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## **Reign over me? Social-Economic Autonomy Claims over Land Rights by Tanzania's Maasai**

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### **Abstract**

Maasai are very famous for their profound practice of indigenous customs and traditions. Their social and economic activities largely depend on land. However, the colonial state – and later the post-independent state – actively initiated programmes to grab their land for tourism and farming. Ever since, the Maasai have placed the issue of land as central to the struggle for cultural and economic autonomy. The state, on the contrary, has taken an integration and assimilation approach to the Maasai. Yet, the advance of neo-liberal and market-oriented policies increasingly threaten the Maasai's practice of their indigenous life. This article, through the lens of Non-Territorial Autonomy, revisits the Maasai claims for land rights which thus inform their claims for cultural and economic autonomy. It notes that, legally, human rights protections cover constitutional rights and remedies in relation to pastoral livelihoods. However, as members of a minority community, such coverage is not adequate. The law takes all people as essentially belonging to a specific geographical space with a static authority over them.

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Discrimination of persons belonging to minorities is a global problem. Oftentimes, minority communities are denied social, economic and political rights. Realizing the intensity and magnitude of this problem, states have adopted international instruments in order to protect minorities. To be sure, the UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities of 1992 requires states to institute legislative and other policy measures to protect the existence and the national or ethnic, cultural, religious and linguistic identity of minorities within their respective territories. Similarly, the African Charter on Human and Peoples' Rights of 1986 provides protection to minorities in all aspects of life and, above all, guarantees the right to property. At the national level, several countries commit in their constitutions, under the bill of rights, to cherish fundamental human rights including non-discrimination policies and practices. Notwithstanding, the problem of discrimination against minorities persists.

In a landmark case, *'Centre for Minority Rights Development (Kenya) and Minority Rights Group International on behalf of Endorois Welfare Council V. Kenya Communication No. 276/2003 of 2009'*, the Centre for Minority Rights Development (CEMIRIDE), with the assistance of Minority Rights Group International (MRG) and the Centre on Housing Rights and Evictions (CORE), filed the complaint on behalf of the Endorois community before the African Commission on Human and Peoples' Rights; this was held from November 11-25, 2009 during the 46th Ordinary Session in Banjul. In this case, the complainants alleged that violations had resulted from the displacement of the indigenous Endorois community from their ancestral lands, the failure to adequately compensate them for the loss of their property, the disruption of the community's pastoral enterprise and violations of the right to practise their religion and culture, as well as the overall process of development of the Endorois people. The complainants further alleged that the Government of Kenya, in violation of the African Charter on Human and Peoples' Rights, the Constitution of Kenya and international law, forcibly removed the Endorois from their ancestral lands around the Lake Bogoria area of the Baringo and Koibatek Administrative Districts, as well

as in the Nakuru and Laikipia Administrative Districts within the Rift Valley Province in Kenya, without proper prior consultations, nor adequate and effective compensation. The complainants sought a declaration that the Republic of Kenya was in violation of several articles of the African Charter on Human and Peoples' Rights: Article 8 (the right to practice religion), Article 14 (the right to property), Article 17 (the right to culture), Article 21 (rights to free disposition of natural resources) and Article 22 (the right to development). The complainants were also seeking a restitution order for their land, with legal title and clear demarcation. Moreover, they sought compensation for the loss of their property, development and natural resources, but they also sought freedom to practice their religion and culture. After deliberations, the African Commission found that the respondent state was in violation of Articles 1, 8, 14, 17, 21 and 22 of the African Charter. It therefore made the following recommendations: recognition of the Endorois' rights of ownership and restitution of the Endorois' ancestral land; ensuring that the community has unrestricted access to Lake Bogoria and surrounding sites for religious and cultural rites and for grazing their cattle, that adequate compensation be paid to the community for all the loss suffered and that royalties be paid to the Endorois from existing economic activities, that Endorois should benefit from employment possibilities within the reserve, and finally that the Endorois Welfare Committee be registered.

The above empirical case signifies the actual suffering of minorities, especially in a developing country. States do not cherish and honour the international instruments that require them to protect the rights of minorities in their respective jurisdictions. This implies the usual tensions between international and national law when it comes to effective implementation of international obligations. In line with the Endorois community, this article seeks to understand the Maasai's right to land in Tanzania. Maasai practise pastoralism as their main economic activity. They have a semi-nomadic life as they constantly move, searching for grazing lands for their livestock. It should be noted that Tanzania is home to more than 120 tribes. But, unlike other tribes, Maasai are very famous for their profound practice of indigenous customs and traditions. This has made them unique and distinct. Maasai social and economic activities largely depend on land, just like other indigenous communities. However, colonial and independent states have actively initiated programmes to grab their land for tourism and farming. Maasai have placed the issue of land as central towards their struggle for cultural and economic autonomy. The state, on the contrary, has

taken an integrative and assimilationist approach to the Maasai. Moreover, the advance of neo-liberal and market-oriented policies, on the other hand, are threatening the Maasai's practice of their indigenous life. Hence, the struggle for land rights is at the centre of Maasai cultural and economic autonomy. Against this backdrop, this article revisits Maasai claims for land rights, which thus inform their claims for cultural and economic autonomy, through the lens of Non-Territorial Autonomy. The article is divided into five main sections: introduction, the historical origins of the problem, land tenure framework, the land question and conclusion.

### **The historical origins of the problem**

When colonialists arrived in East Africa, Maasai territory stretched 700 miles north/south from northern Kenya to central Tanzania, and 400 miles east/west. The entire area measured some 200,000 square miles. Until the early 1880s, the Maasai were a formidable nation and traded with other societies from East Africa. At this prime period, the Maasai were moving freely to search for grazing lands for their livestock, which included cattle, sheep and goats. They would graze their animals in arid areas during the wet season and move to semi-arid areas during the dry season to search for water and pasture. This nomadic life, however, produced a number of encounters with their neighbouring tribes. Moreover, it created an eco-life in which they shared grazing land with wild animals. Just like other pastoralist societies of Africa, Maasai livestock were mainly used for blood and milk but not for meat consumption.

Colonialists encountered the Maasai in organized political communities, exercising full autonomy over their respective territories. For instance, Sir Charles Elliot, Britain's first governor in Kenya, wrote of the Maasai: 'They asserted themselves against slave traders, took tribute from those who passed through their country, and treated other races, whether African or not, with great arrogance' (Meitamei, 2001). Despite this acclamation from colonial agents, colonists divided the Maasai between Kenya and Tanganyika during the partitioning of Africa at the Berlin Conference of 1884/85. Following this conference, all land in Tanganyika was taken by the German East Africa Company. Where there was no evidence of private ownership, the land was considered public property. Accordingly, 'Germany recognized customary land rights and tried to facilitate proof of them in order to integrate them into the formal production of the western system'

(Ngurumwa, 2010: 1). This was a relief to the natives as it gave them a chance to pursue their livelihoods despite the change production system. However, after just a short time, the colonial state declared that all land in Tanganyika was un-owned and customary rights to land were abolished. As such, land title was to be obtained by conveyance of ownership or leasehold, whereas natives had been accustomed to the status of user rights rather than ownership rights, which had to be proved by documentation (Kennedy, 2007).

The changes especially had implications for pastoralist communities such as the Maasai, since ‘occupancy of the land became narrowly defined as tilling whereas pasturage and fallows were not seen as occupancy’ (Kennedy, 2007: 25). As such, the Maasai lost their land rights to the colonial government. Large tracts of land were appropriated from the Maasai and given to settlers for cash crop production. Consequently, they were confined to 35,000 km<sup>2</sup> in Kenya (in Narok and Kajiado Districts in the South) and 60,000 km<sup>2</sup> in Tanzania – less than 60% of their pre-colonial range.

Maasai land rights were further complicated by the influx of other tribes. Land alienation policies elsewhere in the colonial state forced their agricultural neighbours such as Pare, Meru, Sambia and Chaga to move into the Maasai land for farming activities. Since the German colonial state was interested in cash crop production, it preferred farmers to herders. Farmers were tasked with producing for themselves and the state, and were even allowed to acquire Maasai lands for crop cultivation to achieve this. Thus, livestock grazing areas were converted for settlements and small-scale farming. For instance, in Meru, the colonial state encouraged the Pare people to expand the production of coffee and beans at the expense of the Maasai. Apart from small-scale cash crop farming, a large tract of Maasai land was given to settled farmers for export production – mainly wheat, barley and beans.

Following their defeat in the First World War, the Germans lost control of all their African territories. As a result, Tanganyika was made a protectorate under British colonial rule in 1919. Since colonial motives of exploitation were the same regardless of colonial master, the British colonial state inherited and pursued German land laws and policies. But unlike the German colonial masters who were interested in large-scale plantations, British colonial rule was highly

interested in wildlife reserves and conservation schemes (Ritcher, 1996). This goal was pursued through intensive land alienation policies. The Maasai were gross victims of these developments as their areas were also endowed with wild animals. In the 1940s and 1950s, wild parks, reserves and conservation areas were created. Whereas game areas were created for settler recreation, reserves aimed to protect the wilderness from the Maasai's nomadic lifestyle, which was thought to be detrimental to the environment. Creation of these areas further squeezed the Maasai from their grazing land. For instance, in 1951, a total land area of 14,760 km<sup>2</sup> was taken to create the Serengeti National Park. The Maasai communities agreed to be relocated to the Ngorongoro area, with the colonial government promising compensation in terms of water and veterinary services for animals at an agreed strategic centre. Sadly, that promise was never fulfilled (Ngurumwa, 2009). Instead, the Maasai faced further problems as in 1959, an area of 8,292 km<sup>2</sup> was declared a Ngorongoro Conservation Area (NCA). The Maasai were guaranteed the right to live and graze their animals in the NCA in exchange for having lost their grazing rights in the Serengeti and Ngorongoro Crater.<sup>1</sup> Moreover, Maasai were given the right to practice farming in the NCA to supplement their subsistence life.<sup>2</sup> These developments restricted their nomadic lifestyle and became the main source of the Maasai's current autonomy claims on land rights.

Tanzania attained independence in 1961 through the Tanzania National Union (TANU) under Julius Kambarage Nyerere. To the citizens, independence carried the hope of social, economic and political prosperity, which they had been denied by the colonial state. The issue of land was also important to the people, particularly the Maasai. However, contrary to their expectations, the Maasai were further alienated disposed from their land by the state. The government acquired more land for agriculture, tourism and conservation. As the Maasai land was viable for these activities, the government took their land under the justification of development and nation building. In fact, the independent government sought to 'modernize' the Maasai so that they could abandon their nomadic lifestyle. The advance of neo-liberal economic policies in Tanzania in the early 1980s further complicated the plight of the Maasai people with the growth of tourism and large-scale farming. Nomadic pastoralism depends heavily on land, so limiting access to and use of land alters the nomadic way of life, with consequences for economic, social and political spheres of life. It is against this historical context that the Maasai demand rights over their land as a central component of their quest for social and economic autonomy.

## **Land tenure framework in Tanzania**

The land tenure and natural resource management framework in Tanzania is composed of a complex set of laws, regulations and policies that govern the social, economic and political interests of all stakeholders (Looloitai, 2014). The most relevant policies and laws for Maasai land include the Land Policy, 1995, the Land Act no. 4, 1999, the Village Land Act no. 5, 1999, the Livestock Policy, 2006, the Land Use Planning Act, 2007, the Wildlife Conservation Act no. 5, 2009, the Grazing Land and Animal Feed Resources Act no. 14, 2010, and the Livestock Identification, Registration and Traceability Act, 2010. Particularly, land laws have received great attention through the development of strategic plans, guidelines and regulations (Looloitai, 2014). These include, but are not limited to, the Strategic Plan for Implementation of the Land Laws (URT, 2005), the National Strategy for Growth and Reduction of Poverty, and the Property and Business Formalization Programme. These legal frameworks raise a number of issues that affect the Maasai in one way or another. Section 3.-(1) of the Village Land Act, 1999 provides the fundamental principles of the National Land Policy. The Act lays out the following provisions (among others):-

- (a) to recognize that all land in Tanzania is public land vested in the president as trustee on behalf of all citizens
- (b) to ensure that existing rights in, and recognized long-standing occupation or use of, land are clarified and secured by the law
- (c) to facilitate an equitable distribution of and access to land by all citizens
- (d) to ensure that land is used productively and that any such use complies with the sustainable principles of development
- (e) to pay full, fair and prompt compensation to any person whose right of occupancy or recognized long-standing customary occupation or use of land is revoked or otherwise interfered with to their detriment by the State under this Act or is acquired under the Land Acquisition Act, 1967
- (f) to enable all citizens to participate in decision making connected to occupation or use of land

(g) to facilitate the operation of a market in land

(h) regulate the operation of a market in land so as to ensure that rural and urban small-holders and pastoralists are not disadvantaged

As the above principles show, the Maasai or pastoralist societies are protected by the Land Policy so that their interests in land can be enjoyed. However, the notion of village land may not sit well with the Maasai's land interests.

The Land Acts of 1999 divide land into three categories: 'general land', 'reserve land' and 'village land'. 'General land' is controlled openly under the commissioner. 'Reserve land' is governed by statutory or other bodies set up for the purpose (e.g. forest reserves are governed by the 'Forest Act of 2002' and game reserves and other wildlife areas are governed through the 'Wildlife Conservation Act of 2009'). 'Village land' is governed by the 'Village Land Act of 1999' and comes under the administration of the village council. The village council acts as an agent of the 'Land Commissioner'.

Tanzania's pastoralists are rural and, as such, are found in village lands. Villages are established under the Local Government Authorities system, which in turn derives its legal foundation from the Constitution – Articles 145 and 146. Article 7.-(I) of the Village Land Act provides that village land shall consist of land within the boundaries of a village registered in accordance with the provisions of Section 22 of the Local Government (District Authorities) Act no.7 of 1982. This definition of village land suggests a geographical space with fixed boundaries. Article 8.-(I) of the Act further provides that subject to the provisions of the Act, the village council will be responsible for the management of all village land.

Although the Village Land Act recognizes customary land tenure, this recognition is merely salutary, populist, and done without critical reflection. The recognition of Customary Titles under the Land Acts is vague when it comes to the land allocation authorities for traditionally held customary land. The Village Councils' authority over such lands is questionable under the law, as they only have authority over lands allocated by the Village Councils or by statute. The implication is that a large portion of rural land, which is still under the control of traditional systems of land allocation and tenure, is outside the purview of the Village Councils. In fact, the Village Land Act

itself states that such lands should be administered in accordance with the prevailing customary law. Yet there is a common belief that the Village Land Act places all rural land under the auspices and singular control of the Village Council. In the case of pastoral land, the outlook is worse in that it assumes that such land is ‘no man’s land’. For instance, the Village Land Act has provisions that indicate recognition of common property for pastoralists, such that land-sharing arrangements are possible. The remaining problem is that of defining the incidences of pastoral tenure – how pastoralists acquire, hold and dispose of land. In the case of pastoralists, however, official practice does not appear to recognize a customary pastoral title to land; it only recognizes a usufruct – a mere licence to use someone else’s property.

The Tanzanian government considers the Maasai to be rigid, backward and uncivilized people (Benjaminsen et al. 2009; Catley et al. 2013; Looloitai, 2014). Even the way they use land for grazing their herds is viewed as detrimental to the environment. A former president of Tanzania was quoted as saying ‘We will take deliberate measures to improve the livestock sector. Our people must change from being nomadic cattle herders to being modern livestock keepers. We will take measures to improve pastures, veterinary care, cattle dips, and auctions....’ (Mattee and Shem, 2006:4). To modernize the livestock sector is indeed contrary to the tradition of the Maasai and has significant consequences for their livelihood. Furthermore, the government is legally able to reserve lands for game and wildlife. This practice has implications for land use, especially for pastoralists such as the Maasai. It means that once the government decides to create reserved areas, the surrounding community are affected, either by being dispossessed of their lands or having limits placed on their ability to expand, depending on the nature of their social-economic activities. Normally, the government does this to create tourist attractions; the Maasai have greatly been affected by this practice.

Another issue is that the government sometimes provides large tracts of land to investors for economic activities, especially since the 1980s. This practice has posed a number of challenges to villagers, especially in rural areas. Further, using the justification of environmental conservation, there are laws regulating the keeping and moving of animals, with a tendency to reduce the number of animals being kept to conserve the environment. Finally, economic activities also have an effect; there have often been conflicts between pastoralists and farmers over the use

of land. In most areas, the government has not yet been effective in resolving such conflicts. All in all, the legal frameworks have been instrumental in affecting the way the Maasai live and their survival.

### **Maasai and the land question**

In order to address the evils of the colonial regime, the independent government promised to create an egalitarian society whereby all people could live together without discrimination. Emphasis was put on nation building. Local authorities based on chieftaincy among tribes were abolished; they retained their ceremonial function without any real power to make decisions or enforce laws. Swahili was encouraged as the national language and vernaculars were not to be taught at school. These post-colonial reforms had one thing in common: they were oriented towards modernization. Thus the government aimed to create a modernized society. In 1965 the country adopted a one-party system, abolishing independent civil societies, media and alternative sources of views. This period was known as an era of party supremacy. Again in 1967, through the promulgation of the Arusha Declaration, Tanzania adopted 'Africa Socialism and Self Reliance' as the official ideology of the state. The declaration nationalized all major means of production, with the land now firmly under state ownership with the president as its custodian. Whereas this policy shift towards state ownership was very important in ensuring the redistribution of resources, it gave the state the power to dispossess locals from their means of production, one of them being land. It is also important to note that the independent state did very little to change the land laws it inherited from the colonial government.

The Maasai were among many communities whose ownership and access to land were affected. The question of land for the Maasai tribe became further complicated when the independent government, just like its predecessors, pursued land conservation and game reserve creation policies. Since the land belonged to the state, the government could appropriate it whenever it felt the need. Upholding national interests was the main justification for this state of affairs, enabled by the legal framework around land in the country. In Maasai areas, a number of national parks and game reserves were established and those which already existed were expanded. These policies took little consideration of pastoralists' land rights; the only attempt made in that

direction was the introduction of rangelands under the 1964 Range Development and Management Act (Kennedy, 2007). Unlike the colonial government, where land dispossession policies were pursued to open up land for creating game reserves for settlers, in the post-independent regime, such policies were driven by the development of tourism – a source of foreign currency. Moreover, the government appropriated some of the land from Maasai for large-scale farming. Large tracts of land were acquired in the Simanjiro and Meru districts and given to state corporations for commercial purposes. For instance, in the Maasai area of Simanjiro, the government appropriated 50,000 hectares of land (one hectare=2.47 acres) for 80 large-scale farms producing seed bean for export to Holland. These farms were established near permanent water sources, denying access to Maasai cattle (Sher-Mei and Elliot, 1997). Since the post-independent government hardly allowed dissenting views, Maasai claims for land rights were rarely heard. The government created a political and social culture in which citizens had to view its policies on development as righteous; questioning such policies was seen as being against national unity and/or against development, which translated to being anti-egalitarian. However, that had to change with the advance of liberal policies from the end of 1980's.

In the late 1970's, Tanzania started experiencing a severe economic crisis, which later spread into socio-political life. The crisis was due to the failure of socialist policies, the oil crisis of 1973, deterioration of international trade in the 1970s and early 1980s, the collapse of the East African Community in 1977, the war with Uganda's Idi Amin during 1978–79 and the 1979 Middle East oil crisis (Muganda, 2004; Barkan, 1994; Chege, 1994; Ndulu and Mwegu, 1994; Nyoni, 2000). In 1985, Nyerere left the presidency and was succeeded by Ali Hassan Mwinyi. Mwinyi's government pursued liberalization efforts to remedy the country's economy (Muganda, 2004). In 1992, the multi-party system was reintroduced, allowing free press, independent media and civil societies. These changes were also important in allowing the Maasai's voice to be heard. For instance, Maasai people across Tanzania formed independent community-based organizations to advocate for their pastoral rights; the issue of land was central to their advocacy agenda. Moreover, several non-government organizations (NGOs) created after liberalization started to advocate for pastoral rights. Maasai communities living around game reserves and conservation areas were at the forefront of such campaigns.

Faced with the pressure for reforms, the government decided to form a commission of inquiry into land matters, leading to land reforms in 1991. The commission was popularly known as the Shivji commission as it was chaired by Issa Shivji, the famous professor and critic of neo-liberal policies. In 1992, the commission released its reports which covered legal, administrative and institutional dimensions of land in Tanzania. Among other things, the report positively recommended the protection of pastoral land. The government implemented a number of the report's recommendations, and this began the land reforms of the 1990s. The first reform was the adoption of the National Land Policy in 1995. The policy acknowledged the shortage of grazing land and that government policy favoured cultivation at the expense of pastoralists (URT, 1995). Despite this concession, the policy did not provide any candid mechanisms for securing pastoral land tenure (Fimbo, 2003). In fact, the policy promotes the expansion of protected areas at the expense of pastoralist communities; for instance, the Mkomazi Game Reserve and NCA were expanded following this policy. Following the adoption of the Land Policy in 1995, the Tanzania Parliament enacted the Land and Village Land Acts of 1999. The acts covered the institutional and legal framework for Tanzanian land management. Experts in Tanzanian land law hold that land reforms in Tanzania have been driven by two aspects: market demands for land and the protection of users or occupiers of land (Fimbo, 2003; Ngurumwa, 2009). Market demands have triumphed as the government favours attracting investments at the expense of the people. Often, the government appropriates land from local users and owners and gives it to investors. This is due to government shift to liberalization policies (Mtwale, 2002).

Liberalization policies advocated by donor countries and international financial organizations, such as the International Monetary Fund (IMF) and World Bank, have encouraged land grabs from pastoralists in order to lease it to investors in the tourism sector. For instance, when Tanzania Brewers Limited (TBL) ceased commercial farming the Soit Sambu grazing land (12,000 acres), granted to them in the 1980s, the land was sold to Thomson Safaris for tourism activities instead of being returned to pastoralists (Ngurumwa, 2010). Moreover, the booming industry has seen an increase in the establishment of hotel and recreation facilities in Maasai areas. Tourism in Tanzania is a major contributor to the national economy. In 2014, the industry generated around USD 2 billion, which constitutes 25% of Tanzania's foreign exchange earnings, and it contributed 17% of Tanzania's GDP. It directly employs around 600,000 people and

indirectly provides employment for up to 2 million more. In Tanzania, despite the availability of many tourist attractions, foreigners largely visit the country to watch animals (URT, 2015).<sup>3</sup> Hence, with the growing contribution of tourism industry to the economy, the government has felt pressure to protect the wildness against humans. This has put further pressure on Maasai communities.

However, the tourism boom has caused problems for communities around game parks, rather than benefiting them (LHRC, 2009; HakiArdhi, 2010). And although game parks that attract international tourists are spread across Tanzania, the Maasai have faced worse consequences than any other community. There are several reasons to this: First, the Maasai were forced from their land without compensation in order to create parks, in part for tourists. Second, parks in northern Tanzania – most of which are in Maasai lands – receive more tourists than parks in other areas. As such, government effort to maintain these parks is more intensive than in other areas. Third, communities around other parks mostly engage in farming which rarely leads them to intrude into reserve areas; on the other hand, the Maasai's pastoralist lifestyle frequently leads them to intrude into the parks and reserves to graze their livestock, especially during the dry season. Fourth, Tanzania's tourist industry is highly centralized as tourists usually pay for their excursions in advance and use the facilities located within the park, so most Maasai benefit very little from the influx of international visitors.<sup>4</sup> With this state of affairs, it is important to revisit the prominent Loliondo case in which Tanzania's Maasai were denied their land rights in favour of an investor.

### ***Loliondo: A classic case of struggle for land rights***

The Loliondo case is an ongoing Maasai struggle over land rights. The saga is an example of the effects of neo-liberal policies over the livelihoods of indigenous communities in Tanzania and the rest of the world. As Tanzania was eager for foreign capital and investment in the tourism sector, it granted the Ortello Business Corporation (OBC) the right to practise hunting tourism in Loliondo in 1992. However, the locals were not involved in the negotiations nor in the contract signing processes – the district council signed the contract on their behalf. This was quite contrary to the Constitution and the existing legal framework on land, both of which provide for consultation with locals before acquiring their land for investment purposes. Loliondo is a village in the Ngorongoro district, which is the homeland of Maasai. Loliondo is a seasonal migration corridor for animals as it borders the Ngorongoro National Conservation Area and Serengeti National Park in Tanzania,

and the Masai Mara on the Kenyan border. The seasonal migration is a great tourist draw, receiving tourists from almost all parts of the world; this has made it very attractive to foreign multinational companies that profit from tourism. There have been conflicts between locals and OBC since they started operating in the area. The Maasai living in the area have accused OBC of grabbing their grazing land, preventing them from accessing it. They claim that land occupied by OBC is their ancestral land, occupied by their forefathers even before colonial times, and they have spoken out against the company's practice of shooting their animals when they are caught grazing in hunting plots. On the other hand, OBC claims legitimate ownership of the land based on the contract of land lease they entered with the government. Thus, its interpretation is that the Maasai are simply intruders on their property. The government has taken the side of the investors. For instance, it has repeatedly referred to the locals at the frontline of the struggle as Kenyans with ambitions to destabilize peace. The conflicts have sometimes resulted in killings, skirmishes between OBC park rangers and locals, and the destruction of local people's property.

Surprisingly, some media and NGOs stand with the government, blaming the Maasai's nomadic lifestyle for causing an ecological crisis in the area. This stance is also shared by other organizations outside Loliondo. As a result, the international conservation community and the government have embarked on a massive campaign to educate the Maasai, seeking to reduce the number of livestock they keep as a way to avoid ecological crises. However, the locals refute these accusations by citing that they have grazed their livestock in the area since before colonial times without causing any disturbance to wild animals. Thus, they ask why they are now treated as intruders instead of being praised for preserving nature. Locals feel that this whole story is propagated by the government, media and some civil societies to justify the interests of OBC, which aims to evict them so that it can expand its business. This state of affairs shows the complexity of the Maasai's claims for land rights. The very institutions that are supposed to protect the interests of the locals have become advocates for OBC's interests.

In June 2009, the police force collaborated with OBC paramilitaries and invaded the villages along the area, beating people and burning their houses, cattle and other belongings. People were forced to flee their homes for fear of being killed. It is alleged that the owner of OBC provided the police

force with the vehicles for that operation. Commenting on these issues, the Legal and Human Rights Centre (2010:102) report contended that.

In July 2009, the police (FFU) forcefully and unlawfully invaded the Maasai's indigenous land situated within the Loliondo Game Controlled Area in Ngorongoro district, Arusha region. About 200 residential houses of Maasai (boma) were burnt off, some women miscarried, while others were sexually harassed by male police officers. The police officers were acting on the order of the district commissioner, Mr. Elias Wawa Lali, who on 18/5/2009 issued the so-called 'lawful order' titled '*Yah: Amri Halali ya Mkuu wa Wilaya Kuhusu Uvamizi Uliofanywa Katika Kitalu cha Uwindaji cha OBC*'.

Such grave crimes should have prompted the government to take legal action to protect the lives of the people. But the government was silent on this event, despite protests from both local and international communities. Instead, it prevented the issue from being discussed in the national parliament (Botha, 2010). Kairung Ole Saipere, a Loliondo local resident, was quoted saying that 'OBC is undoubtedly involved in very unethical practices – killing wildlife and threatening and/or bribing people to keep quiet. Police, wildlife authorities, politicians and community village leaders have all fallen into this trap. So, who will save Loliondo's endangered wildlife?' (Botha, 2010). However, the government responded by sending the police forces to protect the interests of the investor against the locals.

Moreover, OBC has been accused of airlifting animals such as giraffes and antelope to the Middle East. For instance, in 1999, the government revoked OBC's hunting permit after realizing that animals were airlifted, only to renew it in 2000. In 2011, claims of airlifting wild animals resurfaced, this time in the parliament. It was alleged that Qatari air force planes landed at Kilimanjaro airport and airlifted animals. Government officials were implicated in this saga as they were said to have assisted in this dishonest practice. The government's Ministry of Tourism and Natural Resources refuted these claims at first, calling them baseless. However, it later arrested a number of people for participating in airlifting the animals to Qatar (Raia Mwema, 2012).<sup>5</sup> Locals have denounced OBC for its practice of airlifting live animals as it is against their ancestral traditions.

## **Impact of land reforms on pastoralism**

First, colonial legislation and programmes considered pastoral land to be reserves awaiting proper allocation and exploitation. Therefore, wildlife reserves and prime land for settlers were always cut out of the rangelands. After independence, however, there was a realization that pastoralism was a way of life that had to be secured in official policy – this emerged in the conservation strategy of the Ngorongoro where multiple land use plans recognized that wildlife and pastoral activities could go hand in hand (Sendalo, 2009).

Second, by adopting the World Bank's modernization strategies, the post-independence state enacted the Range Development Act in 1964, which constituted the official strategy of modernizing the Maasai and other pastoralists. Third, the IMF's and World Bank's push to liberalize the economy and emphasize privatization has increasingly opened the rangelands to a host of external forces. Land has been acquired by the state either for direct economic activity or for 'conservation'. The alienation of pastoralists has generally been a result of the misconceptions about pastoral land and resource use. Pastoral peoples practice a way of life that differs significantly from general agricultural land use patterns. The Maasai depend on climate-driven land and resource use, leading to their lands being viewed as uninhabited, barren or under-utilized. Likewise, the Maasai's 'National Cultural Minorities' way of life is said to be incompatible with the requirements of modern states and the economic needs of modern societies. Consequently, they have been a target for change and radical transformation, driven by the perceived need to disentangling them backwardness.

## **Conclusion**

Maasai demands for land rights carry the far bigger association of cultural and economic autonomy. Government officials and politicians have viewed the Maasai's traditional lifestyle with indifference, seeking to pacify the Maasai by changing their social and cultural orientations through a number of deliberate initiatives. The government started encouraging them to keep fewer animals and to embark on food crop farming. Having no choice, some of the Maasai accepted government proposals while others shifted to other areas of the country and maintained their

pastoralist life. Since the Maasai lifestyle is tied to their lack of education, government and religious institutions have established schools and education centres. On the other hand, the pastoralists are significantly bypassed in most statutory schemes. Where they are granted some recognition, it is either for purely penal sanctions or for the purpose of supporting some other legislative scheme or production system that addresses traditional pastoralism for the markets. Almost no legislation exists that comprehensively addresses the livelihood aspect of pastoralism. The law takes all people as essentially belonging to a specific geographical space with an authority over them as static. However, the territoriality notion attached to land under the Village Land Act contradicts the nomadic life of the Maasai people.

### Notes

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<sup>1</sup> <https://www.culturalsurvival.org/publications/cultural-survival-quarterly/maasai-and-barabaig-herders-struggle-land-rights-kenya-and>

<sup>2</sup> This right has been severed since 2009 as UNESCO threatened to revoke Ngorongoro Crater's world heritage status due to increased human activity in the area. As such, the government barred the communities living in the area from farming.

<sup>3</sup> <http://www.tanzaniainvest.com/tourism/tanzania-tourism-sector-report>

<sup>4</sup> <https://www.culturalsurvival.org/publications/cultural-survival-quarterly/wildlife-and-maasai>

<sup>5</sup> <http://www.raiamwema.co.tz/kesi-ya-kutorosha-wanyama-ifutwe-kama-ccm-inajipenda/>

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