



IMPACT

Indigenous Movement For Peace Advancement &
Conflict Transformation

HUMAN RIGHTS VIOLATIONS FACED BY THE TANZANIAN MAASAI PEOPLE FROM LOLIONDO AND SALE DIVISIONS

BASELINE REPORT.

Nanyuki, 20th July 2022

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EXECUTIVE SUMMARY

This report documents the findings and outcomes of a fact finding mission to establish the human rights violations levelled against Loliondo in the June, 2022 eviction process while providing a historical political context.

The report captures a myriad of human rights violations that span across illegal eviction, destruction of property, police brutality, killing of people, arbitrary arrest, threats to media freedom. The result of these violations is food insecurity, health crises, threat to education, freedom to liberty and safety.

More than 2,000 people have fled Loliondo in search of safety and security to Kenya. It is projected that over 50,000 people are potential refugees if the eviction is continually enforced.

The report is divided into three chapters whereby chapter one gives a background introduction into Loliondo encompassing the historical and political context, chapter two highlights the key findings and provides an in-depth analysis of the findings and chapter three proposes recommendations.

The call to a global and regional action is of utmost urgency as a threat to annihilate an entire indigenous Maasai community in Tanzania is looming. The key paramount recommendations are; a UN Resolution to condemn Loliondo evictions and enforcement of the declaration, reinstatement of Loliondo residents to their land and reparation of the damage sustained and impose global actions geared towards stopping game hunting.

1.0 INTRODUCTION

1.1 SOCIAL ECONOMIC AND CULTURAL CONTEXT

The presence of the Maasai in Tanzania has existed since the 15th Century. Historical records show that the Maasai occupied the Serengeti plains, Ngurumeti to the West, Loliondo to the North and Engaruka to the East.¹ Today, the ethnic make-up of the entire area is traditionally **Maasai**² with pastoralism as the main occupation, land use and livelihood. In recent years, other Tanzanian tribes migrated in Loliondo leading to an increase in commercial cultivation in the area. Apart from the Maasai, there is also a significant population of **Wasonjo**³, who are mainly agro-pastoralists natives. The population size of Loliondo Division is estimated to be **129,362** residents out of whom 66,673 (being 51.53% are women) and the remaining 62,689 (being 48.46% are men).

It should be noted that, throughout history, there has not been any claim against the co-existence of Maasai and wildlife in the protected areas. The Maasai have been patrons to ensure sustainable utilisation of the wildlife. They do not consume wild animals nor stage large scale agricultural activities which would have been destructive to the ecosystem.

¹ Farler J P (1882) Native routes in East Africa from Pangani to the Masai Country and the Victoria Nyanza Proceedings of the Royal Geographical Society and Monthly Record of Geography

²The Loliondo Investigation Report Pg 5 From 14th – 18th September, 2009, Dar es Salaam, Tanzania) by the Commission for Human Rights and Good Governance (CHRGG)

³Ibid

1.1.1 HISTORICAL LAND TENURE CONTEXT

The complexities surrounding land tenure systems in Tanzania today dates back to pre- colonial times where land was solely held in social groups and governed by clans through customary tenure systems. Tanzania was colonised first by the Germans and then the British. The German colonial government through the Imperial Decree of 26 November 1895 declared that all of Tanganyika Crown Land to be vested in the German Empire. The Land Registration Ordinance of 1903 established a land registry system and allowed registration of indigenous lands. The forms of tenure in this era were: freehold, leasehold, community land tenure and unowned Crown land. The British colonial rule that lasted from 1918- 1961 established its own legal system of land administration. The main instruments that governed land administration in the era were the **The Land Ordinance, Act of 1923** and **Tanganyika Order in Council, 1920**. The Land Ordinance defined the right of occupancy as proprietary interest over land such that where a village council is issued with the right of occupancy over a piece of land, that land comes into the ownership of the village council. Additionally, the Tanganyika Order under Section 13 outlined that;

'The Governor shall respect existing native laws and customs, except so far as the same may be inconsistent with written law, morality and justice'

With the establishment of Serengeti National Park in 1940 and the subsequent Ngorongoro Conservation area, the Maasai pre- existing grazing and residence rights continued to exist under the law. Therefore, to give effect to the designation of Serengeti National Park as exclusive from the people, the Maasai were guaranteed compensation of their grazing land in Loliondo and Ngorongoro and provision of other social services. The Maasai community also demanded to be assured to be restored all their rights in Ngorongoro and Loliondo as in Serengeti; upon which the colonial government accepted as outlined in the Agreement signed between the Maasai community and the colonial government. The eviction and resettlement process through 1958 and 1959 marked the establishment of Loliondo Game Controlled Area (LGCA) alongside Ngorongoro Conservation Area. The LGCA would allow for game hunting, human activities which included uninterrupted livestock keeping and residential living which meant that residents would not be evicted. The LGCA was established under the Fauna Conservation Ordinance, Cap. 302. This law was used as a legal instrument to set aside a portion of land for wildlife conservation since LGCA is part of the Serengeti ecosystem. Notably, there is no physical barrier separating the area from other protected areas. It is therefore a continuous ecosystem and an important migration route for animals to Maasai Mara National Reserve in Kenya.

The pledge that the Maasai would continue to subsist in the Ngorongoro area and that this was virtually non- derogatory was repeated categorically in different occasions reaffirming this commitment. The declaration that 'the conservation of Ngorongoro' is built under the interests of its' inhabitants was reaffirmed in the declaration made in August 1959 by the Governor to the Maasai as follow:

'I should like to make it clear to you that all that is the intention of the Government to develop the Crater is in the interest of the people who use it. At the same time, the Government intends to protect the Game animals in the area but should there be conflict between the interest of the game and human inhabitants, those of the latter must take precedence'

Immediately after independence, the post-colonial government effected various amendments to the land administration legislations. The Government took the spirit of the Tenure Ordinance of 1923 replacing the term 'Governor' with that of the 'President'; vesting the power of control to the President who is the custodian of all land in Tanzania as Trustee on behalf of Tanzanians. Over the years, the changes have included the Land Act No. 4 of 1999, Village Land Act, No. 5 of 1999 and later the Land Use Planning Act of 2007. The 1999 laws repealed the Tenure Ordinance of 1923. These legislations are borne out of the National Land Policy of 1995 whose sole objective was:

'To promote and ensure a secure land tenure system, to encourage optimal use of land resources and to facilitate broad-based social and economic development.'

Enactment of these laws was to foster equality in the land administration particularly with respect to pastoralist communities, women and other minority groups. Section 18 (1) of the Land Use Planning Act establishes Land Use Planning Authorities which include village councils. Against this backdrop, village councils within Loliondo and Ngorongoro conservation areas are competent authorities to plan land use within their villages.

Additionally, the Constitution of Tanzania of 1977 strengthened the right to property under Article 24 whether granted or acquired lawfully. Article 24 (2) further outlawed acquisition or appropriation for the purpose of nationalisation or any other purpose of land without adequate and fair compensation.

1.2. OBJECTIVES OF THE BASELINE SURVEY

The objective of the baseline survey was to establish the human rights issues and socio-economic issues affecting the maasai community members from Loliondo and Sale Division (Tanzania) who sought refuge in the Kenyan territory. The specific objectives are as follows:

- i. To visit the areas where the maasai community members have taken refuge along the border between Tanzania and Kenya.
- ii. To meet and conduct interviews to the maasai community members and leaders.
- iii. To establish and document the challenges faced by the affected maasai community members and leaders from Tanzania.
- iv. To find out ways in which the victims will be assisted for their upkeep in Kenya.

2. METHODOLOGY OF THE SURVEY

Four members from the IMPACT team travelled to Narok town where they involved some Kenyan and Tanzanian key persons to assist in the identification of the areas to be visited and the target groups to be met. This not only eased the itinerary of the survey team but also enabled them to get into contact with the right victims both along different locations along the border and also in towns.

2.1 INDICATORS IN THE BASELINE SURVEY

In order to collect information, this baseline survey was based on the assessment of the various elements that include the violations of human rights and access to services such as health, education, food, shelter and housing.

2.2 DATA COLLECTION TOOLS

This baseline survey used an interview strategy where the victims were met in their convenient and favourable environment in the target areas. The interviews were conflict sensitive as it took into consideration the usage of the local maasai dialect in explanations and seeking deeper understanding of the issues at hand. In addition to the interviews, an observation method was also employed to collect physical and health conditions of the victims, especially those who sustained injuries in Tanzania.

3. FIELD FINDINGS

The field visits found out a number of the human rights violations and the vulnerability aspect of the maasai target groups in regards to the socio-economic and religious aspects.

3.1. HUMAN RIGHTS VIOLATIONS

The baseline survey found out the historicity of the violation of human rights, various community groups that were affected and the specific issues affecting them. In regards on the commencement of the evictions in Loliondo, the survey found the following:

- i. An eviction process that commenced on 7th June, 2022 by the Field Force Unit in the Loliondo area saw a massive destruction of property, homesteads and inhuman police brutality which resulted in hundreds of injured innocent civilians, death and disappearance of one elder who was shot and carried away in the military vehicle.
- ii. Over 2,000 people have fled to Kenya since June, 2022 in search of security and safety. This number is indicative of an urgent need for formal recognition of immigrants and humanitarian assistance.
- iii. More than 200 civilians were arbitrarily arrested with 116 charged with illegal immigration among them 1 primary school pupil; and 27 charged with murder among them 2 high school students.
- iv. Livestock killed and lost in the eviction process is estimated as over 40 sheep and goats, over 20 cows and 3 donkeys.

Human rights issues of the Maasai community from Loliondo division and Sale Division.

The survey found out that the total population of the maasai affected in both divisions are approximately 120,000 and the total number of livestock affected in one way or another are about 800,000. Notable issues that the maasai community in general have gone through include:

- i. No access to grazing lands for their livestock e.g Loliondo
- ii. No access to water points for people and livestock as the disputed land is beacons and controlled by the Tanzania government security forces (FFU) field force unit.
- iii. Lack of free movement to homes and trading centres, health facilities and schools by the Maasai populations.
- iv. Closure of 3 schools closed in the disputed land of loliondo division.

- v. Lack of Freedom of worship as police have continuously arrested community members in places of worship and people have fear to attend church services for fear of arrest.
- vi. Lack of freedom of speech and expression- Since the onset of the government operations to evict the maasai from Loliondo area, the government has banned media and arrested all the community members who have expressed their displeasure of the ongoing evictions. This has reduced the flow of information and updates of the ongoing evictions and operation.
- vii. Shooting and killing of livestock.



Livestock shot during evictions, June 2022

- viii. Selling/Auctioning of animals and imposing fines by the government security agencies without the consent of the Maasai family members.
- ix. Destruction of homes - the Government security agencies in the disputed areas have continued to destroy the homes of the maasai community by putting down the homes.
- x. Displacement of the maasai people from their ancestral land and homes.
- xi. Robbery of property, money and malicious damages to properties from homes by the security agencies in the operation areas

Human rights violations on community and political Leaders:

The survey found out the following:

- i. Illegal arrests and detention- Political leaders (11 in prison and 73 displaced) and Traditional leaders (30 people displaced); and, other Masai Government Leaders (Teachers and other government officials – e.g head of the Natural resource management department.
- ii. Unwarranted and falsified court charges to the arrested leaders (e.g murder charges, incitements,etc).
- iii. Limited access to medical and freedom of speech for those in prison.
- iv. Displacement of leaders and their families from the ancestral homes and Country.
- v. Lack of freedom of speech due to fear of arrest by the government security agencies.
- vi. Injuries - Some leaders and community members were injured and still are in need of medical attention.

Human rights issues to Women and Children:

A number of human rights issues have been identified as follows:

- i. Displacement: Approximately Women - 1000 and Children -2000



Abandoned homestead with a child left behind

- ii. Physical torture, injuries and arrest of women. There are cases where parents arrested children left by their own.
- iii. Displacement from ancestral home
- iv. Lack of basic needs – food, shelter and medicine
- v. Lack of access to schools as children are not able to attend schools as some have either taken refuge in Kenya or hiding in different parts in Tanzania.
- vi. Cold weather - Children are exposed to cold weather especially when they are hiding in the bushes due to fear of potential arrests.

Human rights issues to Activist and NGOs leaders:

It has been noted that a number of activist and NGOs leaders from the Tanzanian Maasai community have all fled the country due to fear of arrest from the government security offices. In this regards the following challenges have been identified:

- i. Displacement - Most of the activists and the NGOs leaders have fled the country and taken refuge in Kenya. Some of their homes are left without anybody and their livestock have been lost or stolen.
- ii. Illegal arrests - The Tanzanian government is continuously looking to arrest and charge the leaders without any reason.
- iii. Fear of deregistration of NGOs from the affected areas especially those led by the Maasai locals.
- iv. Lack of freedom of expression - Due to fear of arrest, the leaders are not able to express themselves in the media to highlight the ongoing land grabbing issues and also to express their concerns.
- v. Lack of freedom of movement- Due to fear of arrest, the above leaders are not able to visit their families back to Tanzania or manage their livestock back at home.
- vi. Challenge to access food and shelter - Due to displacement and financial instability, the leaders are depending on well wishers to provide them with food, clothing and shelter while residing in different parts of Kenya.

3.1.1 RIGHT TO CITIZENSHIP

One of the clear violations levelled on the Maasai community as evidenced through the ongoing evictions is the claim that they are illegal immigrants despite holding '*Kadi ya Mpiga Kura*' which is vastly used in Tanzania as the legal identity documentation. The claim is that they are Kenyans purporting to be Tanzanians through illegal immigration. From the data collected, over 200 residents were arrested and charged with illegal immigration. This is despite the fact that all of them are holders of *Kadi ya Mpiga Kura* and have the National Identity Authority (NIDA) numbers awaiting issuance of Identity Cards. The interactions between the Maasai in Kenya and the Maasai in Tanzania have existed through the years and therefore accusations that such close relations are a foundation for being Kenyan citizens is a threat to the Tanzanian Maasai's right to citizenship which threatens their identity and consequent fundamental rights.

3.2 NUTRITION.

It is obvious in violent conflicts situation that there has to be vulnerable groups and casualties. women and children who moved to kenya from loliondo are victims of malnutrition. according to one medical specialist who is attending children and sick people in the dispensary, he raised concerns that there is an indicator that people are not feeding well and for the last one month health of mothers and children is likely to be deteriorating and the situation may get worse since drought is approaching in the area and host families livestock would be migrating soon leaving families behind resulting into less food and no milk for children. an alternative has to be sort otherwise high malnutrition cases are expected soon. this is a serious indicator that pose a threat to the population which cannot run to a government in the event children begin suffering.

3.3 EDUCATION

Some families have left their children back in their country while others have moved with their children and opted to take them to schools in kenya while others have their children with them in the host families since they could not afford school fees, buying of clothes including uniforms and distances from schools where locals take their childrens to boarding schools while them they could not afford boarding schools despite other challenge of education system, requirements of documentations like birth certificates which raises the issue of citizenship. This makes the future of such children questionable if the situation continues without any kind of interventions by either both Tanzania and kenya government, NGOs and international community and UN bodies.

3.4 FOOD SECURITY.

The economic activity and livelihoods for the maasai pastoralist is livestock keeping for all the basic needs in the community. although some of the villages practise agro pastoralism whereby they keep livestock and farming, the families have left behind all their source of livelihoods which they are not sure on their whereabouts. testimonies from the victims indicate that from their communication with some families back there, most of their livestock are lost to the predators and their homes crutched and run over by military trucks destroying all the properties therein. most of the respondents clearly stated that the immediate challenge being undergone is lack of food. many people are going to the churches to seek assistance for food and support for their medical bills. economic pressure is also encountered by the host families in situations where one household hosts upto ten people, women and their children.

3.5 HEALTH

Rights to health is paramount in the health of a human being and so to the maasai running for their safety. men, women, children and elderly continue to experience serious health issues due to the injuries, effect of cold as they spent some time sleeping in the bush and due to fear they could not access health services back in their country and they could not visit health facilities in Kenya in fear of arrests. with the assistance of Kenya Maasai counterparts, they were hosted by various families and through their local arrangement, they managed to take them to local dispensaries for the extreme cases and children while treating others through traditional medicines.



Injuries sustained in the evictions,
June 2022

Specific challenges faced by women like giving birth at night during their movement and could not access any health services, children suffered pneumonia due to the cold conditions in the new environment and also attributed by the sleeping areas conditions. these are some of treatments offered in the local dispensaries found within the host community. one of the challenge in attending to seriously injured patients who had bullet injuries was meeting the cost of operations and daily attendance by the doctors taking into account that they left all their properties back in their country. the host families are also feeling the costs in helping them throughout their medication process until they get healed. some doctors have taken their personal initiatives to provide psychosocial support to the victims in a bid to bring them to normalise with the situation despite of their injuries and trauma.

3.6 HOUSING.

Housing remains a challenge to the population running into Kenya for their safety and this is contributing to the poor health of these people. Across the villages visited, either people sleep on the ground in one congested traditional Maasai house or others literally sleep outside also on the ground. most families are struggling to cope with cold and dust. during the day, they spend their time in the bush in fear of being arrested and in the evening get back to the host families. some families have volunteered to sell their livestock and purchase blankets and clothing for children in their effort to help in preventing cold at night. During eviction, people just ran away with the cloth they were wearing at that time and after crossing to Kenya they have no financial resources to purchase anything.

3.7 GAME HUNTING

The June, 2022 forceful eviction is the third of its kind in Loliondo Division since 1992. Conflict between the Maasai community in Loliondo and the Government commenced in 1992 after the Government entered into an investment agreement with Ortello Business Corporation (OBC) allowing exclusive hunting rights to Arab royals without consulting the residents of Loliondo on 1500sqkm contested land. Over the years since 1992, an existing animosity over this contested land is evident with the Government making three attempts to forcefully evacuate the Maasai from their land to allow for this exclusive hunting rights accorded to the Arabs through OBC.

In 2008, the Arabs sought to enter into a Memorandum of Understanding with the eight villages that exist on the 1500sqkm disputed land to outline clearly that in the three times annually they came to the land to hunt, the pastoralists would completely evacuate their livestock and exclusively allow them use of the land. In turn, they would be given 25 Million Tanzanian shillings. Out of 8 villages, 6 villages signed the memorandum of understanding. In 2009, a prolonged drought befell the area forcing the community to occupy the contested land despite the requirement to evacuate the area for hunting as per the agreement with the Arabs. Following the resistance to evacuate the land due to the need to access the resources existing on the land including water and pasture, a forced eviction was effected by the government lasting for 14 days. In this eviction, it was documented that a total of 154, 000 livestock died due to starvation as a result of climate change effects and the eviction.

During this time, homes were burnt; forcefully evicting the residents.



Homes set ablaze in 2009 evictions

In 2013 and in an attempt to implement the Wildlife Conservation Act of 2009, a declaration was made to set aside the disputed 1500sqkm as GCA terming the land a wildlife corridor and a breeding area for wildebeests. Following this declaration by the Minister, then Khamis Kagesheki instituted a serious attempt to annex the disputed land. However, the attempt failed owing to consequential political, social and legal resistance. Consequently, the disputed land was not demarcated, a state that later changed in 2017. The 2017 demarcation pushed the village council to file a case at the East African Court after the High Court in Tanzania had failed to deliver a judgement on account of failure to meet the bench threshold to hear the Constitutional case.

It is clear that the contested land has little to do with conservation but a bigger problem which threatens wildlife and livelihood of an entire community. The lengths at which the Government of Tanzania will go to protect a business investment that harms biodiversity, humans due to an economic advantage is unfortunate.

4. HOST FAMILIES

Host families at the Kenya- Tanzania border in Narok South County bear the brunt of the recent Loliondo evictions.

“Those running are family, and we cannot leave them in the cold. We have family in Tanzania as they have here in Kenya. It is unimaginable what the fleeing immigrants would have had to go through had a different community been occupying the border;” a Kenyan host who asked to remain anonymous.

The above remark, was a repeated statement on many victims and hosts alike. Evidently, as the immigrants remain informally recognized refugees in Kenya and are therefore living in homes of their families or friends in Kenya. The host families spread across Olmesutie, Olposimoru and across other parts of Narok County shoulder financial, medical and psychological burdens of those fleeing for their safety. As the Kenyan economy struggles in the depths of recession, rising inflation has posed hardship to Kenyans whose cost of living is high. As such, it is evident that meeting basic needs is an extreme struggle for host families and who are not only struggling to feed their own families but the new additions. Additionally, climate change has not spared the residents of Narok who have to bear intersecting challenges of an economy on its knees and adverse climatic change effects.

5. LEGAL ISSUES

5.1. THE VILLAGE

The term ‘*Village*’ is defined under Section 2 of the Village Land Act, 1999 as a village registered under the Local Government (District Authorities) Act, 1982. *The Constitution of the United Republic of Tanzania of 1977*, under Article 145, recognizes the establishment and existence of villages within the local authorities according to the procedures, type and designations prescribed by the Act of Parliament – which is the Local Government (District Authorities) Act, 1982. Section 22 of the Local Government (District Authorities) Act establishes registration of villages by the Registrar of Villages. Following the registration of a village, Section 26 of the Local Government Act prescribes issuance of a Certificate of Incorporation and establishment of a village council.

Subject to Section 12 of the Local Government (District Authorities) Act upon registration village councils become a body corporate capable of:

- i. Perpetual succession and a common seal;
- ii. In its corporate name being sued or can sue;
- iii. Capable of holding, purchasing and acquiring, disposing any movable or immovable property.

Subject to Section 12(1) of the Local Government (District Authorities) Act, a village council is capable of holding and purchasing, acquiring in any other way and disposing of any immovable property. This gives the village councils in Loliondo Division the legality to own land in their designated domains.

Section 7 of the Village Land Act, 1999 defines a 'Village Land.' Subsection (1) of Section 7 states that, the Village land shall consist of the:

- a) land within the boundaries of a village registered in accordance with the provisions of section 22 of the Local Government (District Authorities) Act, 1982;
- b) land designated as village land under the Land Tenure (Village Settlements) Act, 1965;
- c) land, the boundaries of which have been demarcated as village land under any law or administrative procedure in force at any time before this Act comes into force;
- d) land, the boundaries of which have been agreed upon between the village council claiming jurisdiction over that land, and
- e) land, other than reserved land, which the villagers have, during the twelve years preceding the enactment of this Act been regularly occupying and using as village land, in whatever manner such persons or the village assembly or village council were allocated such land.

Further Section 7(7) provides that a certificate of village land shall confer upon the village council use, management of village land and affirm the occupation and use of the village land by the villagers under and in accordance with customary law applicable to land in the area where the village is situated. It further provides that where the villagers are pastoralists or have a predominantly pastoral way of life, the certificate shall affirm the use, for purposes of depasturing of land, other than village land, which is customarily used by those persons.

Loliondo Division is divided into Fourteen (14) villages, all of which are legally registered. These are namely; **Ololosokwan, Kirtalo, Oloipiri, Maaloni, Mbuken, Ormanie, Malambo, Engaresero, Piyaya, Oloosoito, Engobereti, Oldonyoiwas, Olorien** and **Arash**.

Evidence collected indicated that all the villages are not only registered but are also holders of '**Hati ya Kumiliki Ardhi**' which was previously an equivalent of a Village Land Title to village land. However, since the enactment of the Village Land Act, 1999 the transition period has only seen two of the fourteen villages in Loliondo Division be granted a certificate of village land. These are **Ololosokwan Village** and **Engaresero Village**. The rest are awaiting their certificates after making applications through the Commissioner for Lands.

Notably, even after the new *Land Act, 1999* and the *Village Land Act, 1999* became operational, the *status quo* of the legality of ownership and certificates in the previous regime remained the same. Additionally, the transition to the new regime and title was also not accorded a timeline.

5.2. WILDLIFE CONSERVATION ACT, 2009

The Wildlife Conservation Act of 2009 repealed the Wildlife Conservation Act of 1974. One of the significant changes this law sought to bring was to separate the previous overlap of GCA and village lands. The new law sought to separate GCA and village lands. The modalities of this separation remained unclear as it was uncertain where the village lands were to be removed from the GCA or the GCA would be removed from village lands. In this unclear provision, the Minister has effected this provision by removing village lands from the GCA.

Section 16 of the Wildlife Conservation Act, 2009 empowers the Minister responsible for wildlife to declare certain land to be Game Controlled Area (GCA). Subsection (1) of this Section requires the Minister to consult relevant local authorities which includes village councils.

Subsection (4) of Section 16 required the Minister to review the list of the GCAs within 12 months after the coming into operation of this law. The purpose of this review is to ascertain the potentiality justifying the continuation of the control of any such area. This assessment is yet to be done as at now and as evidenced through the evictions of 2009, the Minister illegally enforced his mandate under this Act ahead of the law coming into operation.

5.3. COMPULSORY LAND ACQUISITION

Compulsory acquisition under Tanzanian law is governed by a regulatory framework that is guided by the Land Acquisition Act, Wildlife Conservation Act, The Constitution of Tanzania.

The President, as the custodian of land in Tanzania has an overwhelming power to acquire land for public use and interest under Section 3 whereas fair and adequate compensation should be paid to the displaced population. Section 6 of the Act further provides for the requirement to give a notice of intention to take land. After expiration of the notice which shall not be a minimum of six weeks, the president or the persons authorised shall enter possession of the land to be acquired.

The illegality of evictions witnessed in Loliondo Division fails to comply with a vital requirement of compulsory acquisition which is fair and adequate compensation; which would have to equate to the Maasai indigenous livelihood and their rich lands. Similarly, it is arguable whether a GCA is a public interest necessary for compulsory acquisition by the President as opposed to the existing status of overlap between GCA and Maasai livelihood.

The legal framework that governs compulsory acquisition is not protective of the rights of the people whose land is to be acquired. As evidenced through the ongoing evictions in Loliondo division, the overwhelming power which negates the principle of public participation fails an entire community and threatens their existence as indigenous pastoralists through effecting the power of this law.

5.4. COURT PROCEEDINGS

The residents of the affected area have sought judicial means in an attempt to seek redress. In 2009, a Constitutional case was filed at the High Court by Ololosokwan village council, Oloirien village council, Kirtalo village council and Arash village council. In 2013, the case was thrown out on account of failure to meet the threshold of judges who could hear the case. This was as a result of a failure by the Government to appoint judges and therefore frustrating the case.

Following the previous outcome, the residents through their village councils together filed a case at the East African Court of Justice in the *Ololosokwan Village Council & 3 others vs The Attorney General of the United Republic of Tanzania (2017)* case Reference No. 10 of 2017 seeking orders for a permanent halt to their residents' eviction, arrest and prosecution, as well as destruction of property. They also sought orders for restitution, reinstatement of their residents to their properties as well as reparations. They also filed an application in September 2017 seeking an injunction to the ongoing evictions of their residents and destruction of property. On 25th September, 2018 a ruling was issued to the latter application which ordered that;

- a) An interim order restraining the Government from evicting the residents of the villages in Loliondo Division from the disputed land being 1500 sq km of land in the Wildlife Conservation Area bordering Serengeti National Park, destroying their homesteads or confiscating of their livestock until the determination of the case Reference No. 10 of 2017.
- b) An interim order against the Government, restraining the office of the Inspector General of Police from harassing or intimidating the applicants and residents of Loliondo in relation to the Reference No. 10 of 2017 pending the determination thereof.

The case under Reference No. 10 of 2017 was scheduled for judgement on 22nd June, 2022 but was suspended in unclear circumstances until September, 2022. In reference to the above ruling which issued interim orders restraining evictions, destruction of property and intimidation of residents of Loliondo Division; it is clear that the ongoing evictions, destruction of homesteads, threats and intimidation levelled against residents of Loliondo are a clear breach of a court order and an apparent contempt of court.

6. CONCLUSION AND RECOMMENDATIONS

Human Rights issues:

- Human rights commission to intervene
- International community to intervene
- International court of Justice to intervene and human rights case to be presented
- Security of all Maasai community members
- Access to our homes and livelihoods
- Stop of killing of animals and destruction of our property
- Stop human harassment to the Maasai community and their livestock
- The land of the Maasai to be brought back
- Further grabbing of the Maasai land to stop.
- Immediate withdrawal of security officers from the operation areas
- An international mediator to balance the interest of the community and that of the government.(engaging into dialogue)
- Any interested local and international institutions/individual/media interested in profiling these issues to get information from the community at the villages level.
- Linkages with international lawyers and more funding to sustain lawyers who are on the ground.

Political leaders:

- Legal assistance
- Protection in Tanzania and Kenya
- Financial support for those who are displaced – food, clothing, health care.

Women and Children:

- Support for the injured members.
- Support for food, shelter and clothing.
- Support to access health care services.

Activists and NGOs:

- Protection.
- Legal support.
- Financial support for the activist and NGOs members.
- Provide avenues for legal support.

7. REFERENCES

- 1) Farler J P (1882) Native routes in East Africa from Pangani to the Masai Country and the Victoria Nyanza Proceedings of the Royal Geographical Society and Monthly Record of Geography
- 2) Local Government (District Authorities) Act of 1972
- 3) Loliondo Fact Finding Mission – Human Rights NGOs Joint Intervention Report (2015)
- 4) Ololosokwan Village Council & 3 others vs The Attorney General of the United Republic of Tanzania (2017)
- 5) The Constitution of the United Republic of Tanzania, 1977
- 6) The Land Acquisition Act, 1967
- 7) The Loliondo Investigation Report Pg 5 From 14th – 18th September, 2009, Dar es Salaam, Tanzania) by the Commission for Human Rights and Good Governance (CHRGG)
- 8) The Village Land Act, 1999
- 9) Wildlife Conservation Act, 2009