral legitimacy. The Irrigation Act (Cap. 347, Laws of Kenya) exhibits a purely colonial ideology of domination over the colonized. The democratization process in the country should go hand in hand with democratization of the local development. In this regard, this law should be repealed. New laws resulting from intensive consultations with all stakeholders should be put in place. It is only through this means that the National Irrigation Board can become democratic and exhibit a positive image in the eyes of the Mwea farmers. Once the Mwea farmers perceive the National Irrigation Board as a legitimate actor, they will then comply with the Board's development initiatives.

2. The trustee should promote democratic management that allows for popular participation in local development. Through local community participation in development initiatives under a trustee, the beneficiaries ensures total support to the agency. The National Irrigation Board should therefore open up to farmers' participation. A structure should be set in place that gives the local community a space in the Scheme management especially in decision-making tables.
3. The development initiatives by the trustee should be in line with local actors expectations and aspirations. The National Irrigation Board should learn from the Mwea farmers the interests they need promoted. These interests should then be given the first priority in Mwea development initiatives under the National Irrigation Board. The farmers' expectations should be sought and documented as the Board works towards fulfilling them for sustainable development.

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Appendices

Appendix 1: Questionnaire

UNIVERSITY OF NAIROBI, INSTITUTE FOR DEVELOPMENT STUDIES. QUESTIONNAIRE ON THE POLITICAL ECONOMY OF MWEA IRRIGATION SCHEME UNDER THE NATIONAL IRRIGATION BOARD

DATE _____

SECTION _____

VILLAGE _____

QUESTIONNAIRE NO. _____

SECTION 1: PERSONAL INFORMATION

1. Name of the respondent _____
 - a) Level of education _____
 - b) Main occupation _____
 - c) Marital status _____
 - d) Age _____
 - e) Sex _____

SECTION 2: INTRODUCTION

2. Where was your home before you came to Mwea? _____
3. How did you acquire your field? _____
4. When was this? _____
5. a). When did you start rice farming? _____
b). Why did you start rice farming at the time? _____

6. a). What is the size of your rice field? _____
b). Do you have an extra piece of rice field?
 Yes No
c). If yes above, how big is it? _____

d). How did you acquire it? _____

7. a). Do you cultivate the whole of your rice field by yourself? () Yes () No

b). If no above, how is the rest used? _____

8. Which institutions are you affiliated to in rice farming today?

- NIB
- Co-operative society
- NIB and Co-operative Society
- None
- Others

9. Why are you affiliated to the institution stated above? _____

SECTION 3: THE ROLE OF NIB AND THE INTERESTS SERVED

10. a). Do you know how the NIB was established? () Yes () No () Not sure

b). What purpose was it meant to serve in Mwea? _____

c). Who defined this purpose?

- () Farmers () Government () Farmers and Government () Others

11. a). How do the farmers perceive the NIB? _____

b). Has NIB lived to the purpose it was meant to serve? () Yes () No () Not sure

c). Explain your answer? _____

12. How did farmers relate to NIB in rice farming? (Probe on whether the relationship was harmful or useful) _____

13. What has been the impact of this relationship? _____

14. a). What led to the 1999 NIB-farmers crisis?

- a) _____ b) _____
 c) _____ d) _____

15. How did the crisis affect the role of NIB in the scheme? _____

16. How did the crisis affect the role of the farmers in the scheme? _____

17. a). After the 1999 crisis, what benefits did the rice farmers enjoy?

- a) _____ b) _____
 c) _____ d) _____

b). What problems, if any, did farmers face?

- a) _____ b) _____
 c) _____ d) _____

c). How did farmers respond to these problems? _____

18. (a). What do you consider to be important role for NIB in the rice farming activities in the scheme? _____

b). As an individual, would you like the NIB involvement in rice farming?

- Yes No

c). Explain your answer? _____

19. What should be your role as a rice farmer in the scheme? _____

20. Identify the services that you require for rice farming and where you would like to get them?

SERVICE	SOURCE
Water management (Including water control and canals maintenance)	
Roads/infrastructure maintenance	
Rotavation	
Crop inputs	
Processing and marketing	
Research and extension services	
Infield operations and management	
Credit services	
Others (specify)	
Others (specify)	

21. a). What are the four main concerns of Mwea farmers today? (List in ascending order)

a) _____ b) _____

c) _____ d) _____

b). Do you think the NIB can adequately address these concerns?

Yes No Not sure

c). Explain your answer _____

22. How satisfied as a farmer are you with rice farming under the NIB?

- Very satisfied
- Satisfied
- Not satisfied
- Very dissatisfied
- Difficult to tell

SECTION 4: PARTICIPATION

23. a). Was the NIB involving farmers in the decision-making processes affecting the running of the scheme prior to 1999? Yes No Not sure

b). Explain your answer? _____

24. What role does the NIB play in the scheme today?

a) _____ b) _____

c) _____ d) _____

25. a). Were farmers involved in negotiations with the government on the resumption of NIB? Yes No Not sure

b). If yes how? _____

c). If no, why not? _____

26. What has been the outcome of farmers' -NIB negotiations? _____

27. What in your opinion would you have preferred? _____

28. Does NIB involve farmers in scheme activities today? () Yes () No () Not sure

29. What would you say is the extent of farmers' involvement in the affairs of the scheme today under NIB?

- Very low
- Low
- Average
- High
- Very high

30. What has been the change in rice productivity in your field between 1999 and 2002?

- Increased
- Decreased
- No change

Explain your answer? _____

SECTION 5: THE FUTURE OF THE SCHEME

31. What in your opinion should be done in order to improve rice farming in this scheme?

32. What should be the role of the Government in doing this? _____

33. a). What are your future expectations for rice farming in Mwea? _____

b). Do you think the NIB is working towards meeting these expectations?

Yes No Not sure

34. What do you consider as some of the farmers' failure in rice farming today? _____

35. What can farmers do to improve rice farming in Mwea? _____

36. What do you consider to be important role for the NIB to improve rice farming? _____

37. What do you consider to be important role for the Ministry of Agriculture to improve on rice farming? _____

38. What do you consider to be important role for the co-operative to improve rice farming? _____

39. What are your observations on rice farming in Mwea over the years? _____

40. What recommendations can you give concerning rice farming and management of such schemes as Mwea? _____

THANKYOU

Appendix II: In depth Questionnaire

ID NO. _____

IN-DEPTH (ID) INTERVIEW SCHEDULE

Name of interviewer _____

Research site _____

Location of interview _____

Date of interview _____

1. Name of the respondent _____

2. Occupation _____

3. Marital status _____

4. Approximate age _____

5. M/F _____

6. Role Of National Irrigation Board

a). Give a brief history of NIB- how you know it, how it came about, how it was operating initially, its strengths and weaknesses etc.

b). Identify different actors/agencies involved in rice production, processing and marketing today? Describe the nature of relationship between the different actors identified above -How effective and efficient are they? How do they operate? How are they managed? How do they relate with the farmers?

c). What were some of the negotiations between the farmers and the government-NIB? How and at what level were people involved in these negotiations? What were their reactions?

d). Comment on land tenure in Mwea? Why don't people have title deeds? Is there anything being done on this? How does this affect rice farming today?

7. Participation

a). To what extent do you think the farmers inform the operations of the NIB? How or at what level do farmers participate in decision making on the matters affecting the scheme? (I.e. in rice production, processing and marketing)- Comment on the participation process.

b). How are NIB policies made, formulated and implemented? How are farmers involved in the process? Is there a link between NIB and farmers in matters of policies today?

c). What role is the NIB playing in the scheme today? What is the contract between the farmers and the NIB today-Is it better that way? What other roles do you think it should play.

d). What role do farmers play in the scheme today? What about their co-operative societies (which are they)? Do you think its better that way or something else needs to be done?

e). How are farmers organized? How effective is their organization? What difficulties do they experience, causes and possible solutions? How do they link with NIB?

8. Interests Served

a). What can you say are the interests/concerns of Mwea farmers today?

b). What different actors do you think are at the forefront to promote these concerns and how? Do you think the NIB is serving the needs of the farmers?

c). Do you think the NIB reflects the wishes and aspirations of the Mwea farmers and to what extent?

d). Do you think Mwea Irrigation Scheme is sustainable under NIB today? Are farmers satisfied with its operations? Do you think Mwea is better now under NIB or without it?

9. Future Of The Scheme

a). What do farmers complain about in regard to rice farming (rice production, processing and marketing) today? What are the main constraints/obstacles in rice farming in general?

b). Comment on the effects of economic liberalization and reforms in rice farming today? Identify constraints and opportunities brought about by liberalization? How did you respond to them?

c). What should be done to improve rice farming in this area?

d). What should be the obligation of the NIB, government, co-operative societies, local communities and other actors in doing this?

e). Comment freely on rice farming and NIB today.

Appendix III: Irrigation Act

[Rev. 1986]

The Irrigation Act CAP. 347

[Subsidiary]

SUBSIDIARY LEGISLATION

Designated areas under section 14

NATIONAL IRRIGATION SCHEMES

- a) The area known as Perkerra Irrigation area in the Baringo District of the Rift Valley Province, the boundaries of which area are set out in the schedule to a setting apart notice published as Gazette Notice No. 4643 of 1959;
- b) The area known as the Mwea/Teberre Irrigation Area in the Kirinyaga District of the Central Province, the boundaries of which area are set out in the Schedule to setting apart notices published as Gazette Notices Nos. 3090, 3093, 3095, 3096, 3097, 3098, 3100, 3101, 3102, 3103 of 1960;
- c) The area known as the Galole Special Settlement Area in the Tana River District of the Coast Province, the boundaries of which area are delineated in Legal Notice No. 274 of 1963; and
- d) The area known as the Ahero National Irrigation Pilot Scheme in the Kisumu District of the Nyanza Province, the boundaries of which area are set out in the Schedule to a setting apart Notice published as Gazette Notice No. 2163 of 1968.

Regulations under section 27

THE IRRIGATION (NATIONAL IRRIGATION SCHEMES) REGULATIONS

1. These regulations may be cited as the Irrigation (National Irrigation Schemes) Regulations, and shall apply to such areas of land as the Minister may, by notice in the Gazette, designate to be national irrigation schemes.

2. In these Regulations, unless the context otherwise requires-

“court” means the court having jurisdiction in the scheme;

“scheme” means any area designated to be a national irrigation scheme under section 14 of the Act;

“authorized dependant” means, in relation to a licensee, his father and mother, wives and such of his children as are unmarried and under the age of eighteen years;

“committee” means an irrigation committee appointed under regulation 3;

“holding” means that part of an area specified in a licence;

“licence” means a licence granted under regulation 4;

“licensee” means any person to whom a licence has been granted, and includes any person who succeeds a licensee under regulation 7;

“manager” means such person as may from time to time be appointed by the Minister to be in charge of a national irrigation scheme.

3. (1) The Minister may appoint a committee for any scheme, such committee to be known as an irrigation committee, to be responsible for advising the manager on the general administration of the scheme in accordance with Government policy.

(2) The committee may either be the District Agricultural Committee of the district in which the scheme is situate or may be composed of such members as the Minister may appoint.

4. Any person who resides in, carries on business in, or occupies any part of the scheme or grazes any stock thereon shall, unless he is the holder of a valid licence granted to him under these Regulations by the Manager with the approval of the committee or is the authorized dependent of such licensee, be guilty of an offence.

5. (1) Every licensee shall be in the form in the First Schedule, and shall be prepared in duplicate; the original shall be given to the licensee and the duplicate shall be retained by the manager.

(2) The manager shall maintain a register in which he shall enter the name of every licensee, the number of his holding and the names of his authorized dependants.

(3) The manager shall also maintain a separate register in which he shall enter the name of any successor nominated by the licensee under regulation 7, together with the number of the holding in respect of which the successor has been nominated.

6. Before issuing a licence, the manager shall-

- (a) cause these regulations to be read and explained to the licensee in a language which he understands;
- (b) give the licensee a copy of these regulations; and
- (c) obtain from the licensee, in the form in the Second Schedule, a receipt for the Regulations, an acknowledgement that he understands them and an undertaking to observe them.

7. (1) A licensee may, at any time after the date of being granted a licence, nominate, in writing to the manager, another person to succeed him as licensee in the event of his death; and a licensee may at any time, in writing to the manager, revoke or alter the nomination which may have been made by him:

Provided that no person nominated as successor may succeed until he has attained the apparent age of eighteen years; if he has not reached that age, his guardian under customary law may, within one month of the licensee's death, and with approval of the manager, appoint a person to act on his behalf until the successor is of age.

(2) No person nominated as a successor may succeed without the approval of the committee.

(3) The authorized dependant of a deceased licensee may, within thirty days of his death, appeal to the court against the nomination, under paragraph (1), of a successor.

(4) The authorized dependant may-

(a) where licensee dies without having nominated a successor in accordance with paragraph (1); or

(b) where, under paragraph (3), an appeal to the court against the nomination of a successor has been successful,

within one month of the death of the licensee or one month after the termination of the appeal, as the case may be, nominate, in writing to the manager, a successor who must be approved by the court.

(5) In the event of-

(a) no person being appointed within the time prescribed in the provision to paragraph (1); or

(b) no person being nominated within the time prescribed in paragraph (4); or

(c) any person nominated or appointed under this regulation failing to accept such nomination or appointment or failing to assume the responsibilities inherent in such nomination or appointment within a period of three months from the death of the licensee; or

(d) no successor being acceptable to the committee,

the holding shall be deemed to have been vacated, the licence in respect to such holdings shall terminate, and a fresh licence may be granted in accordance with regulation 5 and 6.

(6) In the event of a holding being deemed to have been vacated in terms of paragraph (5)-

(a) the manager may make provision for the cultivation of any such holding and where appropriate recover the cost from the incoming licensee; and

(b) in accordance with regulation 23 reasonable compensation may be paid to the authorized dependant of a licensee in respect of any improvement to the holding affected by the licensee.

8. (1) Every licensee shall be granted subject to the following conditions-

- (a) a licensee shall devote his full personal time and attention to the cultivation and improvement of his holding and shall not, without the permission, in writing of the manager allow any other person to occupy his holding or to cultivate it on his behalf;
- (b) a licensee shall maintain the boundaries of his holding in a manner satisfactory to the manager;
- (c) a licensee shall maintain at all times his holding and all field, feeder and drainage channels to the satisfaction of the manager;
- (d) a licensee shall maintain to the satisfaction of the manager all irrigation channels and works on or serving his holding;
- (e) a licensee shall cultivate his holding to the satisfaction of, and in accordance with the crop rotation laid down by the manager, and shall comply with all instructions given by the manager relating to the cultivation and irrigation of his holding;
- (f) a licensee shall comply with all instructions given by the manager with regard to good husbandry, branding, dipping, inoculating, herding, grazing or watering of stock, the production and use of manure and compost, the preservation of the fertility of the soil, the prevention of soil erosion, the planting, felling, stumping and clearing of trees and vegetation and the production of silage and hay;
- (g) a licensee shall not hire, cause to be hired or employ stock or machinery for cultural operations, other than stock and machinery owed by the manager, without prior approval, in writing from the manager;
- (h) a licensee shall not absent himself from the scheme for longer than one month without prior approval, in writing, of the manager.

(2) Any licensee who fails to comply with the conditions specified in paragraph (1) shall be guilty of an offence.

(3) Any licensee who refuses, or without reasonable excuse fails, to comply with any of the conditions of this regulation shall, in addition to any penalty that may be

imposed under paragraph (2), be liable to have his licence terminated by the Minister, on the recommendations of the manager (after confirmation by the committee) and the Minister's decision shall be final.

9. (1) A licensee shall pay to the manager, on demand such rates in respect of water and other services in respect of his holding as shall be calculated in accordance with rates prescribed by the Minister from time to time.

(2) The whole or part of any rates prescribed under paragraph (1) may be varied or remitted by the Minister either generally or in any particular case, in his absolute discretion.

10. (1) The manager may allocate to a licensee a house to be occupied by him within the scheme, or may permit a licensee to erect his own house.

(2) In either event it shall be the duty of the licensee to maintain his house and precincts to the satisfaction of the manager, and if the manager is dissatisfied with the condition of the house or precincts he may give written notice to the licensee to the repairs which he considers necessary and specify a reasonable time within which they must be completed.

(3) If the licensee fails to complete such repairs within the time specified and to the satisfaction of the manager, the manager may cause such repairs to be carried out and may recover the cost thereof from the licensee.

(4) The licensee may not occupy any house other than that allocated to him without prior permission, in writing, from the manager.

(5) A licensee shall not construct buildings or other works of any kind on his holding or elsewhere in the scheme without the prior consent, in writing, of the manager and in the event of his having erected a structure or building without such consent, the manager may direct, in writing, that the structure be removed and the land returned to its original state and if the licensee fails to comply with this direction within one month, the manager may enter the building or the structure for the purpose of demolition and any expenses incurred by the manager for the removal of the building or the structure may be recovered from the licensee.

11. (1) If a licensee is sentenced to imprisonment for a term of six months or more, his licence may be terminated forthwith.

(2) If a license is terminated under paragraph (1), a successor may be nominated or appointed in accordance with regulation 7.

12. The manager shall have power to order the destruction of any crops planted in contravention of his instructions or of the provisions of these regulations and to recover the expenses incurred from the licensee and no compensation shall be payable in respect of the crops so destroyed.

13. If, in the opinion of the manager, it would be beneficial to a licensee's crops or to all the licensees in the scheme to cultivate by machinery, or to apply fertilizers, or manure, or to treat any crops or stocks in any way to protect them against diseases, pests, or damage of any kind, then the manager may do so and recover the costs thereof from the licensee or licensees.

14. (1) As soon as each crop other than the paddy has been harvested the licensee shall deliver it, other than that portion as he may wish to retain for his own consumption and that of his dependants living with him, to the manager at a collecting station to be appointed by the manager, or shall otherwise dispose of it in accordance with the instructions of the manager.

(2) The licensee shall deliver all paddy harvested to the manager at the collection station appointed by the manager, or shall otherwise dispose of it in accordance with the instructions of the manager.

(3) The licensee may purchase such quantities of milled rice from the manager for his own consumption and that of his authorized dependants living with him, as the manager may from time to time authorize.

(4) Any licensee who fails to comply with the provisions of paragraph (1) or (2) shall be guilty of an offence.

15. (1) The manager may, when necessary, collect, process and market the crops delivered to him under regulation 14 and may arrange for the sale of such crops, in which event he shall give the licensees details of the sales of all such crops as soon as possible.

(2) The manager shall not be obliged to keep or sell the crops of individual licensees separately.

16. (1) A licensee shall not keep on his holding any stock other than those specified in his licence and shall declare to the manager annually the natural increase in such stock and shall comply with any instructions issued by the manager as to their disposal.

(2) A licensee who fails to comply with the provisions of paragraph (1), or with any instructions issued by the manager thereunder, shall be guilty of an offence and where any additional undeclared stock is found in possession of a licensee within the scheme, the manager may order a licensee to remove such additional stock from the scheme forthwith.

(3) If a licensee fail to remove his additional stock in accordance with an order to that effect given by the manager under paragraph (2), the manager may confiscate and sell such additional stock, paying the proceeds thereof, less any expenses incurred by such confiscation and sale, to the licensee.

17. (1) If in the opinion of the manager, a licensee has been negligent in the use of his land, the use of irrigation water or the cultivation of his crops, the manager may direct him to take such steps as the manager may specify to remedy the effects of such negligence, and, in the event of a licensee failing to comply with any such directions, the manager may take such measures as he considers necessary to safeguard the crop and to preserve the holding and irrigation water and may recover the costs of any such measures from the licensee.

(2) If a licensee is absent owing to illness or any other reasons, the manager may take such measures as he considers necessary to safeguard the crop and to preserve the holding and irrigation water, and may recover the costs of any such measures from the licensee.

18. A licensee shall not permit any of his stock to be upon any part of the scheme which is closed to stock or to damage to any crops or water installations or communications or other property, and shall be liable to pay the costs of the repair of any damage so caused.

19. (1) Any licensee who willfully or negligently causes to be damaged any road, bridge, or culvert within the scheme shall be guilty of an offence.

(2) The manager may, where such damage has been caused by a licensee, repair any such damage and shall recover the cost of the repairs to such damage from the licensee.

20. The manager may, deduct from the proceeds of the sale, under regulation 15 and 16, of any crops or stock belonging to a licensee-

(a) the costs of expenses incurred by the manager-

(i) in the making of provisions for the cultivation of any holding under regulation 7 (6) (a);

(ii) in the removal of any building or structure or repairs carried out to any house under regulation 10;

(iii) in the destruction of any crops under regulation 12;

(iv) in providing manure, fertilizers, insecticides or any agricultural operations under regulation 13;

(v) in the collecting, processing and marketing of crops under regulation 15;

(vi) in remedying the negligence or safeguarding crops or preserving the holding under regulation 17;

(vii) in repairing any damage caused by stock under regulation 18;

(viii) in repairing damage under regulation 19 (2); and

(b) any amounts due for rates payable under regulation 9, any outstanding of any advance made to such licensee for the purpose of the cultivation, irrigation or other improvement of his holding, and such charges as may be agreed to by the Minister on the recommendation of the committee.

21. Any person who causes any motor vehicle to be driven within the scheme over any road other than a public road within the meaning of the Public Roads and Roads of Access Act unless he is in possession of a permit issued by the manager, and unless he complies with all conditions made on such permit by the manager, shall be guilty of an offence.

22. (1) Where the manager is satisfied that a license has failed to comply with any of the provisions of these regulations or with any instructions given thereunder or under any other law for the time being in force, he may serve a notice in writing on the licensee requiring him to comply with the said provisions, instructions or regulations within such time as is specified in the notice.

(2) If the license fails within such time to comply with the requirement of such notice, the manager may, by notice in writing, call upon the licensee to show good cause, by a date specified in the notice, why his licence should not be terminated.

(3) If the licensee fails to show good cause as aforesaid to the satisfaction of the manager, the manager may, with the approval of the committee, give notice in writing to the licensee requiring him to remove himself, his dependant and stock from the scheme within a period specified in such notice.

(4) A licensee who is given notice under paragraph (3) may, within twenty-eight days of such notice, appeal in writing to the Minister whose decision shall be final.

(5) If there is no appeal, the licensee shall be deemed to have terminated on the date specified in the notice.

(6) If there is unsuccessful appeal, the licence shall terminate on such date as the Minister may specify.

(7) Any person whose licence shall be terminated under this regulation and who fails to comply with the terms of the notice given to him shall be guilty of an offence.

23. Where any license is terminated in accordance with any of the provisions of these Regulations, a Board consisting of the manager and one representative of both the outgoing and the incoming licensee, shall assess the amount, if any, due to the outgoing licensee or his dependants in respect of capital and labour expended by him in improving

the holding, and the manager shall make arrangements for the payment of such amount by the incoming licensee within such time as the manager considers reasonable.

24. The manager shall have power, in the event of any emergency, to order all licensees to undertake emergency repair work in any part of the scheme, and any licensee who refuses to obey any such order by the manager shall be guilty of an offence.

25. Subject to the provision of regulations 7, 8, 11 and 22, every licence shall be valid for a period of one year and from year to year thereafter, but may be terminated at any time-

- (a) by the licensee giving to the manager six months, notice in writing of his intention to surrender the licence;
- (b) by the manager, on instruction of the Minister, giving to the licensee 12 months' notice in writing of his intention to terminate the licence.

26. Any person who-

- (a) unlawfully interferes with the flow of irrigation water in the canals or the opening or closing of control gates within the are;
- (b) makes unlawful use of irrigation water by taking irrigation water out of turn or otherwise;
- (c) refuses to permit the authorized passage of irrigation water across his holding;
- (d) willfully damages or obstructs canals or control works; or
- (e) refuses to accept or drain off irrigation water when required to do so,

shall be guilty of an offence.

27. (1) Any person who is guilty of an offence under these Regulations shall be liable to a fine not exceeding two thousand shillings or to imprisonment for a term not exceeding two months, or to both such fine and such imprisonment.

(2) Where any person is convicted of an offence under regulation 4, regulation 14(4) or regulation 22(7), the court may, in addition to any penalty which it may impose, authorize any administrative officer or police officer to cause such person, together with his dependants and property, if any, to be removed from the scheme.

FIRST SCHEDULE

LICENCE No.

..... NATIONAL IRRIGATION SCHEME

LICENCE TO OCCUPY HOLDING

.....son
of.....
of the District of theProvince,
is hereby authorized to occupy holding No.
Of the National Irrigation Schemes for
The period from the Day of,19.....
To theday of, 19....., and from year
To year thereafter unless sooner terminated in accordance with the provisions of the
above regulations, and to keep thereon not more than the following number of stock-

- bovines,
- goats,
- sheep,
- mules,
- donkeys,
- (other stock),

subject to the conditions prescribed by the above Regulations.

Dated this day of, 19.....

.....

Manager

In accordance with regulation 6 of the above Regulations, I have caused the
Regulations to be read and explained to the above-named licensee in the
Language, which he understands.

.....

Manager

SECOND SCHEDULE

I,, son
of
of the District of the Province,
hereby acknowledge receipt of a copy of the Irrigation (National Irrigation Schemes)
Regulations. I have had these Regulations explained to me and I fully understand them
and I undertake to observe them and to pay all sums of money payable by me.

.....

*Signature or thumb-print of
Licensee*

.....

Witness

.....

Date



Appendix IV: Trust Land Ordinance of 1962

Government of Kenya

LEGAL NOTICE No. 535

THE TRUST LAND ORDINANCE (Cap. 100)

In exercise of the powers conferred by section 64 of the trust Land ordinance, the Governor, with the advice and consent of the Trust Land Board hereby makes the following Rules: -

THE TRUST LAND (IRRIGATION AREAS) RULES, 1962

1. These rules may be cited as the Trust Land (Irrigation Areas) Rules, 1962, and shall apply to such areas of the Special Areas as the Minister may, by notice in the Gazette, declare to be irrigation areas.

2. In these rules, unless the context otherwise requires-

“African court” means the African court having jurisdiction in the area;

“area” means any irrigation area declared under the provisions of rule 1 of these rules;

“authorized dependant” means in relation to a licensee, his father and mother, wives and such of his children as are unmarried and under the age of 18 years;

“committee” means an irrigation committee appointed under rule 3 of these rules;

“holding” means that part of an area specified in a license;

“licence” means a licence granted under the provision of rule 4 of these rules;

“licensee” means any person to whom a licence has been granted and includes any person who succeeds a licensee under the provisions of rule 7 of these rules;

“manager” means such person as may from time to time be appointed by the Minister to be in charge of an irrigation area.

3. (1) The Minister may appoint a committee for any scheme, such committee to be known as an irrigation committee, to be responsible for advising the manager on the general administration of the scheme in accordance with Government policy.

(2) Such committee may either be the District Agricultural Committee of the district in which the area is situate or may be composed of such members as the Minister may appoint after consultation with the Provincial Agricultural Committee of the Province in which the area is situated.

4. Any person who resides in, carries on business in, or occupies any part of the scheme or grazes any stock thereon shall, unless he is the holder of a valid licence granted to him under these Rules by the Manager with the approval of the Committee or is the authorized dependent of such licensee, be guilty of an offence against these rules.

5. (1) Every licence granted under these rules shall be in the form set out in the First Schedule to these rules and shall be prepared in duplicate; the original shall be given to the licensee and the duplicate shall be retained by the manager.

(2) The manager shall maintain a register in which he shall enter the name of every licensee, the number of his holding and the names of his authorized dependants.

(3) The manager shall also maintain a separate register in which he shall enter the name of any successor nominated by the licensee in accordance with the provisions of rule 7 of these rules, together with the number of the holding in respect of which the successor has been nominated.

6. Before issuing a licence, the manager shall-

- (a) cause these rules to be read and explained to the licensee in a language which he understands;
- (b) give the licensee a copy of these rules;
- (c) obtain from the licensee, in the form set out in the Second Schedule of these rules, a receipt for the Rules, an acknowledgement that he understands them and an undertaking to observe them.

7. (1) A licensee may, at any time after the date of being granted a licence under rule 4 of these Rules, nominate, in writing to the manager, another person to succeed him as licensee in the event of his death. A licensee may at any time, in writing to the manager, revoke or alter the nomination which may have been made by him:

Provided that no person nominated as successor may succeed until he has attained the apparent age of eighteen years; if he has not reached that age, his guardian under customary law may, within one month of the licensee's death, and with approval of the manager, appoint a person to act on his behalf until the successor is of age.

(2) No person nominated as a successor may succeed without the approval of the committee.

(3) The authorized dependant of a deceased licensee may, within thirty days of his death, appeal to the African court against the nomination under paragraph (1) of this Rule, of a successor.

(4) The authorized dependant may-

(a) where a licensee dies without having nominated a successor in accordance with paragraph (1) of this rule; or

(b) where, under paragraph (3) of this rule, an appeal to the African court against the nomination of a successor has been successful,

within one month of the death of the licensee or one month after the determination of the appeal, as the case may be, nominate, in writing to the manager, a successor who must be approved by the African court.

(5) In the event of-

(a) no person being appointed within the time prescribed in the provision to paragraph (1) of this rule; or

(b) no person being nominated within the time prescribed in paragraph (4) of this rule; or

(c) any person nominated or appointed under the provision of this rule failing to accept such nomination or appointment or failing to assume the responsibilities inherent in such nomination or appointment within a period of three months from the death of the licensee; or

(d) no successor being acceptable to the committee,

the holding shall be deemed to have been vacated, the licence in respect to such holding shall terminate, and a fresh licence may be granted in accordance with rules 5 and 6 of these Rules.

(6) In the event of a holding being deemed to have been vacated in terms of paragraph (5) of this rule:-

- (a) the manager may make provision for the cultivation of any such holding and where appropriate recover the costs from the incoming licensee; and
- (b) in accordance with rule 23 of these Rules reasonable compensation may be paid to the authorized dependant of a licensee in respect of any improvement to the holding affected by the licensee.

8. (1) Every licence granted the provisions of rule 5 of these Rules shall be granted subject to the following conditions:-

- (a) a licensee shall devote his full personal time and attention to the cultivation and improvement of his holding and shall not, without the permission, in writing, of the manager allow any other person to occupy his holding or to cultivate it on his behalf;
- (b) a licensee shall maintain the boundaries of his holding in a manner satisfactory to the manager;
- (c) a licensee shall maintain at all times his holding and all field feeder and drainage channels to the satisfaction of the manager;
- (d) a licensee shall maintain to the satisfaction of the manager all irrigation channels and works on or serving his holding;
- (e) a licensee shall cultivate his holding to the satisfaction of, and in accordance with the crop rotation laid down by the manager and shall comply with all instructions given by the manager relating to the cultivation and irrigation of his holding;
- (f) a licensee shall comply with all instructions given by the manager with regard to good husbandry, the branding, dipping, inoculating, herding, grazing or watering of stock, the production and use of manure and compost, the preservation of the fertility of the soil, the prevention of soil erosion, the

planting, felling, stumping and clearing of trees and vegetation and the production of silage and hay;

(g) a licensee shall not hire, cause to be hired, or employ stock or machinery for cultural operations, other than stock and machinery owed by the manager, without prior approval, in writing from the manager;

(h) a licensee shall not absent himself from the scheme for longer than one month without prior approval, in writing, of the manager.

(2) Any licensee who fails to comply with the conditions specified in paragraph (1) of this rule shall be guilty of an offence, against these Rules.

(3) Any licensee who refuses, or without reasonable excuse fails, to comply with any of the conditions of this rule shall, in addition to any penalty that may be imposed under the provision of paragraph (2) of this rule, be liable to have his licence terminated, subject to confirmation by the committee, by the manager.

9. (1) A licensee shall pay to the manager, on demand, such rates in respect of water and other services in respect of his holding as shall be calculated in accordance with rates prescribed by the Minister from time to time.

(2) The whole or part of any rates prescribed under paragraph (1) of this rule may be varied or remitted by the Minister either generally, or in any particular case, in his absolute discretion.

10. (1) The manager may allocate to a licensee a house to be occupied by him within the area, or may permit a licensee to erect his own house. In either event it shall be the duty of the licensee to maintain his house and precincts to the satisfaction of the manager and if the manager is dissatisfied with the condition of the house or precincts he may give written notice to the licensee of the repairs which he considers necessary and specify a reasonable time within which they must be completed. If the licensee fails to complete such repairs within the time specified and to the satisfaction of the manager, the manager may cause such repairs to be carried out and may recover the cost thereof from the licensee. The licensee may not occupy any house other than that allocated to him without prior permission, in writing, from the manager.

(2) A licensee shall not construct buildings or other works of any kind on his holding or elsewhere in the area without the prior consent, in writing, of the manager. In the event of his having erected a structure or building without such consent, the manager may direct, in writing, that the structure be removed and the land returned to its original state. If the licensee fails to comply with this direction within one month, the manager may enter the building or the structure for the purpose of demolition. Any expenses incurred by the manager for the removal of the building or the structure may be recovered from the licensee.

11. (1) If a licensee is sentenced to imprisonment for a period of six months or more his licence may be terminated forthwith.

(2) If a licence is terminated under paragraph (1) of this rule a successor may be nominated or appointed in accordance with rule 7 of these Rules.

12. The manager shall have power to order the destruction of any crops planted in contravention of his instructions or of the provisions of these Rules and to recover the expenses incurred from the licensee. No compensation shall be payable in respect of the crops so destroyed.

13. If, in the opinion of the manager, it would be beneficial to a licensee`s crops or to all the licensees in the area, to cultivate by machinery, or to apply fertilizers, or manure, or to treat any crops or stocks in any way to protect them against disease, pests, or damage of any kind, then the manager may do so and recover the costs thereof from the licensee or licensees.

14. As soon as each crop has been harvested the licensee shall deliver it, other than that portion as he may wish to retain for his own consumption and that of his authorized dependants living with him, to the manager at a collecting station to be appointed by the manager, or shall otherwise dispose of it in accordance with the instructions of the manager.

15. The manager may, when necessary, collect, process and market the crops delivered to him under the preceding rule and may arrange for the sale of such crops, in which event, he shall give the licensees details of the sales of all such crops as soon as possible. The manager shall not be obliged to keep or sell separately, the crops of individual licensees.

16. (1) A licensee shall not keep on his holding any stock other than those specified in his licence and shall declare to the manager annually the natural increase in such stock and shall comply with any instructions issued by the manager as to their disposal.

(2) A licensee who fails to comply with the provisions of paragraph (1) of this rule, or with any instructions issued by the manager thereunder shall be guilty of an offence against these Rules and where any additional undeclared stock is found in possession of a licensee within the area, the manager may order a licensee to remove such additional stock from the area forthwith.

(3) If a licensee fail to remove his additional stock in accordance with an order to that effect given by the manager under paragraph (2) of this rule, the manager may confiscate and sell such additional stock, paying the proceeds thereof, less any expenses incurred by such confiscation and sale to the licensee.

17. (1) If, in the opinion of the manager, a licensee has been negligent in the use of his land, the use of irrigation water, or the cultivation of his crops, the manager may direct him to take such steps as the manager may specify to remedy the effects of such negligence, and in the event of a licensee failing to comply with any such directions, the manager may take such measures as he considers necessary to safeguard the crop and to preserve the holding and irrigation water and may recover the costs of any such measures from the licensee.

(2) If a licensee is absent owing to illness or any other reasons the manager may take such measures as he considers necessary to safeguard the crop and to preserve the holding and irrigation water, and may recover the costs of any such measures from the licensee.

18. A licensee shall not permit any of his stock to be upon any part of the area which is closed to stock or to cause damage to any crops or water installations or communications or other property, and shall be liable to pay the costs of the repair of any damage so caused.

19. (1) Any licensee who willfully or negligently causes damage or causes to be damaged any road, bridge, or culvert within the area shall be guilty of an offence against these Rules.

(2) The manager may, where such damage has been caused by a licensee, repair any such damage and shall recover the cost of the repairs to such damage from the licensee.

20. The manager may deduct from the proceeds of the sale, under regulation 15 and 16 of these Rules, of any crops or stock belonging to a licensee-

(a) the costs of expenses incurred by the manager-

(i) in the making of provisions for the cultivation of any holding under paragraph (b) of rule 7 of these Rules;

(ii) in the removal of any building or structure or repairs carried out to any house under rule 8 of these Rules;

(iii) in the destruction of any crops under rule 12 of these Rules;

(iv) in providing manure, fertilizers, insecticides or any agricultural operations under rule 13 of these Rules;

(v) in the collecting, processing and marketing of crops under rule 15 of these Rules;

(vi) in remedying the negligence or safeguarding crops or preserving the holding under rule 17 of these Rules;

(vii) in repairing any damage caused by stock under rule 18 of these Rules;

(viii) in repairing damage under paragraph (2) of rule 19 of these Rules; and

(b) any amounts due for rates payable under regulation 9 of these Rules, any outstanding amount or any advance made to such licensee for the purpose of the

cultivation, irrigation or other improvement of his holding, and such charges as may be agreed to by the Minister on the recommendation of the committee.

21. Any person who causes any motor vehicle to be driven within the scheme over any road other than a public road within the meaning of the Public Roads and Roads of Access Ordinance (Cap.229) unless he is in possession of a permit issued by the manager, and unless he complies with all conditions made on such permit by the manager, shall be guilty of an offence against these Rules.

22. (1) Where the manager is satisfied that a license has failed to comply with the provisions of these Rules or with any instructions given thereunder or under any other law for the time being in force, he may serve a notice in writing on the licensee requiring him to comply with the said provisions, instructions or regulations within such time as is specified in the notice.

(2) If the license fails within such time to comply with the requirement of such notice the manager may, by notice in writing, call upon the licensee to show good cause, by a date specified in the notice, why his licence should not be terminated.

(3) If the licensee fails to show good cause as aforesaid to the satisfaction of the manager, the manager may, with the approval of the committee, give notice in writing to the licensee requiring him to remove himself, his dependant and stock from the area within a period specified in such notice.

(4) A licensee who is given notice under paragraph (3) of this rule, may, within 28 days of such notice, appeal in writing to the Minister whose decision shall be final.

(5) If there is no appeal, the licensee shall be deemed to have terminated on the date specified in the notice.

(6) If there is unsuccessful appeal, the licence shall terminate on such date as the Minister may specify.

(7) Any person whose licence has been terminated under this rule and who fails to comply with the terms of the notice given him shall be guilty of an offence against these Rules.

23. Where any license is terminated in accordance with any of the provisions of these Rules, a board consisting of the manager, and one representative of both the outgoing and the incoming licensees, shall assess the amount, if any, due to the outgoing licensee or his dependants in respect of capital and labour expended by him in improving the holding and the manager shall make arrangements for the payment of such amount by the incoming licensee within such time as the manager considers reasonable.

24. The manager shall have power, in the event of any emergency, to order all licensees to undertake emergency repair work in any part of the area, and any licensee who refuses to obey any such order by the manager shall be guilty of an offence against these Rules.

25. Subject to the provision of rule 7, 8, 11 and 22 of these Rules, every licence granted under the provisions of rule 5 of these Rules shall be valid for a period of one year and from year to year thereafter, but may be terminated at any time-

- (a) by the licensee giving to the manager six months' notice in writing of his intention to surrender his licence;
- (b) by the manager, on instruction of the Minister, giving to the licensee 12 months' notice in writing of his intention to terminate the licence.

26. Any person who-

- (a) unlawfully interferes with the flow of irrigation water in the canals or the opening or closing of control gates within the area;
- (b) makes unlawful use of irrigation water by taking irrigation water out of turn or otherwise;
- (c) refuses to permit the authorized passage of irrigation water across his holding;
- (d) willfully damages or obstructs canals or control works; or
- (e) refuses to accept or drain off irrigation water when required to do so,

shall be guilty of an offence against these Rules.

27. (1) Any person who is guilty of an offence under these Rules shall be liable to a fine not exceeding two thousand shillings or to imprisonment for a period not exceeding two months, or to both such fine and imprisonment.

(2) Where any person is convicted of an offence under regulation 4 or paragraph 7 of rule 22 of the Rules the court may, in addition to any penalty which it may impose, authorize any administrative officer or police officer to cause such person, together with his dependants and property, if any, to be removed from the area.

28. (1) The Native Lands (Irrigation Areas) Rules, 1959, are revoked.

(2) Nothing contained in these Rules shall effect the validity of any licence issued under rule 5 of the Native Lands (Irrigation Areas) Rules, 1959, or of anything lawfully done under those Rules.

FIRST SCHEDULE

THE TRUST LAND (IRRIGATION AREAS) RULES, 1962

Licence No.
.....son of
of the District of theProvince
is hereby authorized to occupy holding No.
of the irrigation area for the period
from the Day of,19.....
To theday of, 196....., and from year
to year thereafter unless sooner terminated in accordance with the provisions of the above
Rules, and to keep thereon not more than the following number of stock-

- bovines,
- sheep,
- goats,
- mules,
- donkeys,
- (other stock),

subject to the conditions prescribed by the above Rules.

Dated this day of, 196.....

.....

Manager

In accordance with regulation 6 of the above Rules, I have caused them to be read and explained to the above-named licensee in the Language, which he understands.

.....

Manager

SECOND SCHEDULE

I, son of of the District of the Province hereby acknowledge receipt of a copy of the Trust Lands (Irrigation Areas) Rules, 1962. I have had these Rules explained to me and I fully understand them and I undertake to observe them and to pay all sums of money payable by me.

.....

*Signature or thumb-print of
Licensee*

.....

Witness

.....

Date

Made this 22nd day of October, 1962.

By Command of the Governor.

T. TOWETT
*Minister for Lands,
Surveys and Town Planning.*

